

Bay Creek at Cape Charles Community Association, Inc.

Articles of Incorporation



PMA

Property Management Associates

ARTICLES OF INCORPORATION

OF

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

Article 1. NAME OF CORPORATION: The name of the corporation is Bay Creek at Cape Charles Community Association, Inc. (the "Association").

Article 2. PRINCIPAL OFFICE: The initial principal office of the Association is:

1217 Laskin Road
Virginia Beach, Virginia 23451

Article 3. REGISTERED AGENT AND OFFICE: The initial registered office of the corporation is 1217 Laskin Road, Virginia Beach, Virginia 23451, and the initial registered agent at such address is Virginia S. Sancilio., who is a Director of the corporation.

Article 4. APPLICABLE STATUTE: The corporation is organized pursuant to the provisions of the Virginia Nonstock Corporation Act.

Article 5. DEFINITIONS: All capitalized terms used herein which are not defined shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions for Bay Creek at Cape Charles, recorded or to be recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia, as the same may be amended and supplemented ("Declaration").

Article 6. PURPOSES AND POWERS: The Association does not contemplate pecuniary gain or profit, direct or indirect, to its members. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the Virginia Nonstock Corporation Act.

(a) By way of explanation and not of limitation, the purposes for which the Association is formed are:

(i) to be and constitute the Association to which reference is made in the Declaration, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified therein, in the By-Laws of Bay Creek at Cape Charles Community Association, Inc. ("By-Laws"), and as provided by law, and

(ii) to provide an entity for the furtherance of the interests of the Owners (as such term is defined in the Declaration) in the development.

(b) In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise in the Declaration or By-Laws, may be exercised by the Board of Directors:

(i) all of the powers conferred upon nonprofit corporations by common law and the statutes of the State of Virginia in effect from time to time;

(ii) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the By-Laws, or the Declaration, including, without limitation, the following:

(A) to fix and to collect assessments or other charges to be levied;

(B) to manage, control, operate, maintain, repair, and improve property subjected to the Declaration or any other property for which the Association by rule, regulation, declaration, covenant to share costs, or contract has a right or duty to provide such services;

(C) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or By-Laws;

(D) to engage in activities which will actively foster, promote, and advance the common interests of all owners of property subject to the Declaration;

(E) to buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(F) to borrow money for any purpose;

(G) to enter into, make, perform, or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private;

(H) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals;

(I) to adopt, alter, and amend or repeal such By-Laws as may be necessary or desirable for the proper management of the affairs of the Association pursuant to the terms thereof; provided, however, such By-Laws may not be inconsistent with or contrary to any provisions of the Declaration; and

(J) to provide any and all supplemental municipal services as may be necessary or proper.

(c) The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 6 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article 6.

Article 7. BOARD OF DIRECTORS: The business and affairs of the Association shall be conducted, managed, and controlled by a Board of Directors. The initial Board of Directors shall consist of three directors.

The names and addresses of the members of the initial Board of Directors, who shall hold office until their successors are elected and have qualified, or until their resignation or removal, are as follows:

Richard S. Foster
1100 Eaglewood Drive
Virginia Beach, VA 23454

Virginia S. Sancilio
1217 Laskin Road
Virginia Beach, VA 23451

Robin Hirsch
1217 Laskin Road
Virginia Beach, VA 23451

The number of directors; method of election, removal, and filling of vacancies on the Board of Directors; and the term of office of directors shall be as set forth in the By-Laws. The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its discretion, may determine.

Article 8. INDEMNIFICATION OF DIRECTORS AND OFFICERS: To the extent consistent with the Virginia Nonstock Corporation Act, as it exists on the date hereof or as it may hereafter be amended, the Association shall indemnify its officers and directors as required by the Declaration and By-Laws. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the Association for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

Article 9. MEMBERSHIP: The Association shall be a membership corporation without certificates or shares of stock. Each Person who is the Owner of a Unit (as such capitalized terms are defined in the Declaration) subject to the Declaration is a member and shall be entitled to vote as set forth herein and in the Declaration and the By-Laws.

Article 10. CERTIFICATES: The Association shall be a corporation without shares of stock and shall not be required to issue membership certificates.

Article 11. DURATION: The Association shall have perpetual duration

Article 12. MERGER AND CONSOLIDATION: The Association may merge or consolidate only upon a resolution duly adopted by the Board of Directors, the affirmative vote of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists.

Article 13. DISSOLUTION: The Association may be dissolved only upon a resolution duly adopted by the Board of Directors, the affirmative vote of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists.

In the event of dissolution, liquidation, or winding up of the Association, the Association's assets shall be dedicated to a public body or conveyed to a nonprofit organization with similar purposes.

Article 14. AMENDMENTS: These Articles may be amended only upon a resolution duly adopted by the Board of Directors, the affirmative vote of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. However, no Voting Members shall be entitled to vote on any amendment to these Articles which the Board of Directors may adopt for the sole purpose of complying with the requirements of any governmental or quasi-governmental entity or institutional lender authorized to fund, insure, or guarantee mortgages on individual Units, as such requirements may exist from time to time.

Article 15. VA/HUD APPROVAL: So long as the Class "B" membership exists, the following actions shall require the prior approval of the U.S. Department of Veterans Affairs ("VA"), so long as the Properties are approved by VA for the guaranteeing of Mortgages in the Properties, and the U.S. Department of Housing and Urban Development ("HUD"), so long as the Properties are approved by HUD for the insuring of Mortgages in the Properties: annexation of additional property to the Properties, except for annexation by Declarant in accordance with Section 9.1 of the Declaration pursuant to a plan of annexation previously approved by VA and/or HUD, as applicable; mergers, consolidations, or dissolution of the Association; mortgaging of Common Area (as such term is defined in the Declaration); dedication of Common Area to any public entity; and amendment of these Articles of Incorporation.

Article 16. INCORPORATOR: The name and address of the incorporator is as follows:

Vahn Chang
Hyatt & Stubbiefield, P.C.
1200 Peachtree Center, South Tower
225 Peachtree Street, N.E.
Atlanta, Georgia 30303

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation on the 14th day of December, 1999.

Vahn Chang
Vahn Chang, Incorporator

Commonwealth of Virginia



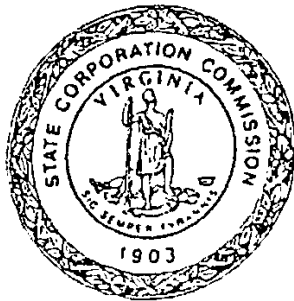
STATE CORPORATION COMMISSION

Richmond, January 10, 2000

This is to Certify that the certificate of incorporation of

**Bay Creek at Cape Charles Community Association,
Inc.**

*was this day issued and admitted to record in this office and that
the said corporation is authorized to transact its business subject
to all Virginia laws applicable to the corporation and its business.
Effective date: January 10, 2000*



State Corporation Commission

Attest:

Joel H. Beck

Clerk of the Commission

Bay Creek at Cape Charles Community Association, Inc.

Declaration/CC&Rs



PMA

Property Management Associates

000213

BOOK 316 PAGE 555

Upon recording, please return to:

Virginia S. Sancilio
Progressive Realty
1217 Laskin Road
Virginia Beach, Virginia 23451

GRANTOR: Baymark Construction Corporation
1100 Eaglewood Drive
Virginia Beach, Virginia 23454

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

BAY CREEK AT CAPE CHARLES

Preparation by:

HYATT & STUBBLEFIELD, P.C.
Attorneys and Counselors
1200 Peachtree Center, South Tower
225 Peachtree Street, N.E.
Atlanta, Georgia 30303

TABLE OF CONTENTS

	<u>PAGE</u>
PART ONE: INTRODUCTION TO THE COMMUNITY	1
Article I Creation of the Community.....	1
1.1. Purpose and Intent.....	1
1.2. Binding Effect.....	1
1.3. Governing Documents.....	2
Article II Concepts and Definitions	3
PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS	8
Article III Use and Conduct	8
3.1. Framework for Regulation.....	8
3.2. Rule Making Authority.....	8
3.3. Owners' Acknowledgment and Notice to Purchasers.....	9
3.4. Protection of Owners and Others.....	10
Article IV Architecture and Landscaping.....	11
4.1. General.....	11
4.2. Architectural Review.....	11
4.3. Guidelines and Procedures.....	13
4.4. No Waiver of Future Approvals.....	15
4.5. Variances.....	15
4.6. Limitation of Liability.....	15
4.7. Certificate of Compliance.....	16
Article V Maintenance and Repair	16
5.1. Maintenance of Units and Private Amenities.....	16
5.2. Maintenance of Neighborhood Property.....	17
5.3. Marina Maintenance.....	17
5.4. Responsibility for Repair and Replacement.....	18
PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION	18
Article VI The Association and its Members	18
6.1. Function of Association.....	18
6.2. Membership.....	19
6.3. Voting.....	19
6.4. Neighborhoods, Voting Members, and Voting Groups.....	20
Article VII Association Powers and Responsibilities	23
7.1. Acceptance and Control of Association Property.....	23
7.2. Maintenance of Area of Common Responsibility.....	23
7.3. Insurance.....	24

7.4. Compliance and Enforcement.....	28
7.5. Implied Rights; Board Authority.....	30
7.6. Indemnification of Officers, Directors, and Others.....	30
7.7. Safety and Security.....	31
7.8. Powers of the Association Relating to Neighborhood Associations.....	31
7.9. Provision of Services.....	32
7.10. Relationship with Other Properties.....	32
7.11. Facilities and Services Open to the Public.....	32
Article VIII Association Finances.....	32
8.1. Budgeting and Allocating Common Expenses.....	32
8.2. Budgeting and Allocating Neighborhood Expenses.....	34
8.3. Budgeting for Reserves.....	35
8.4. Special Assessments.....	35
8.5. Specific Assessments.....	36
8.6. Authority to Assess Owners; Time of Payment.....	36
8.7. Obligation for Assessments.....	37
8.8. Lien for Assessments.....	38
8.9. Exempt Property.....	38
8.10. Capitalization of Association.....	39
PART FOUR: COMMUNITY DEVELOPMENT.....	39
Article IX Expansion of the Community.....	39
9.1. Expansion by Declarant.....	39
9.2. Expansion by the Association.....	40
9.3. Additional Covenants and Easements.....	40
9.4. Effect of Filing Supplemental Declaration.....	40
Article X Additional Rights Reserved to Declarant.....	40
10.1. Withdrawal of Property.....	40
10.2. Marketing and Sales Activities.....	41
10.3. Right to Develop.....	41
10.4. Rights to Stormwater Runoff and Water Reclamation; Use of Effluent.....	41
10.5. Right to Approve Additional Covenants.....	42
10.6. Right to Approve Changes in the Properties' Standards.....	42
10.7. Right to Transfer or Assign Declarant Rights.....	42
10.8. Exclusive Rights To Use Name of Development.....	42
10.9. Easement to Inspect and Right to Correct.....	42
10.10. Right to Notice of Design or Construction Claims.....	43
10.11. Termination of Rights.....	43
Article XI Easements.....	43
11.1. Easements in Common Area.....	43
11.2. Easements of Encroachment.....	44
11.3. Easements for Utilities, Etc.....	44
11.4. Easements to Serve Additional Property.....	45
11.5. Easements for Maintenance, Emergency, and Enforcement.....	45

11.6. Easements for Lake and Pond Maintenance and Flood Water.....46
11.7. Easements for Golf Course.46
11.8. Easement to Inspect and Right to Correct.....47
Article XII Environmental Areas and Issues.....47
12.1. Assignment of Responsibilities.....47
12.2. Surface Water Management System.48
12.3. Preserves and Conservation Areas.48
12.4. Open Space and Buffers.....49
12.5. Shorelines and Water's Edge.49
12.6. Recycling Program.49
Article XIII Limited Common Areas.....49
13.1. Purpose.....49
13.2. Designation.....50
13.3. Use by Others.50
Article XIV Party Walls and Other Shared Structures.....50
14.1. General Rules of Law to Apply.....50
14.2. Maintenance; Damage and Destruction.50
PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY.....51
Article XV Dispute Resolution and Limitation on Litigation51
15.1. Agreement to Encourage Resolution of Disputes Without Litigation.51
15.2. Dispute Resolution Procedures.52
15.3. Initiation of Litigation by Association.53
Article XVI Private Amenities.....54
16.1. General.54
16.2. Conveyance of Private Amenities.54
16.3. View Impairment.....54
16.4. Rights of Access and Parking.....55
16.5. Rights and Easements Relating to Lakes and Ponds.....55
16.6. Golf Tournaments.55
16.7. Assessments.56
16.8. Architectural Control.....56
16.9. Limitations on Amendments.56
16.10. Jurisdiction and Cooperation.....56
16.11. Assumption of Risk and Indemnification.....57
Article XVII Mortgagee Provisions57
17.1. Notices of Action.57
17.2. Other Provisions for First Lien Holders.....58
17.3. No Priority.....58
17.4. Notice to Association.58
17.5. Failure of Mortgagee to Respond.....58
17.6. HUD/VA Approval.59

PART SEVEN: CHANGES IN THE COMMUNITY.....59

Article XVIII Changes in Ownership of Units.....59

Article XIX Changes in Common Area.....59

 19.1. Condemnation.59

 19.2. Partition.60

 19.3. Transfer or Dedication of Common Area.....60

 19.4. Actions Requiring Owner Approval.60

Article XX Amendment of Declaration60

 20.1. By Declarant.....60

 20.2. By Members.61

 20.3. Validity and Effective Date.61

 20.4. Exhibits.62

- TABLE OF EXHIBITS -

<u>Exhibit</u>	<u>Subject Matter</u>	<u>Page First Mentioned</u>
"A"	Land Initially Submitted	1
"B"	Land Subject to Annexation	6
"C"	Initial Restrictions and Rules	3
"D"	By-Laws of Bay Creek at Cape Charles Community Association, Inc.	4

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made as of the date set forth on the signature page hereof by Baymark Construction Corporation, a Virginia corporation ("Declarant"). GRANTOR for indexing purposes.

PART ONE: INTRODUCTION TO THE COMMUNITY

Baymark Construction Corporation, as the developer of Bay Creek at Cape Charles, has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance, and preservation of Bay Creek at Cape Charles as a master planned community.

Article I Creation of the Community

1.1. Purpose and Intent.

Declarant, as the owner of the real property described in Exhibit "A," intends by Recording this Declaration to establish a general plan of development for the planned community known as Bay Creek at Cape Charles. This Declaration provides a flexible and reasonable procedure for Bay Creek at Cape Charles' future expansion as Declarant deems appropriate and provides for its overall development, administration, maintenance, and preservation. An integral part of the development plan is the creation of Bay Creek at Cape Charles Community Association, Inc., an association comprised of all owners of real property in Bay Creek at Cape Charles, to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration.

This document does not and is not intended to create a condominium under Virginia law.

1.2. Binding Effect.

All property described in Exhibit "A," and any additional property which is made a part of Bay Creek at Cape Charles in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed, and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Bay Creek at Cape Charles, their heirs, successors, successors-in-title, and assigns.

This Declaration, as it may be amended, shall have perpetual duration and shall be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns. Notwithstanding the above, this Declaration may be terminated by Recording an instrument signed by a majority of the then Owners agreeing to terminate this Declaration, in which case it shall terminate as of the date specified in such instrument. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the easement holder.

1.3. Governing Documents.

Bay Creek at Cape Charles' Governing Documents consist of:

- this Declaration and such Recorded Supplemental Declarations;
- Bay Creek at Cape Charles Community Association's Articles of Incorporation and By-Laws;
- Restrictions and Rules described in Article III;
- Architectural Guidelines described in Article IV; and
- the Association's Board of Directors' resolutions,

all as they may be amended.

Some Neighborhoods within Bay Creek at Cape Charles may be subject to additional covenants, restrictions, and easements, which a Neighborhood Association may administer. In such case, if there is a conflict between or among the Governing Documents and any such additional covenants or restrictions, or the governing documents or policies of any such Neighborhood Association, the Governing Documents shall control.

Nothing in this Section shall preclude any Supplemental Declaration or other Recorded covenants applicable to any portion of Bay Creek at Cape Charles from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration and, in such case, the more restrictive shall control. The Association may, but shall not be required to, enforce any such covenants, restrictions, or other instruments applicable to any Neighborhood.

The Governing Documents apply to all Owners and occupants of property within Bay Creek at Cape Charles, as well as to their respective tenants, guests, and invitees. Any lease on a Unit shall provide that the tenant and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents.

If any court should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

Throughout the Governing Documents, there are diagrams to illustrate the concepts discussed and to aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

Diagram 1.1 identifies the various Governing Documents and their functions.

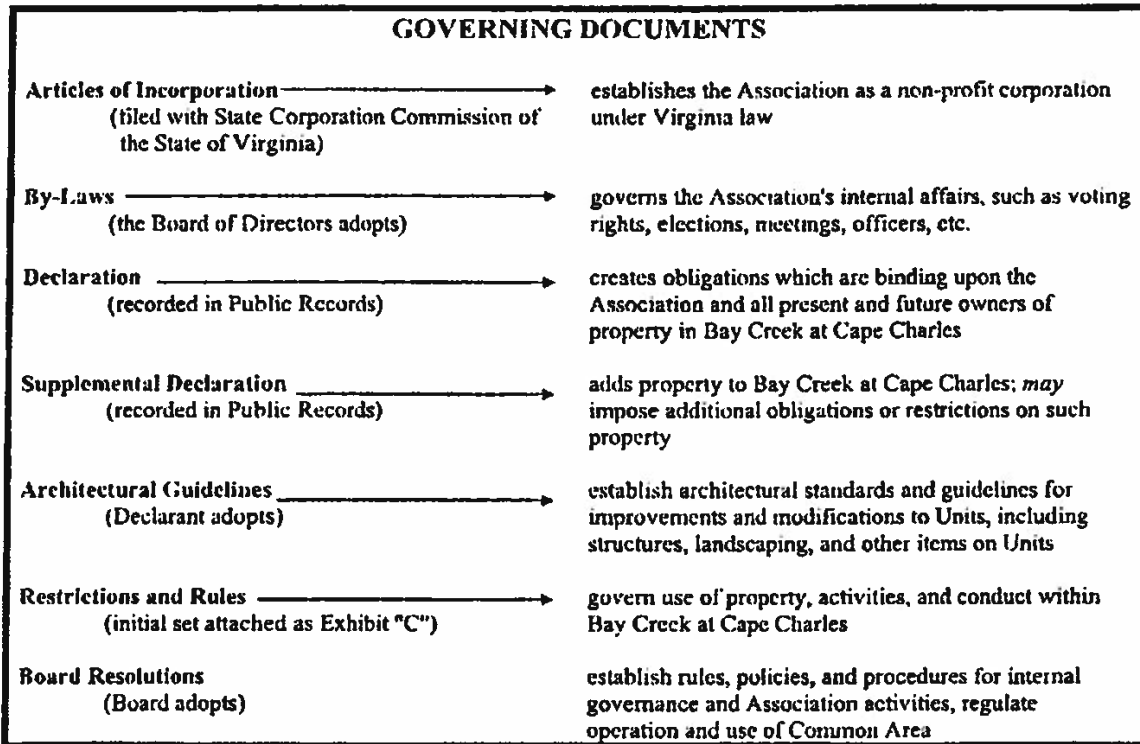


Diagram 1.1 - Governing Documents

Article II Concepts and Definitions

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

"Architectural Guidelines": The architectural, design, and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended.

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

001316 102561

"Articles": Bay Creek at Cape Charles Community Association's Articles of Incorporation, filed with the State Corporation Commission of the State of Virginia, as they may be amended.

"Association": Bay Creek at Cape Charles Community Association, Inc., a Virginia nonprofit corporation, its successors or assigns.

"Base Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

"Bay Creek at Cape Charles" or "Properties": The real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX.

"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Virginia corporate law.

"Builder": Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers, or who purchases one or more parcels of land within Bay Creek at Cape Charles for further subdivision, development, and/or resale in the ordinary course of its business.

"By-Laws": The By-Laws of Bay Creek at Cape Charles Community Association, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Declaration as Exhibit "D."

"Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board as provided in Section 3.5 of the By-Laws. The Class "B" Control Period shall terminate on the first to occur of the following:

- (a) when 75% of the total number of Units permitted by the Master Plan for the property described in Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Class "A" Members other than Builders;
- (b) December 31, 2020; or
- (c) when, in its discretion, the Class "B" Member so determines.

"Common Area": All real and personal property, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include the Limited Common Area, as defined below.

"Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable

reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless Voting Members representing a majority of the total Class "A" vote of the Association approve. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing at Bay Creek at Cape Charles, or the minimum standards established pursuant to the Architectural Guidelines, Restrictions and Rules, and Board resolutions, whichever is the highest standard. Declarant shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within Bay Creek at Cape Charles change.

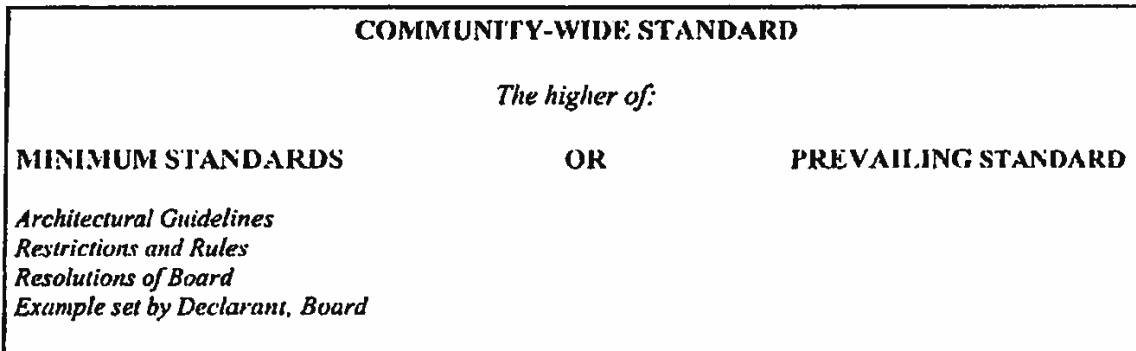


Diagram 2.1. Community-Wide Standard

"Covenant to Share Costs": A declaration of easements and covenant to share costs for Bay Creek at Cape Charles if any, which Declarant executes and Records and the Association administers, as may be amended from time to time, and which may create certain easements for the benefit of the Association and the present and future owners of other real property within Bay Creek at Cape Charles subject to such Covenant to Share Costs and may obligate the Association and such owners to share the costs of maintaining certain property described in such Covenant to Share Costs.

"Declarant": Baymark Construction Corporation, a Virginia corporation, or any successor or assign who takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as Declarant in a Recorded instrument the immediately preceding Declarant executes.

"Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Neighborhoods, as more particularly described in Article XIII.

"Master Plan": The land use plan for the development of the Properties prepared by The TAF Group and approved by the Town of Cape Charles, Virginia, as it may be amended, which includes all of the property described in Exhibit "A" and all or a portion of the property described

in Exhibit "B." Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the omission of property described in Exhibit "B" from the Master Plan bar its later submission to this Declaration as provided in Article IX.

"Member": A Person subject to membership in the Association pursuant to Section 6.2.

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. The term "Mortgage" shall refer to a beneficiary or holder of a Mortgage.

"Neighborhood": A group of Units designated as a separate Neighborhood for purposes of sharing Limited Common Areas and/or receiving other benefits or services from the Association which are not provided to all Units, and/or for the purpose of electing Voting Members. A Neighborhood may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Units within a particular Neighborhood, then the benefited Units shall constitute a sub-Neighborhood for purposes of determining and levying Neighborhood Assessments for such benefits or services.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee (established in accordance with the By-Laws) or Neighborhood Association, if any, having concurrent jurisdiction over the property within the Neighborhood. Neighborhood boundaries may be established and modified as provided in Section 6.4.

"Neighborhood Assessments": Assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Section 8.2.

"Neighborhood Association": A condominium association or other owners association, if any, having jurisdiction over any Neighborhood concurrent with (but subject to) the jurisdiction of the Association. Nothing in this Declaration shall require the creation of any Neighborhood Associations.

"Neighborhood Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Neighborhood(s).

"Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

"Private Amenities": Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise, and shall include, without limitation, the marina and golf course(s), if any, which are so located and all related and supporting facilities and improvements.

"Record," "Recording," or "Recorded": The filing of a legal instrument in the Clerk's Office of the Circuit Court of Northampton County, Virginia, or such other place as may be designated as the official location for recording deeds, plats, and similar documents affecting title to real estate.

"Restrictions and Rules": The initial restrictions and rules set forth in Exhibit "C," as they may be supplemented, modified, and repealed pursuant to Article III.

"Special Assessment": Assessments levied in accordance with Section 8.4.

"Specific Assessment": Assessments levied in accordance with Section 8.5.

"Supplemental Declaration": An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration, designates Neighborhoods, and/or imposes additional restrictions and obligations on the land described in such instrument. The term shall also refer to an instrument which Declarant Records pursuant to Section 6.4(c) designating Voting Groups.

"Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the Master Plan or Declarant's site plan, whichever is more recent. Thereafter, the portion encompassed on such plat shall contain the number of Units determined as set forth in the preceding paragraph. Any portion not encompassed on such plat shall continue to be treated in accordance with this paragraph.

"Voting Group": One or more Voting Members who vote on a common slate for election of directors, as more particularly described in Section 6.4(c) or, if the context so indicates, the group of Members whose Units are represented thereby.

"Voting Member": The representative selected by the Class "A" Members within each Neighborhood pursuant to Section 6.4(b) to cast the Class "A" votes attributable to their Units on all matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). The term "Voting Member" shall also refer to alternate Voting

Members acting in the absence of the Voting Member and any Owners authorized personally to cast the votes for their respective Units pursuant to Section 6.4(b).

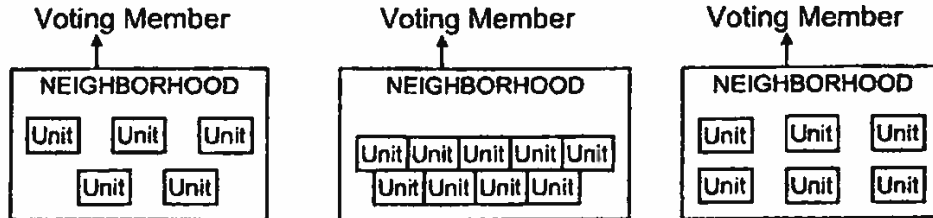


Diagram 2.2 - Voting Members

[Note: Number of Units shown in each Neighborhood is for demonstrative purposes only. Actual numbers may vary from one Neighborhood to another and could be substantially more or less than number of Units shown. Refer to Section 6.4(b) and (c) for a more detailed explanation of representative voting.]

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

The standards for use and conduct, maintenance, and architecture at Bay Creek at Cape Charles are what give the community its identity and make it a place that people want to call "home." Each Owner and resident in upholding such standards can take pride in the results of that common effort. This Declaration establishes procedures for adopting, modifying, applying, and enforcing such standards while providing the flexibility for the community standards to evolve as Bay Creek at Cape Charles changes and grows over time.

Article III Use and Conduct

3.1. Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for the Properties, a framework of affirmative and negative covenants, easements, and restrictions which govern the Properties. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article establishes procedures for modifying and expanding the initial Restrictions and Rules set forth in Exhibit "C." This Article is not intended to apply to rules and regulations relating to use and operation of the Common Area which the Board may adopt by resolution pursuant to Section 7.1(c).

3.2. Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall send notice to all Owners concerning any proposed action at least five business days prior

to the Board meeting at which such action is to be considered. Voting Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless Voting Members representing more than 50% of the total Class "A" votes in the Association and the Class "B" Member, if any, disapprove. The Board shall have no obligation to call a meeting of the Voting Members to consider disapproval except upon receipt of a petition of the Voting Members as required for special meetings in the By-Laws. Upon such petition of the Voting Members prior to the effective date of any Board action under this Section 3.2(a), the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, Voting Members, representing more than 50% of the total Class "A" votes in the Association at an Association meeting duly called for such purpose, may vote to adopt rules which modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules then in effect. Such action shall require approval of the Class "B" Member, if any.

(c) Prior to any action taken under this Section becoming effective, the Board shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner. The effective date shall be not less than 30 days following distribution to Owners. The Association shall provide, without cost, a copy of the Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(d) No action taken under this Article shall have the effect of modifying, repealing, or expanding the Architectural Guidelines or any provision of this Declaration other than the initial Restrictions and Rules set forth in Exhibit "C." In the event of a conflict between the Architectural Guidelines and the Restrictions and Rules, the Architectural Guidelines shall control.

(e) The procedures required under this Section 3.2 shall not apply to the enactment and enforcement of administrative rules and regulations governing use of the Common Area unless the Board chooses in its discretion to submit to such procedures. Examples of such administrative rules and regulations shall include, but not be limited to, hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times.

3.3. Owners' Acknowledgment and Notice to Purchasers.

All Owners are given notice that use of their Units and the Common Area is limited by the Restrictions and Rules as amended, expanded, and otherwise modified from time to time. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Restrictions and Rules may change from time to time. All purchasers of Units are on notice that the Association may have adopted changes. Copies of the current Restrictions and Rules may be obtained from the Association.

3.4. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Restrictions and Rules set forth in Exhibit "C," all Restrictions and Rules shall comply with the following provisions:

(a) **Similar Treatment.** Similarly situated Owners shall be treated similarly; however, the Restrictions and Rules may vary by Neighborhood.

(b) **Displays.** The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling.

No rules shall regulate the content of political signs; however, rules may regulate the time, place, and manner of posting such signs (including design criteria).

(c) **Household Composition.** No rule shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

(d) **Activities Within Dwellings.** No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(e) **Allocation of Burdens and Benefits.** No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of the Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(f) **Alienation.** No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided, the Association or the Board may require a minimum lease term of up to 12 months or require the use of a qualified leasing company. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Unit greater than an amount reasonably based on the costs to the Association of administering that lease or transfer.

(g) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(h) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop the Properties.

(i) Interference with Private Amenities. No rule or action by the Association shall interfere with the ownership, transfer, use, or operation of any Private Amenity.

The limitations in subsections (a) through (g) of this Section 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XX.

Article IV Architecture and Landscaping

4.1. General.

No structure or thing shall be placed, erected, or installed upon any Unit and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, erecting or modifying fences, or planting or removal of landscaping) shall take place within the Properties, except in compliance with this Article and the Architectural Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect unless Declarant or its designee otherwise approves in its sole discretion.

This Article shall not apply to Declarant's activities, nor to activities of the Association during the Class "B" Control Period.

4.2. Architectural Review.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that, as the developer of the Properties and as an owner of portions of the Properties as well as other real estate within the vicinity of the Properties, Declarant has a substantial interest in ensuring that the improvements within the

Properties enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of the Properties or any real property adjacent to the Properties, unless earlier terminated in a written instrument executed and Recorded by Declarant.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) an architectural review committee appointed by the Board of Directors (the "ARC"), or (ii) a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association. Any such delegation shall be in writing specifying the scope of responsibilities delegated. It shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as Declarant specifically delegates to it.

(b) Architectural Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARC, shall assume jurisdiction over architectural matters. The ARC, when appointed, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform

the review. The Board may include the compensation of such persons in the Association's annual operating budget.

4.3. Guidelines and Procedures.

(a) Architectural Guidelines. Declarant may prepare the initial Architectural Guidelines, which may contain general provisions applicable to all of the Properties as well as specific provisions which vary from Neighborhood to Neighborhood. The Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications. The Architectural Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Architectural Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of or has a right to expand the Properties pursuant to Section 9.1, notwithstanding a delegation of reviewing authority to the ARC, unless Declarant also delegates the power to amend to the ARC. Upon termination or delegation of Declarant's right to amend, the ARC shall have the authority to amend the Architectural Guidelines with the consent of the Board.

Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

The Reviewer shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties. In Declarant's discretion, such Architectural Guidelines may be Recorded, in which event the Recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Except as otherwise specifically provided in the Architectural Guidelines, no activities shall commence on any portion of the Properties until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Architectural Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have

the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall make a determination on each application within 30 days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until expiration of Declarant's rights under this Article, the ARC shall notify Declarant in writing within three business days after the ARC has approved any application within the scope of matters delegated to the ARC by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have 30 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC.

The Reviewer shall notify the applicant in writing of the final determination on any application within five days thereafter or, with respect to any determination by the ARC subject to Declarant's veto right, within five days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of the 30-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given, subject to Declarant's right to veto pursuant to this Section. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines unless a written variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which Plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant, or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be made on the basis of aesthetic considerations only, and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Declarant has approved or featured such contractor as a builder in Virginia; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction or modifications to any Unit. In all matters, the Board, the ARC, and the members of each shall be defended and indemnified by the Association as provided in Section 7.6.

4.7. Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Architectural Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

Article V Maintenance and Repair

5.1. Maintenance of Units and Private Amenities.

(a) General. Each Owner shall maintain his or her Unit or Private Amenity, respectively, and all landscaping and improvements comprising the Unit or Private Amenity in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants, unless, in the case of a Unit, such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit.

Each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Unit boundary and any wall, fence, or curb located on the Common Area or public right-of-way within 10 feet of the Unit boundary; provided, there shall be no right to remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Article IV.

(b) Lake-Fronting or Pond-Fronting Units. Each Owner of a lake-fronting or pond-fronting Unit, whether or not such Unit is adjacent to the golf course, shall maintain such Owner's Unit to the water's edge of the lake or pond, as it may vary from time to time. Declarant or the Association, acting in its sole discretion, shall resolve any disputes regarding the location of the water's edge of the lake or pond, and such determination shall be final and binding.

(c) Enforcement. In the event that any Owner fails to maintain his or her Unit in accordance with the Community-Wide Standard, the Association or any applicable Neighborhood Association may perform such maintenance on behalf of the Owner. Such maintenance costs shall be assessed against the benefited Unit Owner as a Specific Assessment.

5.2. Maintenance of Neighborhood Property.

Any Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

Any Neighborhood Association shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the boundary of its common property and any wall, fence, or curb located on the Common Area or public right-of-way within 10 feet of its boundary; provided, there shall be no right to remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Article IV.

Upon resolution of the Board, Owners within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining, and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighborhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

5.3. Marina Maintenance.

Declarant owns the marina located within or adjacent to the Properties. The marina is a Private Amenity, to which all of the provisions of Article XVI apply. So long as Declarant owns the marina, Declarant shall be responsible for maintaining the water surface and the lands beneath the water surface of the marina and its channels in accordance with the Community-Wide Standard. Such responsibility shall include the maintenance, repair, replacement, dredging, and insurance of all improvements, if any, located within the marina. Upon transfer of title to the marina, the purchaser shall be responsible for maintaining the marina. Nothing herein shall interfere with Declarant's or its successor's or assignee's rights to transfer, market, improve, use, operate, or establish the eligibility, duration, fees, terms, and conditions for use of the marina.

5.4. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community-Wide Standard.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Unit is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

This Section shall apply to any Neighborhood Association responsible for common property within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Unit. Additional Recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

This Declaration establishes the Association as a mechanism by which each Owner is able to participate in the governance and administration of the Properties. While many powers and responsibilities are vested in the Association's board of directors in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the owners of property in Bay Creek at Cape Charles.

Article VI The Association and its Members

6.1. Function of Association.

The Association is the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Virginia law.

6.2. Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(c) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting.

The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2, except that there shall be only one vote per Unit. No vote shall be exercised for any property which is exempt from assessment under Section 8.9. All Class "A" votes shall be cast as provided in Section 6.3(c) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in the By-Laws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws.

The Class "B" membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or
- (ii) when, in its discretion, Declarant so determines and declares in a Recorded instrument.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

In recognition of the different character and intended use of the property subject to such Supplemental Declaration, Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any property made subject to this Declaration pursuant to Article IX. These classes shall have such rights, privileges, and obligations as specified in such Supplemental Declaration.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" Member shall be exercised by the Voting Member representing the Neighborhood, as provided in Section 6.4(b). The Voting Member may cast all such votes as it, in its discretion, deems appropriate.

In any situation where a Member is entitled personally to exercise the vote for his or her Unit, and there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

6.4. Neighborhoods, Voting Members, and Voting Groups.

(a) Neighborhoods. Any Neighborhood, acting either through a Neighborhood Committee elected as provided in Section 5.3 of the By-Laws or through a Neighborhood Association, if any, may request that the Association provide a higher level of service than that which the Association generally provides to all Neighborhoods or may request that the Association provide special services for the benefit of Units in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighborhood, the Association shall provide the requested services.

The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment.

Exhibit "A" to this Declaration, and each Supplemental Declaration submitting additional property to this Declaration shall initially assign the submitted property to a specific Neighborhood (by name or other identifying designation), which Neighborhood may be then existing or newly created. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries. However, two or more existing Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

(b) Voting Members. Each Neighborhood shall elect a Voting Member who shall be responsible for casting all votes attributable to Units owned by Class "A" Members in the Neighborhood on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws. In addition, each Neighborhood shall elect an alternate Voting Member who shall be responsible for casting such votes in the absence of the Voting Member.

The first election of a Voting Member and alternate Voting Member from each Neighborhood shall occur within one year after the sale of the first Unit in the Neighborhood to a Person other than a Builder. Thereafter, the Board shall call for an election of Voting Members and alternates on an annual basis, either by written ballots cast by mail, computer, or at a meeting

of the Class "A" Members within such Neighborhood, as the Board determines. Upon written petition signed by Class "A" Members holding at least 10% of the votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. Candidates for election as Voting Members may be nominated by the Board, a nominating committee which the Board may appoint, or from the floor at any meeting at which such election is to be held.

The presence, in person or by proxy, or the filing of ballots by Class "A" Members representing at least 25% of the total Class "A" votes attributable to Units in the Neighborhood shall constitute a quorum at any Neighborhood meeting or election. In the event of a failure to obtain a quorum or vacancy in such positions for any Neighborhood, the Board may appoint a Voting Member or alternate Voting Member to represent such Neighborhood until a successor is elected.

For any Neighborhood election, each Class "A" Member shall be entitled to one equal vote for each Unit which such Owner owns in the Neighborhood. The candidate who receives the greatest number of votes shall be elected as Voting Member and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Member. The Voting Member and the alternate Voting Member shall serve a term of one year and until their successors are elected.

Any Voting Member may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of Units owned by Class "A" Members in the Neighborhood which the Voting Member represents.

Until such time as the Board first calls for election of a Voting Member for any Neighborhood, the Owners within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue requiring a membership vote under the Governing Documents.

(c) Voting Groups. Declarant may designate Voting Groups consisting of one or more Neighborhoods for the purpose of electing directors to the Board. Voting Groups may be designated to ensure groups with dissimilar interests are represented on the Board and to avoid some Voting Members being able to elect the entire Board due to the number of Units in such Neighborhoods. Following termination of the Class "B" Control Period, the number of Voting Groups within the Properties shall not exceed the total number of directors to be elected by the Class "A" Members pursuant to the By-Laws.

The Voting Members representing the Neighborhoods within each Voting Group shall vote on a separate slate of candidates for election to the Board. Each Voting Group is entitled to elect the number of directors specified in Section 3.2 of the By-Laws.

Diagram 6.1 illustrates the organizational structure of the Association and the manner in which Voting Members and Voting Groups will elect the Board of Directors after the Class "B" Control Period. The number of directors (five), Neighborhoods (five), and Voting

Groups (three) shown in the illustration are for demonstrative purposes only; the actual number may be different.

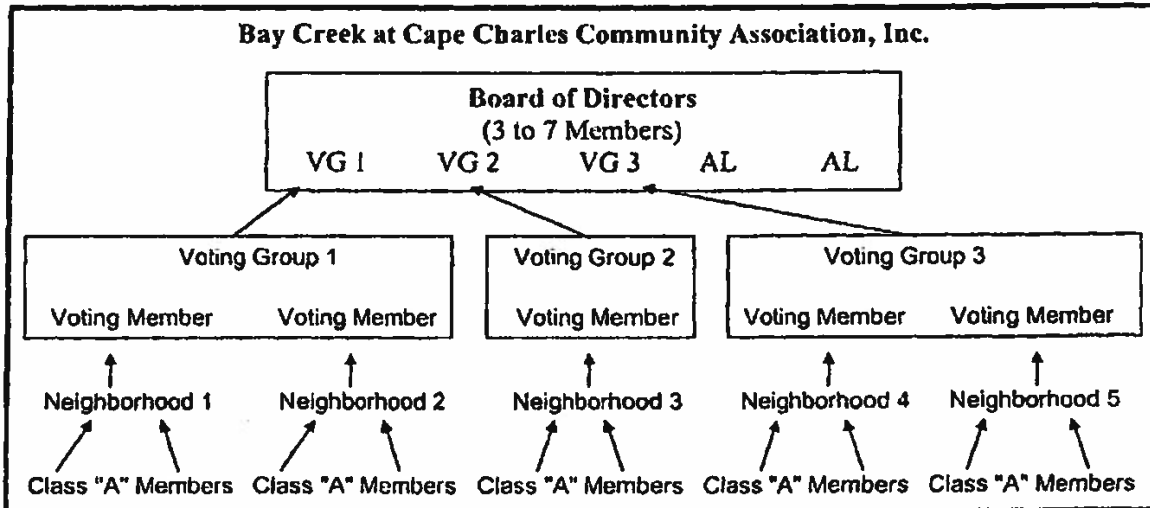


Diagram 6.1 - Association Organizational Structure

Declarant shall establish Voting Groups, if at all, not later than the date of expiration of the Class "B" Control Period by filing with the Association and Recording a Supplemental Declaration identifying each Voting Group by legal description or other means such that the Units within each Voting Group can easily be determined. Such designation may be amended from time to time by Declarant, acting alone, at any time prior to the expiration of the Class "B" Control Period.

After expiration of Declarant's right to expand the Properties pursuant to Article IX, the Board shall have the right to Record or amend such Supplemental Declaration upon the vote of a majority of the total number of directors and approval of Voting Members representing a majority of the total number of Neighborhoods and a majority of the total Class "A" votes in the Association. Neither Recordation nor amendment of such Supplemental Declaration by Declarant shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph. Until such time as Voting Groups are established, all of the Properties shall constitute a single Voting Group. After a Supplemental Declaration establishing Voting Groups has been Recorded, any and all portions of the Properties which are not assigned to a specific Voting Group shall constitute a single Voting Group.

Article VII Association Powers and Responsibilities

7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate, and dispose of tangible and intangible personal property and real property, subject to the provisions of Sections 17.6 and 19.4. The Association may enter into leases, licenses, or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of owners, occupants, and residents of the Properties.

(b) Declarant and its designees may convey to the Association, and the Association shall accept "as is," personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B." Declarant shall convey the initial Common Area to the Association prior to the conveyance of a Unit to any Person other than a Builder. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Common Area Declarant originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation, and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

7.2. Maintenance of Area of Common Responsibility.

The Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

(a) all portions of and structures situated on the Common Area, including, but not limited to, gatehouses, private roads, trails, community open space, buffers, and natural preserve areas;

(b) landscaping within public rights-of-way within or abutting the Properties;

(c) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration or any Supplemental Declaration, Covenant to Share Costs, or contract or agreement for maintenance thereof entered into by the Association;

(d) the community beach and all shorelines within the Properties;

(c) all lakes, ponds, streams, and/or wetlands located within the Properties which serve as part of the stormwater drainage system for the Properties, including improvements and equipment installed therein or used in connection therewith; and

(f) any property and facilities which Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Voting Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced except with Declarant's prior written approval as long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration.

The costs associated with maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, any Covenant to Share Costs, other Recorded covenants, or agreements with the owner(s) thereof. Maintenance, repair, and replacement of Limited Common Areas shall be a Neighborhood Expense assessed to the Neighborhood(s) to which the Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

7.3. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Neighborhood, obtain and maintain property insurance on the insurable improvements within such Neighborhood which insurance shall comply with the requirements of Section 7.3(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that (i) premiums for property insurance on Units within a Neighborhood shall be a Neighborhood Expense; and (ii) premiums for insurance on Limited Common Areas may be included in the Neighborhood Expenses of the Neighborhood(s) to which such Limited Common Areas are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Northampton County, Virginia. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in Virginia which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of

any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Voting Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and

thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units within the insured Neighborhood, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Voting Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3(a).

7.4. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Section 3.24 of the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Architectural Guidelines from continuing or performing any further activities in the Properties; and

(vii) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in Section 3.24 of the By-Laws:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); or

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. If a Neighborhood Association fails to perform its maintenance responsibilities, the Association may perform such maintenance and assess the costs as a Specific Assessment against all Units within such Neighborhood. Except in an emergency situation, the Association shall provide the Owner or Neighborhood Association with reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may enforce applicable town and county ordinances and permit Northampton County or the Town of Cape Charles to enforce ordinances within the Properties for the benefit of the Association and its Members.

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board without a vote of the membership except where applicable law or the Governing Documents specifically require a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Section 3.25 of the By-Laws.

7.6. Indemnification of Officers, Directors, and Others.

Subject to Virginia law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Virginia law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7. Safety and Security.

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to enhance the level of safety or security which each person provides for himself or herself and his or her property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

7.8. Powers of the Association Relating to Neighborhood Associations.

The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

7.9. Provision of Services.

The Association may provide, or provide for, services and facilities for the Members and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided at the option of an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the Base Assessment if provided to all Units. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.10. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring property or Private Amenity to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.11. Facilities and Services Open to the Public.

Certain facilities and areas within the Properties may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. Declarant may designate such facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate at any time thereafter.

Article VIII Association Finances

8.1. Budgeting and Allocating Common Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated

amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 8.6.

Diagram 8.1 illustrates the various funding sources available to the Association:

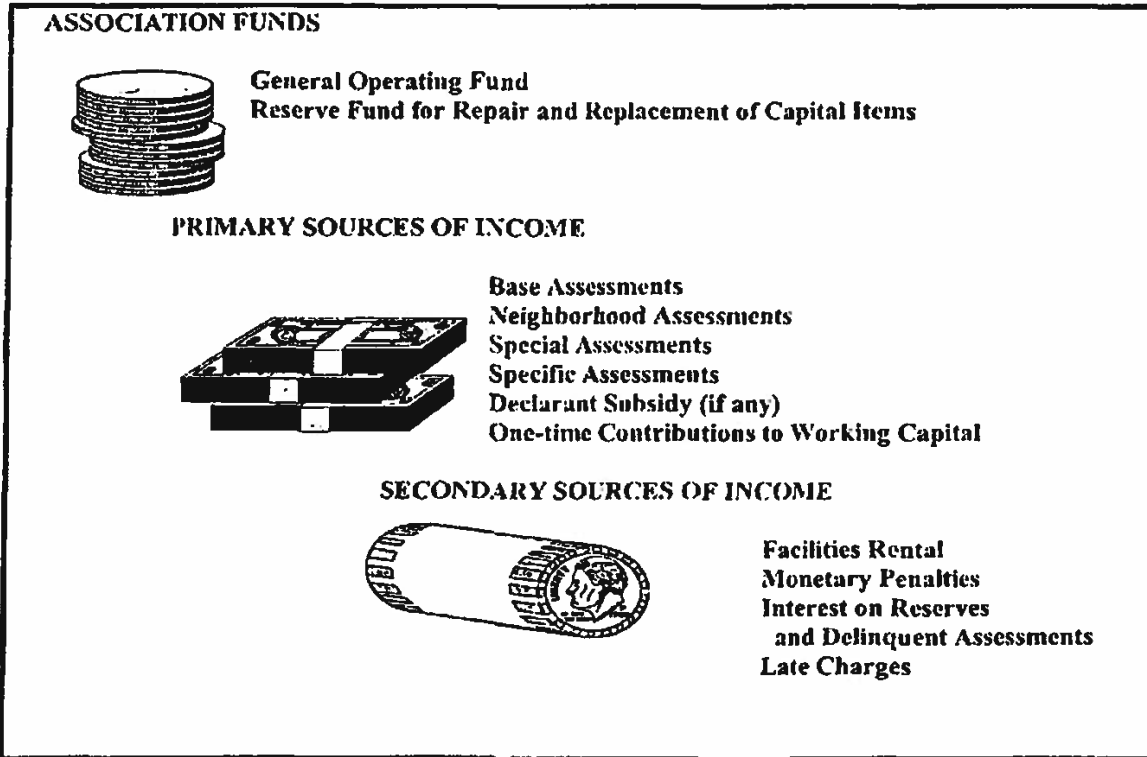


Diagram 8.1 - Funding Sources

The Association is authorized to levy Base Assessments equally against all Units subject to assessment under Section 8.6 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.7(b)), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate

Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget. The budget shall automatically become effective unless disapproved at a meeting by Members representing at least 75% of the total Class "A" votes in the Association and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

8.2. Budgeting and Allocating Neighborhood Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Neighborhood have approved pursuant to Section 6.4(a) and any contribution to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount required to be generated through the levy of Neighborhood and Special Assessments against the Units in such Neighborhood.

The Association is hereby authorized to levy Neighborhood Assessments equally against all Units in the Neighborhood which are subject to assessment under Section 8.6 to fund Neighborhood Expenses; provided, if so specified in the applicable Supplemental Declaration or if so directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

The Board shall cause a copy of the Neighborhood budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner in the Neighborhood at least 30 days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Neighborhood by Owners of a majority of the Units in the Neighborhood to which the Neighborhood Assessment

applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 10% of the Units in such Neighborhood. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood and shall not apply to any item which the Governing Documents require to be assessed as a Neighborhood Assessment.

If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

The Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Units in the affected Neighborhood to disapprove the revised budget as set forth above.

All amounts collected by the Association as Neighborhood Assessments shall be held in trust for and expended solely for the benefit of the Neighborhood for which they were collected and shall be accounted for separately from the Association's general funds.

8.3. Budgeting for Reserves.

The Board shall prepare and review at least annually a reserve budget for the Area of Common Responsibility and for each Neighborhood for which the Association maintains capital items as a Neighborhood Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1 or the Neighborhood Expense budgets adopted pursuant to Section 8.2, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect to both amount and timing by annual contributions over the budget period.

8.4. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Voting Members (if a Common Expense) or Owners (if a Neighborhood Expense) representing more than 50% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

No director, officer, or committee member shall be liable for failure to perform his or her fiduciary duty if any Special Assessment for the funds necessary for the director, officer, or committee member to perform his or her fiduciary duty fails to be approved pursuant to this Section, and the Association shall indemnify such director, officer, or committee member against any damage resulting from any claimed breach of fiduciary duty arising therefrom.

8.5. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Units in, or the Voting Member representing, the Neighborhood and an opportunity for such Owners or Voting Member to be heard before levying any such assessment.

8.6. Authority to Assess Owners; Time of Payment.

Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and

payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Virginia law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Fund Budget Deficits. During the Class "B" Control Period, Declarant may satisfy its obligation for assessments on Units which it owns either by paying such assessments in the same manner as any other Owner or by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year.

Regardless of Declarant's election, Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" Control Period, Declarant shall pay assessments on its unsold Units in the same manner as any other Owner.

8.8. Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of Virginia law), and costs of collection (including attorneys' fees). Such lien shall have the priorities set forth in Section 55-516 of the Virginia Code, as amended, and when delinquent, may be perfected and enforced by suit, judgment, and/or foreclosure in the manner provided in Section 55-516 of the Virginia Code, as amended.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.6, including such acquirer, its successors and assigns.

8.9. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility;

(b) Any property dedicated to and accepted by any governmental authority or public utility; and

(c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.10. Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

PART FOUR: COMMUNITY DEVELOPMENT

The Declaration reserves various rights to the developer in order to facilitate the smooth and orderly development of the Properties and to accommodate changes in the master plan which inevitably occur as a community the size of the Properties grows and matures.

Article IX Expansion of the Community

9.1. Expansion by Declarant.

Declarant may from time to time subject to the provisions of this Declaration all or any portion of the property described in Exhibit "B" by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand the Properties pursuant to this Section shall expire when all property described in Exhibit "B" has been subjected to this Declaration or 20 years after this Declaration is Recorded, whichever is earlier. Until then, Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibits "A" or "B." Any such transfer shall be memorialized in a written, Recorded instrument executed by Declarant.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

9.2. Expansion by the Association.

The Association may also subject additional property to the provisions of this Declaration by Recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of Voting Members representing more than 50% of the Class "A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is necessary.

9.3. Additional Covenants and Easements.

Declarant may subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Neighborhood Assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

Article X Additional Rights Reserved to Declarant

10.1. Withdrawal of Property.

Declarant reserves the right to amend this Declaration, so long as it has a right to annex additional property pursuant to Section 9.1, for the purpose of removing any portion of the Properties which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Units then subject to the Declaration by more than 10 percent. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Marketing and Sales Activities.

Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities at no charge.

10.3. Right to Develop.

Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Properties acknowledges that Bay Creek at Cape Charles is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge, or otherwise object to (a) changes in uses or density of property outside the Neighborhood in which such Person holds an interest, or (b) changes in the Master Plan as it relates to property outside the Neighborhood in which such Person holds an interest.

10.4. Rights to Stormwater Runoff and Water Reclamation; Use of Effluent.

Declarant, its designees, successors, or assigns shall have the exclusive right to develop and utilize the ground and surface water resources of the Properties for any legal purpose, including the distribution and use of such water beyond the Properties. Such right shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport ground water, surface water, and stormwater runoff. Declarant's conveyance of any Unit to an Owner or parcel to a Builder does not include the Owner's or Builder's right to develop or utilize the ground, surface, or storm water resources within such Unit or parcel.

Declarant or its designee may establish programs for reclamation of stormwater runoff and wastewater for appropriate uses within or outside the Properties and may require Owners and occupants of Units to participate in such programs to the extent reasonably practical. No Owner or occupant shall have any right to compensation for water claimed or reclaimed from his or her Unit. Additionally, the Board may establish restrictions on or prohibit outside use of potable water within the Properties.

By the act of purchasing or occupying a Unit within the Properties, all Owners understand and irrevocably consent to the possibility of irrigation of the Common Area, other areas within the Properties, and areas adjacent to the Properties, including the privately-owned golf courses, with treated effluent, provided that the effluent emanates from an approved treatment plant with a current operating permit from the appropriate governmental agency.

10.5. Right to Approve Additional Covenants.

No Person shall Record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and Recorded by Declarant.

10.6. Right to Approve Changes in the Properties' Standards.

No amendment to or modification of any Restrictions and Rules or Architectural Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

10.7. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument which Declarant signs and Records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.8. Exclusive Rights To Use Name of Development.

No Person shall use the name "Bay Creek at Cape Charles" or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Bay Creek at Cape Charles" in printed or promotional matter where such term is used solely to specify that particular property is located within the Properties and the Association shall be entitled to use the words "Bay Creek at Cape Charles" in its name.

10.9. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Properties, including Units, and a perpetual non-exclusive easement of access throughout the Properties to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at such Person's own expense, any damage resulting from such exercise.

10.10. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Properties in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

10.11. Termination of Rights.

The rights contained in this Article shall not terminate until the earlier of (a) 40 years from the date this Declaration is Recorded, or (b) Recording by Declarant of a written statement that all sales activity has ceased.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community, with its wide array of properties and development types and its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others within or adjacent to the community.

Article XI Easements

11.1. Easements in Common Area.

Declarant grants to each Owner a non-exclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The Board's right to:
 - (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws;

(iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;

(iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

(v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees, and guests upon payment of use fees established by the Board and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public;

(vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Sections 17.6 and 19.4; and

(d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas," as described in Article XIII.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

11.2. Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units or any Unit and any Private Amenity due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant owns any property described in Exhibit "A" or "B" of this Declaration, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout the Properties (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve the Properties, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights, and signage on property

which Declarant owns or within public rights-of-way or easements reserved for such purpose on Recorded plats;

(ii) inspecting, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements described in Section 11.3(a)(i); and

(iii) access to read utility meters.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in Exhibits "A" and "B." The Owner of any property to be burdened by any easement granted pursuant to this subsection (b) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such Property.

11.5. Easements for Maintenance, Emergency, and Enforcement.

Declarant grants to the Association easements over the Properties as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association

shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, and to inspect for the purpose of ensuring compliance with and enforcing the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

11.6. Easements for Lake and Pond Maintenance and Flood Water.

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the non-exclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any of the Properties abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself, the Association, and their successors, assigns, and designees, a perpetual, non-exclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 100 feet of bodies of water and wetlands within the Properties, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural occurrences.

11.7. Easements for Golf Course.

Every Unit and the Common Area and the common property of any Neighborhood Association are burdened with an easement permitting golf balls unintentionally to come upon such areas, and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood, or the exterior portions of a Unit to retrieve errant golf balls; provided, however, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: Declarant; the Association or its Members (in their capacities as such); the owner and/or operator of any golf course; any Builder or contractor (in their capacities as such); any successor, successor-in-title, assign, officer, director, or partner of any of the foregoing, or any officer or director of any partner.

The owner and/or operator of any golf course within or adjacent to any portion of the Properties, its agents, successors, and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair, and replacement of its golf course.

Any portion of the Properties immediately adjacent to any golf course is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course. Under no circumstances shall the Association or the owner and/or operator of such golf course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

The owner and/or operator of any golf course within or adjacent to any portion of the Properties, its successors and assigns, shall have a perpetual, exclusive easement of access over the Properties for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from its golf course.

11.8. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Properties, including Units, and a perpetual, non-exclusive easement of access throughout the Properties to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at such Person's own expense, any damage resulting from such exercise.

Article XII Environmental Areas and Issues

12.1. Assignment of Responsibilities.

Within and adjacent to the Properties there are various types of property such as wetlands, drainage areas, conservation areas, preserves, open spaces, and buffers upon which restrictions, monitoring requirements, or other obligations may be imposed by governmental agencies. Declarant may from time to time and at any time deed, convey, transfer, or assign any or all of the foregoing areas or responsibilities to the Association, which shall accept, own, maintain, and preserve the foregoing areas in accordance with the requirements of such agencies. All such areas that are conveyed to the Association shall become a portion of the Common Area, and the costs of ownership, operation, and maintenance thereof shall be a Common Expense. Alternatively, Declarant may deed, convey, transfer, or assign any or all of the foregoing areas or responsibilities to another community association, a foundation, or similar type non-profit entity with which the Association shall cooperate.

12.2. Surface Water Management System.

(a) No structure of any kind shall be constructed or erected, nor shall an Owner in any way change, alter, impede, revise, or otherwise interfere with the flow and the volume of water in any portion of the ponds, lakes, wetlands, creeks, retention areas, or other bodies of water or waterways reserved for, or intended by Declarant to be reserved for, drainage ways or for the accumulation of runoff waters, as reflected in any permits therefor, or plat or instrument of record, without the specific written permission of the Association and Declarant.

(b) An Owner or Neighborhood Association shall in no way deny or prevent ingress and egress by Declarant or the Association to such drainage areas for maintenance or landscape purposes. The right of ingress and egress, and easements therefor are hereby specifically reserved and created in favor of Declarant, the Association, or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress.

(c) No Unit shall be increased in size by filling in any water retention or drainage areas which it abuts. Owners shall not fill, dike, rip-rap, block, divert, or change the established drainage ways without the prior written consent of the Association and Declarant.

(d) Water management for any Unit or Neighborhood shall be provided in accordance with the overall drainage system for the Properties. Surface water drainage and management, including, but not limited to, storm water treatment and storage capacity, shall conform to the overall drainage system requirements and permits, if any, for the Properties and meet with the approval of Declarant and applicable governmental agencies.

(e) Lakes, ponds, and spillways in any Neighborhood or Unit are part of a functioning water management system and any use by an Owner or Neighborhood Association shall be on a non-interfering basis only. Additional on-site stormwater treatment areas may be required and constructed in the future.

(f) The use of any lake, pond, or wetland within the boundary of a Neighborhood or Unit is managed by the Association. Owners shall cooperate in maintaining the same in a clean and aesthetically-pleasing condition.

(g) The use of pesticides in any lake, pond, or wetland is prohibited, excepting only any such use by the Association and Declarant.

(h) No wells may be drilled, dug, or installed within any Unit or Neighborhood except by the Declarant or with the Declarant's written consent.

12.3. Preserves and Conservation Areas.

Any portions of the Common Area designated as a preserve or conservation area shall be maintained and preserved by the Association in accordance with the rules and regulations of all applicable governmental agencies. The Association shall not, and it shall not allow any Person to, undertake or perform any activity or improvements to a preserve or conservation area, or

remove any native vegetation, without the prior approval of such agencies. No excavation, placement of debris, dumping, construction, or other activity shall be permitted in a preserve or conservation area.

12.4. Open Space and Buffers.

Any property conveyed or dedicated to the Association, which is designated as open space, landscape buffer, preserve area, or conservation area on any plat, permit, or other Recorded document, shall be owned and maintained by the Association in a natural open condition. The Association or any subsequent owner shall not do anything that diminishes or destroys the open space, buffer, preserve area, or conservation area, and such areas shall not be developed for any purpose except that which improves or promotes the use and enjoyment of such areas as open space.

12.5. Shorelines and Water's Edge.

No Owner, by virtue of ownership of property adjacent to a shoreline shall have any right superior to that of other Owners (or the general public, to the extent that the public has a right of access) to use or control any shorelines within the Properties. All shorelines within the Properties shall be subject to the Association's control.

No Owner of a Unit bordering a lake, pond, or other body of water within the Properties shall construct, install, erect, or maintain any walls or other improvements along such lake, pond, or body of water

12.6. Recycling Program.

The Board may, but shall not be obligated to, establish a recycling program for the Properties. In such event, all occupants of Units shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program is set up to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation. Any cost associated with the implementation or operation of a recycling program shall be a Common Expense and any income which the Association receives as a result of such recycling efforts shall be used to reduce Common Expenses.

Article XIII Limited Common Areas

13.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes, and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of a

Limited Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Limited Common Areas are assigned.

13.2. Designation.

Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Units and/or Neighborhoods, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area and Limited Common Area may be reassigned upon approval of the Board and the vote of Voting Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, any such assignment or reassignment shall also require Declarant's written consent.

13.3. Use by Others.

Upon approval of a majority of Owners of Units within the Neighborhood to which any Limited Common Area is assigned, the Association may permit Owners of Units in other Neighborhoods to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Limited Common Area.

Article XIV Party Walls and Other Shared Structures

14.1. General Rules of Law to Apply.

Each wall, fence, driveway, or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XV.

14.2. Maintenance; Damage and Destruction.

The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure,

they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of Bay Creek at Cape Charles as a community in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with our neighbors, and protection of the rights of others who have an interest in the community.

Article XV Dispute Resolution and Limitation on Litigation

15.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Properties without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 15.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to

- (i) the interpretation, application, or enforcement of the Governing Documents;
- (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or
- (iii) the design or construction of improvements within the Properties, other than matters of aesthetic judgment under Article IV, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 15.2:

- (i) any suit by the Association to collect assessments or other amounts due from any Owner;
- (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to

maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Declaration (relating to creation and maintenance of community standards);

(iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(iv) any suit in which any indispensable party is not a Bound Party; and

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 15.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

15.2. Dispute Resolution Procedures.

(a) **Notice.** The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 15.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Northampton County area.

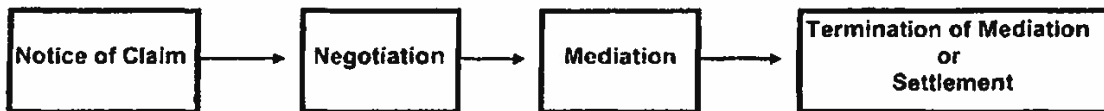
If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the

Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator.

Alternative Dispute Resolution Process



(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

15.3. Initiation of Litigation by Association.

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Voting Members entitled to cast 75% of the total Class "A" votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class "B" Control Period;
- (b) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

Article XVI Private Amenities

16.1. General.

Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenity. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Private Amenities. The owners of the Private Amenities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements with their respective members.

16.2. Conveyance of Private Amenities.

All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Amenity. No purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of such Private Amenity. The ownership or operation of the Private Amenities may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations of any Private Amenity by a Person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of the Private Amenity or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenity; or (c) the conveyance of any Private Amenity to one or more of Declarant's affiliates, shareholders, employees, or independent contractors. Consent of the Association, any Neighborhood Association, any Voting Member, or any Owner shall not be required to effectuate any change in ownership or operation of any Private Amenity, for or without consideration and subject to or free of any mortgage, covenant, lien, or other encumbrance.

16.3. View Impairment.

Declarant, the Association, or the owner of any Private Amenity, does not guarantee or represent that any view over and across a Private Amenity from Units adjacent to the Private Amenity will be preserved without impairment. Owners of the Private Amenities, if any, shall

have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to the Private Amenities from time to time. In addition, the owner of any Private Amenity which includes a golf course may, in its sole and absolute discretion, change the location, configuration, size, and elevation of the trees, bunkers, fairways, and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

16.4. Rights of Access and Parking.

There is hereby established for the benefit of the Private Amenities and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and non-exclusive easement of access and use over all roadways located within the Properties reasonably necessary to travel between the entrance to the Properties and each Private Amenity and over those portions of the Properties (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of each Private Amenity. Without limiting the generality of the foregoing, members of the Private Amenities and guests and invitees of the Private Amenities shall have the right to park their vehicles on the roadways located within the Properties at reasonable times before, during, and after tournaments and other similar functions held by or at the Private Amenities to the extent that such Private Amenities have insufficient parking to accommodate such vehicles.

16.5. Rights and Easements Relating to Lakes and Ponds.

The lakes and ponds within the Properties shall serve as visual amenities for the Private Amenities. The owner and/or operator of any Private Amenity and its agents, employees, or designees shall have a non-exclusive right and easement to enter upon the lakes, ponds, wetlands, and other bodies of water located within the Area of Common Responsibility to install, operate, maintain, and replace pumps to supply irrigation water to the Private Amenity. The owner and/or operator of each Private Amenity and its agents, employees, or designees shall have an access easement over and across any of the Properties (excluding dwellings) abutting or containing bodies of water or wetlands to the extent reasonably necessary to maintain, operate, or improve such Private Amenity or to exercise its rights under this Section.

16.6. Golf Tournaments.

Golf tournaments or similar functions may be held at any Private Amenity within or adjacent to any portion of the Properties from time to time to which members of the public will be invited as spectators or participants. Each Owner acknowledges that certain inconveniences to Owners may result from holding such tournaments. The types of inconveniences occurring during such tournaments may include, by way of example and not limitation, construction by Declarant, the owner and/or operator of the Private Amenity, or tournament operators or sponsors, of television towers or other structures on the Private Amenity property which would be visible from the Units and which may obstruct the view of the Private Amenity from the Units; noise associated with the construction and destruction of structures and equipment associated with such tournaments; encroachment on a Unit by spectators; and other

inconveniences relating to or caused by spectators, golfers, and others involved with the operation of tournaments.

Each Owner, including Owners of Units adjacent to any such Private Amenity, further acknowledges that Declarant, the Association, the owner and/or operator of such Private Amenity, or any other entity makes no representations that Owners will be afforded any rights to view or attend such tournaments or functions other than such rights as are afforded members of the general public.

16.7. Assessments.

In consideration of the fact that the Private Amenities will benefit from maintenance of the roads, rights-of-way, and Common Areas within the Properties, the Private Amenities shall be obligated to pay assessments to the Association as provided in Article VIII. In addition, the Association may enter into a contractual arrangement or covenant to share costs with any Private Amenity obligating such Private Amenity to contribute funds for, among other things, shared property or services and/or a higher level of Common Area maintenance.

16.8. Architectural Control.

Declarant, the Association, any Neighborhood Association, or any committee shall not approve any construction, addition, alteration, change, or installation on or to any portion of the Properties which is adjacent to, or otherwise in the direct line of sight of, any Private Amenity without giving the Private Amenity at least 15 days' prior written notice of its intent to approve the same together with copies of the request and all other documents and information finally submitted in such regard. The Private Amenity shall then have 15 days to respond in writing approving or disapproving the proposal, stating in detail the reasons for any disapproval. The failure of the Private Amenity to respond to the notice within the 15-day period shall constitute a waiver of the Private Amenity's right to object to the matter. This Section shall also apply to any work on the Common Area or any common property or common elements of a Neighborhood Association, if any.

16.9. Limitations on Amendments.

In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenities, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefiting any Private Amenity, may be made without the written approval of such Private Amenity. The foregoing shall not apply, however, to amendments made by Declarant.

16.10. Jurisdiction and Cooperation.

It is Declarant's intention that the Association and the Private Amenities shall cooperate to the maximum extent possible in the operation of the Properties and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Architectural Guidelines. The Association shall have no power to

promulgate Restrictions and Rules other than those set forth in Exhibit "C" affecting activities on or use of the Private Amenities without the prior written consent of the owners of the Private Amenities affected thereby.

16.11. Assumption of Risk and Indemnification.

Each Owner, by its purchase of a Unit in the vicinity of any Private Amenity within or adjacent to any portion of the Properties, hereby expressly assumes the risk of noise, personal injury, or property damage caused by maintenance and operation of such Private Amenity, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around or before sunrise or after sunset), (b) noise caused by golfers, (c) use of pesticides, herbicides, and fertilizers, (d) view restrictions caused by maturation of trees and shrubbery, (e) use of effluent in the irrigation of such Private Amenity, (f) reduction in privacy caused by constant golf traffic on such Private Amenity or the removal or pruning of shrubbery or trees on such Private Amenity, (g) errant golf balls and golf clubs, and (h) design of such Private Amenity.

Each Owner agrees that Declarant, the Association, any entity owning or managing a Private Amenity, and any affiliate, agent, successor, successor-in-title, or assign of any of the foregoing entities, shall not be liable to any Owner claiming *any* loss or damage based upon, due to, arising from, or otherwise related to the proximity of such Owner's Unit to such Private Amenity or the management thereof. Each Owner hereby agrees to indemnify and hold harmless Declarant, the Association, and any entity owning or managing such Private Amenity against any and all claims by Owner's occupants, visitors, tenants, and others coming upon such Owner's Unit.

Article XVII Mortgage Provisions

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

17.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

17.2. Other Provisions for First Lien Holders.

To the extent not inconsistent with Virginia law:

(a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

17.3. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

17.4. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

17.5. Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

17.6. HUD/VA Approval.

As long as there is a Class "B" membership, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either such agency is insuring or guaranteeing the Mortgage on any Unit: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; dedication, conveyance, or mortgaging of Common Area; or material amendment of this Declaration or the By-Laws. The granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a conveyance within the meaning of this Section.

PART SEVEN: CHANGES IN THE COMMUNITY

Communities such as Bay Creek at Cape Charles are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. Bay Creek at Cape Charles and its Governing Documents must be able to adapt to these changes while protecting the things that make Bay Creek at Cape Charles unique.

Article XVIII Changes in Ownership of Units

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

Article XIX Changes in Common Area

19.1. Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 67% of the total Class "A" votes in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking, Declarant, so long as Declarant owns any property subject to the

Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and Voting Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

19.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

19.3. Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to Northhampton County, the Town of Cape Charles, or to any other local, state, or federal governmental or quasi-governmental entity, subject to such approval as may be required by Sections 17.6 and 19.4.

19.4. Actions Requiring Owner Approval.

If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees the Mortgage on any Unit, then the following actions shall require the prior approval of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association and the consent of the Class "B" Member, if such exists: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B;" and dedication, conveyance, or mortgaging of Common Area. Notwithstanding anything to the contrary in Section 19.1 or this Section, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

Article XX Amendment of Declaration

20.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until conveyance of the first Unit to a Person other than a Builder, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable

governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, so long as Declarant owns property described in Exhibits "A" or "B" for development as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners.

20.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of the total Class "A" votes in the Association, including 75% of the Class "A" votes held by Members other than Declarant, and Declarant's consent, so long Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1. In addition, the approval requirements set forth in Article XVII shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

20.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

20.4. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration on the 1st day of February, 2000.

DECLARANT: **BAYMARK CONSTRUCTION CORPORATION**, a Virginia corporation

By: Richard S. Foster
Name: Richard S. Foster
Its: President

~~XXXXXX~~
~~XXXXXX~~
~~XXXXXX~~

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH
~~CITY OF NORFOLK VIRGINIA~~

The foregoing instrument was acknowledged before me this 1st day of February, 2000, by Richard S. Foster as President of Baymark Construction Corporation, a Virginia corporation, on behalf of the corporation.

[Signature]
Notary Public

My Commission Expires: October 31, 2002

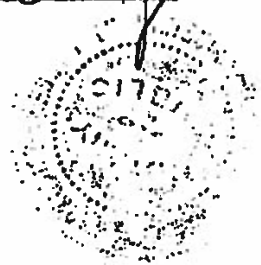


EXHIBIT "A"
Land initially Submitted

NEIGHBORHOOD DESIGNATION: See Below**

ALL THOSE CERTAIN PIECES OR PARCELS OF LAND LOCATED AND SITUATED IN THE TOWN OF CAPE CHARLES, VIRGINIA, MAKING UP ALL OF BOTH BAY CREEK at Cape Charles PHASE ONE and BAY CREEK at Cape Charles PHASE TWO, AND PARCEL B OF THE MARTIN TRACT AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A.

Parcels designated as a part of BAY CREEK at Cape Charles PHASE TWO and PHASE ONE amended as shown on plat entitled "SUBDIVISION OF BAY CREEK at Cape Charles PHASE TWO & AMENDED SUBDIVISION OF BAY CREEK at CAPE CHARLES PHASE ONE for BAYMARK CONSTRUCTION CORPORATION, REF. D.B.177 PG.431 M.B.26 Pg.49 M.B.26 Pg.62, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA" dated 2/25/99 and being duly recorded in Map Book 27 Pages 26-44 in the Clerk's Office of the Circuit Court of Northampton County, Virginia, reference to said plat is hereby made for a more particular description, included parcels are as follows:

AMENDED PHASE ONE PARCELS:

Road Parcel-1
Road Parcel-2
Maintenance Facility Parcel
Community Center Parcel
Clubhouse Parcel
Golf Academy Parcel
Practice Range Parcel
Course Parcel 1A-9A
Course Parcel 1B, 5B-9B
Course Parcel 1C-9C
Course Parcel 1D-8D
Course Parcel 2B-4B
Course Parcel 9D
Parcel H
Parcel I
Parcel O

**NEIGHBORHOOD DESIGNATION: At the time of recordation of this Declaration, all of the property described in Exhibit "A" shall constitute a single Neighborhood.

PHASE TWO PARCELS:

Parcel KK
Parcel K
Parcel G
Parcel F
Road Parcel 3

B.

Parcel designated as PARCEL B as shown on plat entitled "SUBDIVISION OF PROPERTY OF BETTY JEAN F. MARTIN D.B.160, PG.287 D.B.113 PG.482(PLAT) FOR: BROWN & ROOT, Inc., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA" dated 4/13/98 and being duly recorded in Map Book 26 Page 2 in the Clerk's Office of the Circuit Court of Northampton County, Virginia, reference to said plat is hereby made for a more particular description.

EXHIBIT "B"
Land Subject to Annexation

ALL THOSE CERTAIN PIECES OR PARCELS OF LAND LOCATED AND SITUATED IN THE TOWN OF CAPE CHARLES, VIRGINIA, KNOWN AND DESIGNATED AS PARCELS "A", "B", and "C" as shown on plat entitled "PLAT SHOWING BOUNDARY SURVEY OF THE PROPERTY OF BROWN AND ROOT, INC. (D.B. 177 PG. 431), TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA" dated 12/23/98 and being duly recorded in Map Book 26 Pages 49-61 in the Clerk's Office of the Circuit Court of Northampton County, Virginia, (reference to said plat is hereby made for a more particular description) **EXCLUDING ALL THOSE CERTAIN PIECES OR PARCELS OF LAND MAKING UP ALL OF BOTH **BAY CREEK at Cape Charles PHASE ONE** and **BAY CREEK at Cape Charles PHASE TWO**, AND PARCEL B OF THE MARTIN TRACT as described in EXHIBIT "A" herein.**

EXHIBIT "C"

Initial Restrictions and Rules

The following restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed, or limited pursuant to Article III of the Declaration.

1. **General.** The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of property described in Exhibits "A" or "B," offices for any property manager retained by the Association, or business offices for Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

2. **Restricted Activities.** The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats, and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages; provided, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area;

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Dumping grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Properties, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;

(m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;

(n) Swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams, or other bodies of water within the Properties (excluding the community beach), except that fishing from the shore of such bodies of water shall be permitted with appropriate licenses and Declarant, its successors and assigns, shall be permitted and shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas and to draw water from lakes, ponds, and streams within the Properties for purposes of irrigation and such other purposes as Declarant shall deem desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the community beach, lakes, ponds, streams, or other bodies of water within or adjacent to the Properties;

(o) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns;

(p) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(q) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV;

(r) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Properties; (iii) the business activity does not involve door-to-door solicitation of residents of the Properties; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Properties which is noticeably greater than that which is typical of Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program;

(s) Capturing, trapping, or killing of wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons using the Properties;

(t) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Properties or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(u) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV;

(v) Operation of motorized vehicles on pathways or trails maintained by the Association, except that golf carts may be operated on cart paths intended for such purposes; and

(w) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets, and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; hedges, walls, dog runs, or animal pens; and satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter;

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals;

(collectively, "Permitted Antennas") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Architectural Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Properties, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited at the Properties:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties; and

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair.

4. Leasing of Units. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. The Board may require a minimum lease term, which requirements may vary from Neighborhood to Neighborhood.

Each Owner desiring to lease his or her Unit shall use a leasing company that satisfies all of the following requirements: (a) is licensed; (b) is familiar with the Bay Creek at Cape Charles community; (c) is familiar with the Governing Documents, including advertising policies, pet restrictions, leasing restrictions, and all other covenants, conditions, restrictions, rules, and regulations applicable to Bay Creek at Cape Charles; and (d) meets such other reasonable requirements as the Board may establish. The Board's determination, made in its reasonable business judgment, as to whether a leasing company satisfies all such requirements shall be conclusive and binding. The Board shall provide the name(s) of such qualifying leasing companies to each Unit Owner upon request.

The Board may require a security deposit, in such amount as the Board reasonably determines adequate, to ensure each lessee's and occupant's compliance with the Governing Documents and to cover the costs of any damage to or destruction of the Common Areas or other property within Bay Creek at Cape Charles. Notwithstanding the above, collection of a security deposit shall in no way limit the Board's right to assess and collect the entire repair or replacement costs or pursue other enforcement remedies against the violator, lessee, or Owner, as appropriate. The Board may also impose an administrative fee on each lease in an amount reasonably based on the costs to the Association of administering that lease.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the leasing company within 10 days of execution of the lease. The Board may require the leasing company to use the Association's lease package, which shall include the lease; a copy of the Declaration, By-Laws, and the Restrictions and Rules; a signed statement from the lessee agreeing to comply with the Governing Documents; and such other information relating to the lease or lessee as the Board may reasonably require.

Bay Creek at Cape Charles Community Association, Inc.

Amendment - Declaration



PMA

Property Management Associates

001473

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 1st day of August, 2000, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, a portion of the real property described in Exhibit A appended to the Declaration has been subdivided by the Successor Declarant into residential building lots that are "Units" as defined in Article II of the Declaration and are within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 111, both inclusive, as shown on that certain plat entitled "PLAT OF BAY CREEK AT CAPE CHARLES, PHASE K, BEING A SUBDIVISION OF PARCEL K, BAY CREEK - PHASE TWO, M.B. 27, P. 26, REF. D.B. 177, P. 431, D.B. 311, P. 516, D.B. 317, P. 378, M.B. 26, P. 49, TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the aforesaid Clerk's Office in Map Book 28, at Pages 64 through 73 (hereinafter the "Phase K Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant, as the owner in fee simple of the Phase K Units, does hereby supplement the Declaration to declare that the Phase K Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

Parcel No(s): Part of 00090 (0A) 00-001A
Preparation by Consolvo, Markowitz & Webb, FLC

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from ninety-four (94) to two hundred five (205) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

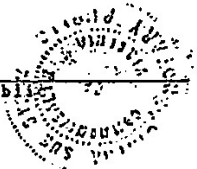
BAY CREEK, L.L.C.
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 1st day of August, 2000.

My Commission Expires: June 30, 2003
Cynthia Ann Quinn
Notary Public



INSTRUMENT #000001473
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
AUGUST 4, 2000 AT 01:49PM
KENNETH E. ARNOLD, CLERK
BY: [Signature] (DC)

001472

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 1st day of August, 2000, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, a portion of the real property described in Exhibit A appended to the Declaration has been subdivided by the Successor Declarant into residential building lots that are "Units" as defined in Article II of the Declaration and are within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 94, both inclusive, as shown on that certain plat entitled "PLAT OF BAY CREEK AT CAPE CHARLES, PHASE I, BEING A SUBDIVISION OF PARCEL I, BAY CREEK - PHASE ONE, M.B. 26, P. 62 - M.B. 27, P. 26, REF. D.B. 177, P. 431, D.B. 311, P. 516, D.B. 317, P. 378, M.B. 26, P. 49, TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the aforesaid Clerk's Office in Map Book 28, at Pages 49 through 63 (hereinafter the "Phase I Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant, as the owner in fee simple of the Phase I Units, does hereby supplement the Declaration to declare that the Phase I Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

Parcel No(s): 00090(02)00-0007
Preparation by Consolvo, Markowitz & Webb, PLC

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from zero (0) to ninety-four (94) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

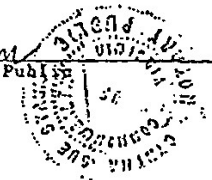
IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 15th day of August, 2000.

My Commission Expires: June 30, 2003
Cynthia Ann Bynum
Notary Public


INSTRUMENT #000001472
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
AUGUST 4, 2000 AT 01:47PM
KENNETH F. ARNOLD, CLERK
BY: MAR 70 (OC:

000450

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 5th day of March, 2001, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"). GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"). GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, a portion of the real property described in Exhibit(s) A and/or B appended to the Declaration has been subdivided by the Successor Declarant into residential building lots that are "Units" as defined in Article II of the Declaration and are within the scope of the Declaration or may be brought within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 72, both inclusive, as shown on that certain plat entitled "PLAT OF BAY CREEK AT CAPE CHARLES, PHASE B, BEING A SUBDIVISION OF PARCEL B, BAY CREEK - PHASE THREE, M.B. 29, P. 1, REF. D.B. 177, P. 431, D.B. 311, P. 516, D.B. 317, P. 378, TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the aforesaid Clerk's Office in Map Book 29, at Pages 29 through 38 (hereinafter the "Phase B Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant, as the owner in fee simple of the Phase B Units, does hereby supplement the Declaration to declare that the Phase B Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

Parcel No(s): . 00090 (A) LG

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from two hundred five (205) to two hundred seventy-seven (277) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 6th day of March, 2001

[Signature]
Notary Public

My Commission Expires: Oct 31, 2002

INSTRUMENT #010000450
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 7th 2001 AT 11:48AM
KENNETH F. ARNOLD, CLERK

BY: [Signature] (BC)

020 092520

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 25th day of September, 2002, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March

15, 2001 and recorded in Deed Book 330, at Page 271; and [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; and

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 118, both inclusive, as shown on that certain plat entitled "SUBDIVISION PLAT OF PARCEL 'A-1' PLAT BOOK 30 PAGES 36-37, BAY CREEK - PHASE IV, THE COLONY AT BAY CREEK FOR BAY CREEK MARINA AND RESORT, LLC, TOWN OF CAPE CHARLES, VIRGINIA", duly recorded in the Clerk's Office in Plat Book 30, at Pages 81 through 90 (hereinafter "The Colony Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that The Colony Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from two hundred seventy-seven (277) to three hundred ninety-five (395) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: 
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: *Paul A. Galloway*
Paul A. Galloway, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 25th day of September, 2002.

William A. Workman
Notary Public

My Commission Expires: January 31, 2003

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 30th day of September, 2002.

William A. Workman
Notary Public

My Commission Expires: Oct 31, 2006

INSTRUMENT #020002520
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
OCTOBER 15, 2002 AT 12:18PM
HEINRICH F. ARNOLD, CLERK

Heinrich F. Arnold

030001622

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 19th day of May, 2003, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March

PREPARATION BY:
RETURN TO:

*nsolo, Markowitz
& Webb, PLLC*

400 COMMONWEALTH CENTER II - SUITE 101
750 LITTLEPAGE PARKWAY
CHESAPEAKE, VIRGINIA 23042-7325

Parcel Number: Portion of 083A1-((0A))-00-00A

15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; and [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; and

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 119 through 188, both inclusive, as shown on that certain plat entitled "SUBDIVISION PLAT OF PARCEL 'F' KINGS BAY, BAY CREEK - PHASE IV FOR BAY CREEK MARINA & RESORT, LLC, 'SUBDIVISION PLAT OF PARCEL A-1 (PLAT BOOK 30, PAGES 81-90)', TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office in Plat Book 31, at Pages 49 through 52 (hereinafter "the Kings Bay Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Kings Bay Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from three hundred ninety-five (395) to four hundred sixty-five (465) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Ubb, PLLC*
PROSEMER CORPORATE CENTER II - SUITE 101
780 LINDSEY PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7326

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: *Richard S. Foster*
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: *Paul A. Galloway*
Paul A. Galloway, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 28th day of May, 2003.

William A. Workman
Notary Public

My Commission Expires: January 31, 2007

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 27th day of May, 2003.

William A. Workman
Notary Public

My Commission Expires: Oct 31 2006

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*
THURMAN CORPORATE CENTER II - SUITE 101
760 LYMANHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

INSTRUMENT #030001622
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MAY 30, 2003 AT 12:23PM
KENNETH F. ARNOLD, CLERK

BY: *Jonathan J. Smith (DC)*

030001623

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 19th day of May, 2003, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of HERON POINTE, L.L.C., a Virginia limited liability company (hereinafter "Heron Pointe"), GRANTOR for indexing purposes; also index in the names of GAGE FINANCIAL II, LLC, a Utah limited liability company (hereinafter "Gage") and DEFORD LIMITED, a Virginia corporation (hereinafter "DeFord"), GRANTORS for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in

Parcel Number(s):

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, P.C.*

SUMMER CORPORATE CENTER II - SUITE 101
750 LINDSEY PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; and [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded in the Clerk's Office.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Heron Pointe into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 63, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF 'HERON POINTE PARCEL' (PLAT BOOK 31 PAGE 5) AND 'PALMER COURSE PARCEL 1D-8D' (PLAT BOOK 31 PAGE 5) (PLAT BOOK 26 PAGE 62) FOR HERON POINTE, L.L.C., TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", (the "Plat"), duly recorded in the Clerk's Office in Plat Book 31, at Pages 53 through 58, hereinafter "the Heron Pointe Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Heron Pointe Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from four hundred sixty-five (465) to five hundred twenty-eight (528) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect and shall pertain to the Heron Pointe Units.

CONFIRMATION BY HERON POINTE, L.L.C.: Heron Pointe joins in the execution of this instrument to evidence its consent to the lots described on the Plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

CONFIRMATION BY GAGE FINANCIAL II, LLC AND DEFORD LIMITED: Gage and DeFord join in the execution of this instrument to evidence their consent to the lots described on the Plat as Lot 49 and Lot 29, respectively, being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects. Said Lot 49 and Lot 29 were heretofore also depicted on that certain plat entitled "RESUBDIVISION OF 'PARCEL O' (PLAT BOOK 26 PAGE 62) AND 'COURSE PARCEL 1D-8D' (PLAT BOOK 26 PAGE 62) FOR HERON POINTE, L.L.C., TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", and recorded in the Clerk's Office as Document Number 020002704 in Plat Book 31, at page 5 through 7.

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.L.C.*
JONHARVEY CORPORATE CENTER II - SUITE 101
700 LINDSEY PARKWAY
VIRGINIA BEACH, VIRGINIA 22452-7325

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and HERON POINTE, L.L.C., both Virginia limited liability companies, and GAGE FINANCIAL II, LLC, a Utah limited liability company, have each caused this instrument to be executed in the names of the companies by duly authorized managers. IN FURTHER WITNESS WHEREOF, DEFORD LIMITED, a Virginia corporation, has caused this instrument to be executed in its name by its duly authorized officer.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

HERON POINTE, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

GAGE FINANCIAL II, LLC,
a Utah limited liability company

By: Richard W. Ringwood
Richard W. Ringwood, Manager

DEFORD LIMITED,
a Virginia corporation

By: Richard W. Ringwood
Its: President

PREPARATION BY
RETURN TO:
Consolo, Markowitz
& Webb, PLLC
JPMORGAN CORPORATE CENTER II - SUITE 101
700 LYMANVILLE PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 28th day of May, 2003.

William A. Workman
Notary Public

My Commission Expires: January 31, 2007

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of HERON POINTE, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 28th day of May, 2003.

William A. Workman
Notary Public

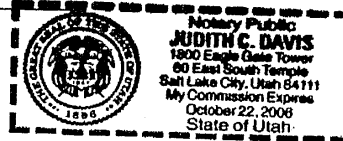
My Commission Expires: January 31, 2007

STATE OF UTAH
CITY\COUNTY OF SALT LAKE, to-wit:

I, the undersigned, a Notary Public in and for the City\County and State aforesaid, do hereby certify that Richard W. Ringwood, as Manager of GAGE FINANCIAL II, LLC, a Utah limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of May, 2003.

Judith C. Davis
Notary Public

My Commission Expires: _____

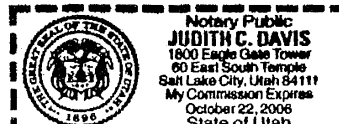


STATE OF UTAH
CITY\COUNTY OF SALT LAKE, to-wit:

I, the undersigned, a Notary Public in and for the City\County and State aforesaid, do hereby certify that Robert H. DeFord as the President of DEFORD LIMITED, a Virginia corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of May, 2003.

Judith C. Davis
Notary Public

My Commission Expires: _____



PREPARATION BY:
RETURN TO:
nsolo, Markowitz
& Webb, PLLC
1400 CORPORATE CENTER II - SUITE 101
780 LYMANSON PARKWAY
NORVA BEACH, VIRGINIA 23452-7325

INSTRUMENT #030001623
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MAY 30, 2003 AT 12:27PM
KENNETH F. ARNOLD, CLERK
BY: *[Signature]* (bc)

040001918

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR

BAY CREEK AT CAPE CHARLES Add's Lots 1-38
Plantation Pointe

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 14th day of June, 2004, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of RICHARD S. FOSTER (hereinafter "Foster"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and

PREPARATION BY:
RETURN TO:
*Consoles, Markowitz
& Webb, PLLC*
LOWMEYER CORPORATE CENTER II - SUITE 101
760 LYONSBOURNE PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

Parcel Number: Part of 00090-(OA)-00-000F

recorded on May 30, 2003 as Instrument Number 030001622; and [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; and

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Successor Declarant into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 38, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION ONE, PARCEL F-2 AND LOTS 19 & 20, PHASE TWO (PLAT BOOK 31, PAGES 96-97) (PLAT BOOK 27, PAGE 26) FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 32, at Pages 78, 79 and 80.

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Plantation Pointe-Section One Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from five hundred ~~twenty-eight~~ (528) to five hundred sixty-six (566) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect and shall pertain to the Plantation Pointe-Section One Units.

CONFIRMATION BY FOSTER: Foster joins in the execution of this instrument to evidence his consent to the lots described on the Plat as Lot 19 and Lot 20 being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects. Said Lot 19 and Lot 20 were heretofore also depicted on that certain plat entitled "SUBDIVISION OF PARCEL 'F' BAY CREEK AT CAPE CHARLES, PHASE TWO (PLAT BOOK 27, PAGE 26) FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 31, at Pages 96 and 97.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized manager. Also WITNESS the following signature and seal.

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.C.*
LUMBERMAN CORPORATE CENTER II - SUITE 101
760 LUMBERMAN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

Richard S. Foster (SEAL)
Richard S. Foster

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 15th day of June, 2004.

Cynthia Sue Benum
Notary Public
My Commission Expires: June 30, 2007

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 15th day of June, 2004.

Cynthia Sue Benum
Notary Public
My Commission Expires: June 30, 2007

INSTRUMENT 45400017.8
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JUNE 18, 2004 AT 02:44PM
TRACI L. JOHNSON, CLERK
BY: ATTORNEY MTK

04000/918

PREPARATION BY:
RETURN TO:
**Consolo, Markowitz
& Webb, P.C.**
LYNNHURST CORPORATE CENTER II - SUITE 101
760 LYNNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

W/ Lots 64A, 64-117
to 316/656
Marina Village East
Adds Lots 64A, 64-117

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES 050000 246

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 20th day of January, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

Parcel Numbers: Portions of 083A1-A-A2 & 083A1-A-A1

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*
Lynchburg Corporate Center II - Suite 101
700 Lynchburg Plaza
Lynchburg, Virginia 23822-7325

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; and [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as Lot 64A and Lots 64 through 117, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF 'MARINA VILLAGE EAST' PHASE I, RESUBDIVISION OF PARCEL A-1 PARCEL A-2 LOTS 17 - WESTERN 1/2 LOT 23 AND LOTS 44A - 49A, P.B. 33 PGS. 67-68, FOR BAY CREEK MARINA AND RESORT, LLC, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", which said plat is duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 33, at pages 78 et seq. (hereinafter the "Marina Village East Phase I Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Marina Village East Phase I Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from five hundred sixty-six (566) to ~~six hundred twenty-one (621)~~ and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

PREPARATION BY:
RETURN TO:

Consolo, Markowitz
& Webb, P.C.

COMMONWEALTH CORPORATE CENTER II - SUITE 101
760 LINDSEY PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7525

64A
64-117 Marina Village East

33/78

05-246

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: Paul A. Galloway
Paul A. Galloway, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 20th day of January, 2005.

Richard S. Foster
Notary Public

My Commission Expires: Oct 31, 2006

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 20th day of January, 2005.

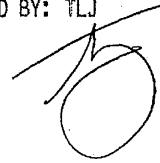
Paul A. Galloway
Notary Public

My Commission Expires: Oct 31, 2006

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*
LYNEMAR CORPORATE CENTER II - SUITE 101
750 LYNNWOOD PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

INSTRUMENT #050000246
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JANUARY 24, 2005 AT 02:22PM
TRACI L. JOHNSON, CLERK

RECORDED BY: TLJ

A handwritten signature in black ink, appearing to be 'TLJ', written over the printed name 'TRACI L. JOHNSON, CLERK'.

050002309

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 24th day of February, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of

Parcel Number(s): Part of 90-2-H

PREPARATION BY:
RETURN TO:
Consolo, Markowitz
& Webb, P.C.
LYNNHURST CORPORATE CENTER II - SUITE 101
760 LYNNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

72 units - Establishes property to become FAIRWAYS I CONDOMINIUM

Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918; and [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded on January 24, 2005 as Instrument Number 050000246.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, owned by the Successor Declarant, is now more particularly described as "SECTION 1-A 296,889.3 SQ.FT. 6.816 ACRES", "PART OF SECTION 1-B188,740.2 SQ.FT. 4.333 ACRES", "PART OF SECTION 1-B 49,952.8 SQ.FT. 1.147 ACRES", "SECTION 2 347,371.2 SQ.FT. 7.975 ACRES" and "SECTION 3 395,525.3 SQ.FT. 9.080 ACRES", on that certain plat entitled "REVISED PLAT OF VILLAGE H BEING A RESUBDIVISION OF 'COURSE PARCEL 2B-4B' AND 'PARCEL H' OF BAY CREEK AT CAPE CHARLES PHASE TWO FOR BAY CREEK LLC (FORMERLY BAYMARK CONSTRUCTION CORPORATION) (DEED REFERENCE: D.B.317, P.378) (MAP BOOK REFERENCES: M.B.26, P.62 AND M.B.27 P.26) TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT NORTHAMPTON COUNTY, VIRGINIA" prepared by LandTech Resources, Inc., recorded in the Clerk's Office of the Circuit Court of Northampton County in Plat Book 33 at pages 92, as Instrument Number 050000916; and

WHEREAS, Successor Declarant is developing a portion of Village H into a residential condominium community within Bay Creek at Cape Charles known as FAIRWAYS I CONDOMINIUM (hereinafter the "Condominium") to be comprised of approximately seventy-two (72) condominium units (hereinafter the "Condominium Units"), reference being made to that certain Declaration of Condominium of Fairways I Condominium to be recorded in the Clerk's Office simultaneously herewith; and

72

WHEREAS, the Successor Declarant intends to confirm that [i] all of the Condominium Units in the Condominium, as each respective phase of the Condominium is established by recordation of appropriate condominium instruments in the Clerk's Office, shall be subject to the Declaration and be part of the Bay Creek at Cape Charles community, [ii] that the Condominium Units are deemed to be "Units" as defined in the Declaration, [iii] that all of the owners of the Condominium Units shall be members of the Association, and [iv] that the Declaration shall be fully and completely applicable to the Condominium Units in all respects;

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant, in accordance with the Declaration, the Successor Declarant does hereby supplement the Declaration to declare and confirm that the Condominium Units created, or to be created, by recordation of appropriate condominium instruments in the Clerk's Office by the Successor Declarant, and/or its successors and assigns, are deemed to be "Units" as defined in the Declaration, that the Declaration shall be fully and completely applicable to the Condominium Units in all respects, and that the owners of the Condominium Units are Class "A" Members of the Bay Creek at Cape Charles Community, as defined the Declaration, thereby entitled to vote in Bay Creek at Cape Charles Community Association, Inc.

ALLOCATION OF VOTES: Upon the date of recordation in the Clerk's Office of condominium instruments creating Condominium Units, the total number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) shall be increased by the number of Condominium Units thereby created and the corresponding number of Class "A" Members, as defined in the Declaration, entitled to vote in Bay Creek at Cape Charles Community Association, Inc., shall correspond to the total number of Units, whether created and established by the Successor Declarant, by recordation of further

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*

LONGMEAD CORPORATE CENTER II - SUITE 101
760 LYNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

amendments and/or supplements to the Declaration, or created by Successor Declarant, and/or its successors and assigns, as Condominium Units, by recordation of further condominium instruments, all as more fully set forth in said Declaration and herein.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 1st day of March, 2005.

Cynthia Sue Benim
Notary Public

My Commission Expires: June 30, 2007

INSTRUMENT #050002309
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JUNE 17, 2005 AT 10:58AM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*

LYNNWAY CORPORATE CENTER II - SUITE 101
760 LYNNWAY PLAZA
VIRGINIA BEACH, VIRGINIA 23452-1125

050001734

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 3rd day of May, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property; described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

Parcel Numbers: Portions of 083A1-A-A2 & 083A1-A-A1

PREPARATION BY:
RETURN TO:
onsolvo, Markowitz
& Webb, P.L.C.
TRUENY CORPORATE CENTER II - SUITE 101
760 LINDSEY PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

18-63 Village East

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918; and [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000247.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as Lots 18 through 63, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF 'MARINA VILLAGE EAST' PHASE III, RESUBDIVISION OF PARCEL A-1 PARCEL A-2 LOTS 17 - WESTERN 1/2 LOT 23 AND LOTS 44A - 49A, P.B. 33 PGS. 67-68, FOR BAY CREEK MARINA AND RESORT, LLC, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", which said plat is duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 34, at pages 22, et seq. (hereinafter the "Marina Village East Phase III Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Marina Village East Phase III Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from six hundred twenty-one (621) to six hundred sixty-seven (667) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as defined in the Declaration and, hereafter, being subject to the Declaration in all respects.

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
LYNNHURST CORPORATE CENTER II - SUITE 101
700 LYNNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: Paul A. Galloway
Paul A. Galloway, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 5th day of May, 2005.

My Commission Expires: Oct 31, 2006 [Signature]
Notary Public

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 5th day of May, 2005.

My Commission Expires: 08/31/2006 [Signature]

PREPARATION BY:
RETURN TO:
Leo, Markowitz
Webb, P.C.
CORPORATE CENTER II - SUITE 101
30 LYNNHAVEN PARKWAY
BEACH, VIRGINIA 23452-7325

INSTRUMENT # 050001734
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MAY 9, 2005 AT 03:55PM
TRACI L. JOHNSON, CLERK

RECORDED BY: AFS

050001960

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 20th day of May, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

PREPARATION BY:
RETURN TO:

*13060, Markowitz
& Webb, PLLC*

400 CORPORATE CENTER II - SUITE 101
700 LYNNHAVEN PARKWAY
DINA BLADE, VIRGINIA 23452-7325

Parcel Numbers: Portions of 083A1-A-A2 & 083A1-A-A1

*Marina Village East Lots 1-14, 14A, 15, 15A, 16, 17
Increases units from 667 to 686*

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000247; and [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as Lots 1 through 14, both inclusive, and Lots 14A, 15, 15A, 16 and 17, as shown on that certain plat entitled "SUBDIVISION OF 'MARINA VILLAGE EAST' PHASE II, RESUBDIVISION OF PARCEL A-1 PARCEL A-2 LOTS 17 - WESTERN 1/2 LOT 23 AND LOTS 44A - 49A, P.B. 33 PGS. 67-68, FOR BAY CREEK MARINA AND RESORT, LLC, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", which said plat is duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 34, at pages 31, et seq. (hereinafter the "Marina Village East Phase II Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Marina Village East Phase II Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from six hundred sixty-seven (667) to six hundred eighty-six (686) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

PREPARATION BY:

RETURN TO:

*Consolo, Markowitz
& Webb, P.C.*

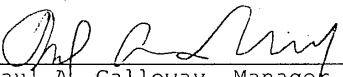
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

BAY CREEK, L.L.C.,
a Virginia limited liability company

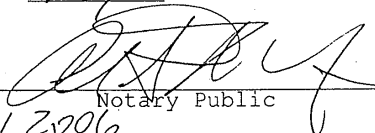
By: 
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: 
Paul A. Galloway, Manager


COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 20th day of May, 2005.


Notary Public
My Commission Expires: Oct 31, 2006

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 23rd day of May, 2005.


Notary Public
My Commission Expires: Oct 31, 2006

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*
LYNNHAVEN CORPORATE CENTER II - SUITE 101
700 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

INSTRUMENT #050001960
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MAY 24, 2005 AT 11:38AM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

05-44011

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 29th day of December, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

Parcel Number(s): Part of 90-2-H

PREPARATION BY: RETURN TO: Consolo, Markowitz & Webb, P.C. LINDSEY CORPORATE CENTER II - SUITE 101 760 LINDSEY PARKWAY VIRGINIA BEACH, VIRGINIA 23452-7325

Add Fairways II

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded on January 24, 2005 as Instrument Number 050000247; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; and [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, owned by the Successor Declarant, is described as "SECTION 1-A 296,889.3 SQ.FT. 6.816 ACRES", "PART OF SECTION 1-B188,740.2 SQ.FT. 4.333 ACRES", "PART OF SECTION 1-B 49,952.8 SQ.FT. 1.147 ACRES", "SECTION 2 347,371.2 SQ.FT. 7.975 ACRES" and "SECTION 3 395,525.3 SQ.FT. 9.080 ACRES", on that certain plat entitled "REVISED PLAT OF VILLAGE H BEING A RESUBDIVISION OF 'COURSE PARCEL 2B-4B' AND 'PARCEL H' OF BAY CREEK AT CAPE CHARLES PHASE TWO FOR BAY CREEK LLC (FORMERLY BAYMARK CONSTRUCTION CORPORATION) (DEED REFERENCE: D.B.317, P.378) (MAP BOOK REFERENCES: M.B.26, P.62 AND M.B.27 P.26) TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT NORTHAMPTON COUNTY, VIRGINIA" prepared by LandTech Resources, Inc., recorded in the Clerk's Office of the Circuit Court of Northampton County in Plat Book 33, at page 92, as Instrument Number 050000916; and

WHEREAS, Successor Declarant is developing a portion of Village H into a residential condominium community within Bay Creek at Cape Charles known as FAIRWAYS II CONDOMINIUM (hereinafter the "Condominium") to be comprised of approximately seventy-eight (78) condominium units (hereinafter the "Condominium Units"), reference being made to that certain Declaration of Condominium of Fairways II Condominium dated December 29, 2005 and to be recorded in the Clerk's Office simultaneously herewith; and

WHEREAS, the Successor Declarant intends to confirm that [i] all of the Condominium Units in the Condominium, as each respective phase of the Condominium is established by recordation of appropriate condominium instruments in the Clerk's Office, shall be subject to the Declaration and be part of the Bay Creek at Cape Charles community, [ii] that the Condominium Units are deemed to be "Units" as defined in the Declaration, [iii] that all of the owners of the Condominium Units shall be members of the Association, and [iv] that the Declaration shall be fully and completely applicable to the Condominium Units in all respects;

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant, in accordance with the Declaration, the Successor Declarant does hereby supplement the Declaration to declare and confirm that the Condominium Units created, or to be created, by recordation of appropriate condominium instruments in the Clerk's Office by the Successor Declarant, and/or its successors and assigns, are deemed to be "Units" as defined in the Declaration, that the Declaration shall be fully and completely applicable to the Condominium Units in all respects, and that the owners of the Condominium Units are Class "A" Members of the Bay Creek at Cape Charles Community, as defined the Declaration,

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*
LLOYMANN CORPORATE CENTER II - SUITE 101
760 LINDENHURCH PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

thereby entitled to vote in Bay Creek at Cape Charles Community Association, Inc.

ALLOCATION OF VOTES: Upon the date of recordation in the Clerk's Office of condominium instruments creating Condominium Units, the total number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) shall be increased by the number of Condominium Units thereby created and the corresponding number of Class "A" Members, as defined in the Declaration, entitled to vote in Bay Creek at Cape Charles Community Association, Inc., shall correspond to the total number of Units, whether created and established by the Successor Declarant, by recordation of further amendments and/or supplements to the Declaration, or created by Successor Declarant, and/or its successors and assigns, as Condominium Units, by recordation of further condominium instruments, all as more fully set forth in said Declaration and herein.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 29th day of December, 2005.

PREPARATION BY:
RETURN TO:
Consolo, Markowitz
& Webb, P.C.
LEHMANWEN CORPORATE CENTER II - SUITE 101
700 LEHMANWEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

My Commission Expires:

Oct 31, 2006
Notary Public

INSTRUMENT #050004611
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 29, 2005 AT 10:39AM
TRACI L. JOHNSON, CLERK
RECORDED BY: AFS

060000789

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 16th day of March, 2006, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as

PREPARATION BY:
RETURN TO:
Consolo, Markowitz
& Webb, PLLC
EXHIBIT CENTER II - SUITE 101
780 LYONSBOURNE PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325

Parcel Number: Out of 97-A-IB 98-A-1B

Adds Plantation Pointe
Lots 39-53

Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000247; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309; and [15] Supplement to Declaration of Covenants, Conditions and Restrictions dated December 29, 2005 and recorded as Instrument Number 050004611.

WHEREAS, a portion of the real property described in Exhibit B, appended to the Declaration, has been subdivided by Successor Declarant into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 39 through 53, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION TWO, AND 'PARCEL E' PHASE E BAY CREEK AT CAPE CHARLES AND COURSE PARCEL 2B-4B AND F-2B, PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION ONE, FOR BAY CREEK, L.L.C. (FORMERLY BAYMARK CONSTRUCTION CORPORATION) (DEED REFERENCE: D.B. 317, P. 378) (MAP BOOK REFERENCES: M.B. 26, P. 62 AND M.B. 27, 26), TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 34, at Pages 48 and 49.

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Plantation Pointe-Section Two Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Upon the date of recordation in the Clerk's Office of this instrument, the total number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) shall be increased by the number of Units hereby created and the corresponding number of Class "A" Members, as defined in the Declaration, entitled to vote in Bay Creek at Cape Charles Community Association, Inc., shall correspond to the total number of Units, whether created and established by the Successor Declarant by recordation of further amendments and/or supplements to the Declaration, or created by the Successor Declarant, and/or its successors and assigns, as Condominium Units by recordation of condominium instruments, all as more fully set forth in said Declaration and herein.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect and shall pertain to the Plantation Pointe-Section Two Units.

PREPARATION BY:
RETURN TO:

*onsolo, Markowitz
& Webb, PLLC*

WILHELM CORPORATE CENTER II - SUITE 101
780 LINDSEY PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

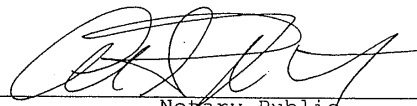
IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized Manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: 
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State, do hereby certify that Richard S. Foster, as Manager of Bay Creek, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 16th day of March, 2006.



Notary Public

My Commission Expires: Oct 31, 2006

INSTRUMENT #060000789
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 17, 2006 AT 12:10PM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
LYNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

060000818

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 21st day of March, 2006, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

PREPARATION BY: RETURN TO: Consolo, Markowitz & Webb, P.C. LYNNHURST CORPORATE CENTER II - SUITE 101 760 LYNNHURST PARKWAY VIRGINIA BEACH, VIRGINIA 23462-7325

Parcel Number(s): Part of 90-2-H

Adels Fairway III

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000247; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309; [15] Supplement to Declaration of Covenants, Conditions and Restrictions dated December 29, 2005 and recorded as Instrument Number 050004611; and [16] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 16, 2006 and recorded as Instrument Number 060000789.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, owned by the Successor Declarant, is described as "SECTION 1-A 296,889.3 SQ.FT. 6.816 ACRES", "PART OF SECTION 1-B188,740.2 SQ.FT. 4.333 ACRES", "PART OF SECTION 1-B 49,952.8 SQ.FT. 1.147 ACRES", "SECTION 2 347,371.2 SQ.FT. 7.975 ACRES" and "SECTION 3 395,525.3 SQ.FT. 9.080 ACRES", on that certain plat entitled "REVISED PLAT OF VILLAGE H BEING A RESUBDIVISION OF 'COURSE PARCEL 2B-4B' AND 'PARCEL H' OF BAY CREEK AT CAPE CHARLES PHASE TWO FOR BAY CREEK LLC (FORMERLY BAYMARK CONSTRUCTION CORPORATION) (DEED REFERENCE: D.B.317, P.378) (MAP BOOK REFERENCES: M.B.26, P.62 AND M.B.27 P.26) TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT NORTHAMPTON COUNTY, VIRGINIA" prepared by LandTech Resources, Inc., recorded in the Clerk's Office of the Circuit Court of Northampton County in Plat Book 33, at page 92, as Instrument Number 050000916; and

WHEREAS, Successor Declarant is developing a portion of Village H into a residential condominium community within Bay Creek at Cape Charles known as FAIRWAYS III CONDOMINIUM (hereinafter the "Condominium") to be comprised of approximately seventy-two (72) condominium units (hereinafter the "Condominium Units"), reference being made to that certain Declaration of Condominium of Fairways III Condominium dated March 21, 2006 and to be recorded in the Clerk's Office simultaneously herewith; and

WHEREAS, the Successor Declarant intends to confirm that [i] all of the Condominium Units in the Condominium, as each respective phase of the Condominium is established by recordation of appropriate condominium instruments in the Clerk's Office, shall be subject to the Declaration and be part of the Bay Creek at Cape Charles community, [ii] that the Condominium Units are deemed to be "Units" as defined in the Declaration, [iii] that all of the owners of the Condominium Units shall be members of the Association, and [iv] that the Declaration shall be fully and completely applicable to the Condominium Units in all respects;

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant, in accordance with the Declaration, the Successor Declarant does hereby supplement the Declaration to declare and confirm that the Condominium Units created, or to be created, by recordation of appropriate condominium instruments in the Clerk's Office by the Successor Declarant, and/or its successors and assigns, are deemed to be "Units" as defined in the Declaration, that the Declaration shall be fully and completely

PREPARATION BY:
RETURN TO:
*Consolo, Marlowitz
& Webb, P.C.*
Lynchburg Corporate Center II - Suite 101
750 Lynchburg Parkway
Lynchburg, Virginia 23822-7325

applicable to the Condominium Units in all respects, and that the owners of the Condominium Units are Class "A" Members of the Bay Creek at Cape Charles Community, as defined the Declaration, thereby entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" herein).

ALLOCATION OF VOTES: Upon the date of recordation in the Clerk's Office of condominium instruments creating Condominium Units, the total number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) shall be increased by the number of Condominium Units thereby created and the corresponding number of Class "A" Members, as defined in the Declaration, entitled to vote in Bay Creek at Cape Charles Community Association, Inc., shall correspond to the total number of Units, whether created and established by the Successor Declarant, by recordation of further amendments and/or supplements to the Declaration, or created by Successor Declarant, and/or its successors and assigns, as Condominium Units, by recordation of further condominium instruments, all as more fully set forth in said Declaration and herein.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of March, 2006.

PREPARATION BY:
RETURN TO:
**Consolo, Markowitz
& Webb, PLLC**
LIVINGSIDE CORPORATE CENTER II - SUITE 101
760 LIVINGSIDE PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

My Commission Expires:

Oct 31, 2006

INSTRUMENT NO. 05000818
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 21, 2006 AT 01:34PM
TRACI L. JOHNSON, CLERK

RECORDED BY: AFS

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, Made this 5th day of October, 2001, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 316, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 16, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7]

Parcel Numbers: Part of 00097-(0A)-00-000P
00097-(0A)-00-000T
Part of 00097-(0A)-1B

Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded as Instrument Number 020002520; [6] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000246; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309; [15] Supplement to Declaration of Covenants, Conditions and Restrictions dated December 29, 2005 and recorded as Instrument Number 050004611; [16] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 16, 2006 and recorded as Instrument Number 060000769; and [17] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 21, 2006 and recorded as Instrument Number 060000818.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by the Successor Declarant into parcels that shall now be included within the scope of the Declaration, said parcels being more particularly described as follows:

PARCEL 1) ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "PARCEL R-A Total Area = 94.2 AC.", on that certain plat entitled "PLAT OF PARCEL R-A, BEING A RESUBDIVISION OF PARCEL R AND GOLF COURSE PARCEL 1C-9C-A (P.B. 32 P. 34 - P.B. 27 P. 26 - P.B. 26 P. 62) BAY CREEK AT CAPE CHARLES FOR BAYMARK CONSTRUCTION CORPORATION, OCTOBER 2, 2004, CAPE CHARLES, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 33, at pages 45 and 46;

PARCEL 2) ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "PARCEL T", on that certain plat entitled "SUBDIVISION OF PROPERTY STANDING IN THE NAME OF 'BROWN AND ROOT, INC.' BAY CREEK AT CAPE CHARLES, PHASE 'T' AND PHASE 'R' (MAP BOOK 26, PAGE 62) (MAP BOOK 27, PAGE 26) FOR BAY CREEK, L.L.C., NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 32, at pages 34 through 39; and

PARCEL 3) ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known, numbered and designated as "Parcel E-1", as shown on that certain plat entitled "SUBDIVISION OF PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION TWO, AND 'PARCEL E' PHASE 2 BAY CREEK AT CAPE CHARLES AND COURSE PARCEL 2B-4B AND F-2B, PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION ONE, FOR BAY CREEK, L.L.C. (FORMERLY BAYMARK CONSTRUCTION

CORPORATION)(DEED REFERENCE: D.B. 317, P. 378)(MAP BOOK REFERENCES: M.B. 26, P. 62 AND M.B. 27, 26), TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 34, at Pages 48 and 49.

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the aforesaid parcels shall be included within the scope of the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAYMARK CONSTRUCTION CORPORATION: Baymark Construction Corporation, as the owner thereof, joins in the execution of this instrument to evidence its consent to the property described in Parcel 1 being subject to the Declaration in all respects.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, and BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation, have each caused this instrument to be executed in the names of the respective entities by duly authorized Manager and President.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

BAYMARK CONSTRUCTION CORPORATION,
a Virginia corporation

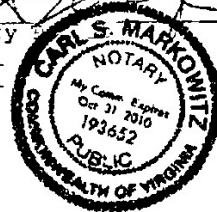
By: Richard S. Foster
Richard S. Foster, President

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 10th day of October, 2007.

Carl S. Markowitz
Notary

My Commission Expires: Oct 31 2010
Notary Registration Number: 193652

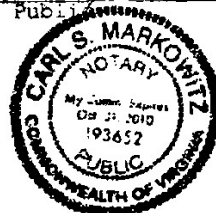


COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as President of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 10th day of October, 2007.

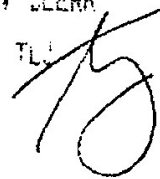
Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31 2010
Notary Registration Number: 193652



INSTRUMENT #070002543
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
OCTOBER 10, 2007 AT 12:50PM
TRACI L. JOHNSON, CLERK

RECORDED BY: TLJ

A handwritten signature in black ink, appearing to be 'TLJ', is written over the printed name 'TRACI L. JOHNSON, CLERK' and extends slightly above the 'RECORDED BY: TLJ' text.

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, Made this 21st day of December, 2007, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR. Also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7]

Parcel Number: Part of 00090-A-1E

Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000246; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309; [15] Supplement to Declaration of Covenants, Conditions and Restrictions dated December 29, 2005 and recorded as Instrument Number 050004611; [16] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 16, 2006 and recorded as Instrument Number 060000789; [17] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 21, 2006 and recorded as Instrument Number 060000818; and [18] Supplement to Declaration of Covenants, Conditions and Restrictions dated October 5, 2007 and recorded as Instrument Number 070002543.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by the Successor Declarant into a parcel that shall now be included within the scope of the Declaration, said parcel being more particularly described as follows:

ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "PHASE M", on that certain plat entitled "SUBDIVISION OF BAY CREEK AT CAPE CHARLES PHASE L-1, PHASE M, AND PHASE N-1 FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON CO., VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 39, at pages 50 through 54.

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the aforesaid parcels shall be included within the scope of the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized Manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: *Richard S. Foster*
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of December, 2007.

[Signature]
Notary Public

My Commission Expires: Oct 31, 2010
Notary Registration Number: 193652



INSTRUMENT #070000252
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 21, 2007 AT 10:09AM
TERRY L. JOHNSON, CLERK

RECORDED BY: 589

THE SUBJECT PROPERTY CONSTITUTES OPEN OR COMMON SPACE AND IS NOT ASSESSABLE PURSUANT TO SECTION 58.1-3284.1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED. PURSUANT TO SECTION 58.1-811(D) OF THE CODE OF VIRGINIA, 1950, AS AMENDED, THIS INSTRUMENT IS A DEED OF GIFT IN THAT NO CONSIDERATION HAS PASSED BETWEEN THE PARTIES, AND, AS SUCH, IS NOT SUBJECT TO TAXATION.

THIS DEED OF GIFT, Made this 29th day of September, 2014, by and between BAY CREEK, L.L.C., a Virginia limited liability company, GRANTOR; and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock corporation, GRANTEE, mailing address of: c/o Community Group, 4534 Bonney Road, Virginia Beach, Virginia 23462.

WITNESSETH:

That for and in consideration of the mutual benefits accruing or to be accrued to the above mentioned parties; and other good and valuable considerations, the receipt of which is acknowledged, the said Grantor does hereby grant and convey, with GENERAL WARRANTY and English Covenants of Title, unto the Grantee, the following described property, to-wit:

ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known and designated as CCP-1, as shown on that certain plat entitled "RESUBDIVISION OF BAY CREEK AT CAPE CHARLES, CCP-1, CCP-2, MFP-1 AND ROAD PARCEL-5 FOR BAY CREEK, L.L.C. AND BAY CREEK SOUTH, LLC, BEING A RESUBDIVISION OF 'MAINTAINENCE FACILITY PARCEL' AND 'COMMUNITY CENTER PARCEL' (D.B. 318, PG. 676; INSTRUMENT NUMBER 080000470; P.B. 26, PG 62; P.B. 27, PG. 26), TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON CO., VIRGINIA, MAY 13, 2014", made by MidAtlantic Surveying - Land Design, duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 140001730.

IT BEING a portion of the same property conveyed to the Grantor by deed duly recorded in the said Clerk's Office in Deed Book 318, at page 676.

This conveyance is expressly made subject to [i] the Declaration of Covenants, Conditions and Restrictions for Bay Creek at Cape Charles dated February 1, 2000 duly recorded in the aforesaid Clerk's Office in Deed Book 316, at Page 656, and the amendments and/or supplements thereto, if any; and [ii] any easements of record affecting the aforesaid property and constituting constructive notice.

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*

LYNNHURST CORPORATE CENTER II - SUITE 101
750 LYNNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325

VSB#
Markowitz - 4211
Webb - 17740

Part of Parcel Numbers: 00090-((02))-00-001I
Preparation by Carl S. Markowitz, Esq. VSB#4211
No Title Insurer

It is the express intent of the Grantor that the Grantee shall maintain the aforesaid property by virtue of the Grantee's power and authority as set forth in said Declaration, or in the corporate By-Laws of the Grantee, or by virtue of the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized Manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State, do hereby certify that Richard S. Foster, as Manager of Bay Creek, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of October, 2014.

Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31, 2018
Notary Registration Number: 193652



PREPARATION BY:
RETURN TO:
**Consolo, Markowitz
& Webb, PLLC**
LYNHAVEN CORPORATE CENTER II - SUITE 101
780 LYNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7025
VSB#
Markowitz - 4211
Webb - 17740

INSTRUMENT #140001732
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
OCTOBER 21, 2014 AT 01:42PM

TRACI L. JOHNSON, CLERK
RECORDED BY: EFP

ASSIGNMENT OF DECLARANT'S RIGHTS

THIS ASSIGNMENT OF DECLARANT'S RIGHTS, Made this 28th day of February, 2008, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; and BAY CREEK SOUTH, LLC, a Virginia limited liability company (hereinafter referred to as the "Second Successor Declarant"), GRANTEE, 1100 Eaglewood Drive, Suite C, Virginia Beach, Virginia 23454. Also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions for Bay Creek at Cape Charles dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions. Said Declaration granted to Baymark all of the rights, duties, and privileges of the "Declarant", as such term is defined in the Declaration; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of the Declarant may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Successor Declarant now desires that all of the rights, powers, and privileges of the Declarant under the Declaration be assigned to the Second Successor Declarant and that the said Second Successor Declarant shall be the sole Declarant of Bay Creek at Cape Charles;

NOW THEREFORE, in accordance with the provisions of the Declaration, the Successor Declarant does hereby assign and transfer any and all rights, privileges, responsibilities, powers, and obligations of the Successor Declarant to the Second Successor Declarant, and the Second Successor Declarant does hereby accept such rights, privileges, responsibilities, powers, and obligations of Successor Declarant, as evidenced by its recordation of this instrument. From and after the date hereof, and until such time as such rights may be assigned or otherwise terminate in accordance with the Declaration, the Second Successor Declarant shall be the sole Declarant for Bay Creek at Cape Charles as aforesaid.

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
LEWIS/CLARK CORPORATE CENTER II - SUITE 101
760 LEWIS/CLARK PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325

Parcel Number: Includes 00090-A-1E

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, the Successor Declarant herein, has caused this instrument to be executed in its name by its duly authorized Manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 28th day of February, 2008.

Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31, 2010

Notary Registration Number: 193652



INSTRUMENT #080000472
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 4, 2008 AT 01:32PM
TRACI L. JOHNSON, CLERK
RECORDED BY: AFS

PREPARATION BY:
RETURN TO:
*Consolio, Markowitz
& Webb, PLLC*
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325

DECLARATION OF
BEACH ACCESS EASEMENT AND RESTRICTIVE COVENANTS
FOR
PORTION OF PARCEL M
BAY CREEK AT CAPE CHARLES

THIS DECLARATION OF BEACH ACCESS EASEMENT AND RESTRICTIVE COVENANTS, Made this 1st day of February, 2008, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as "Bay Creek" and as "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes. Also index in the name of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock, non-profit corporation, (the "Association"), GRANTOR for the purposes of indexing.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES" (the "Subdivision"); and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Bay Creek is the owner in fee simple of certain real property (hereinafter the "Lots") situate in the Town of Cape Charles, Northampton County, Virginia, now constituting a portion of the Subdivision and more particularly described as follows:

Parcel Number: Part of 00090-A-1E

ALL THOSE CERTAIN lots, pieces or parcels of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known, numbered and designated as Lots 117 through 135, both inclusive, as shown on that certain plat entitled "RESUBDIVISION OF PARCEL M - PHASE 1A AND PARCEL M - PHASE 2A FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON, CO., VIRGINIA", DECEMBER 18, 2007", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 080900010, in Plat Book 39, at Pages 68 and 69.

WHEREAS, Bay Creek also owns the real property situate between the rear, or westernmost, boundary line of the Lots and the waters of the Chesapeake Bay, a majority of which is comprised of a sandy beach (hereinafter the "Beach"), including natural sand dunes therein (hereinafter the "Dunes") and the grasses and other vegetation naturally growing within the Beach and upon the Dunes;

WHEREAS, the Declarant wishes to (i) create perpetual, exclusive, pedestrian ingress/egress easements for the benefit of the future owner(s) of each of the Lots (the "Owners") over and across a portion of the Beach, and Dunes therein, as herein established and set forth; (ii) provide for the use and maintenance of said easements; and (iii) set forth the rights of Bay Creek and/or the Association to restrict, regulate and govern the use of said easements, as their successors and/or assigns shall determine.

NOW, THEREFORE, for and in consideration of the mutual benefits accruing to (i) Bay Creek, as Successor Declarant and as the owner of the Beach and the Dunes, (ii) the Association, and (iii) the future Owners of the Lots, Bay Creek does hereby declare, create and establish a perpetual, exclusive pedestrian ingress/egress easement use over and across the Beach and the Dunes, for the benefit of each Lot, that shall be fifteen (15) feet in width and, as to each Lot, shall be bounded on the east by the rear, or westernmost, boundary line of each Lot, bounded on the north by the westerly extension of the northern boundary line of each Lot, and bounded on the west by a line that constitutes the western toe of the Dune (i.e. the seaward side line of the Dune behind each respective Lot), as the said toe of the Dune naturally varies from time to time, and bounded on the south by a line that is fifteen (15) feet south of, and parallel to, the said westerly extension of the northern boundary line of each Lot. No Lot Owner shall take any action or permit or suffer any activity within the easement area at any time that disturbs the natural variation of the Dunes in any manner whatsoever. No Lot Owner shall remove any sand from the Beach or disturb the grasses and/or other vegetation growing in the sand or upon the Dunes.

(1) Bay Creek and all future Owners of the Lots shall use the rights granted by this instrument with due regard for the rights of the other Lot Owners and their use thereof. Nothing contained herein shall be construed to entitle the Owner of any Lot to enter upon any portion of any of the other Lots.

(2) No buildings or structures of any kind shall be constructed, erected or permitted within or upon the easement areas except wooden (or other approval construction material) walkways (together with appurtenant structures such as benches or gazebos) solely for access over the Dunes to the Beach, constructed by a Lot Owner, provided that such walkways (and appurtenant structures) shall (i) comply with all applicable Town of Cape Charles ordinance(s) relating to location, construction, design and height thereof, (ii) comply with all requirements of any other governmental agency having jurisdiction thereover, and (iii) be approved by Bay Creek and the Association. All of the costs of obtaining such approvals

shall be borne by the respective Lot Owner seeking to construct a walkway within the easement area appurtenant such Owner's Lot, including, but not limited to, such reasonable fees as Bay Creek and the Association may impose to defray the cost of reviewing the plans and specifications thereof. After construction thereof, Owners of the respective Lots shall maintain the approved walkways and appurtenant structures so approved in a manner satisfactory to the Association, and any governmental agency having authority thereover, and shall be solely responsible for maintaining same and keeping the easement area free from debris and rubbish, to the satisfaction of the Association. Bay Creek and/or the Association unconditionally reserve the right to enter upon the easement areas to maintain the areas at the expense of the respective Lot Owners.

(3) The easements hereby established shall be subject to such other restrictions and limitation(s) thereupon that may be imposed by Bay Creek and/or the Association.

(4) The Association joins in this instrument to evidence its consent to the establishment of the easements contained herein. It is the intent of Bay Creek and the Association that the Association will continue to promulgate and enforce such rules and regulations to governance of the use of the Beach in consultation with Bay Creek as the owner of the Beach, all in the exercise of its power and authority.

Notwithstanding anything in this Declaration to the contrary, each future Owner of a Lot shall be deemed to acknowledge that use of the Beach and rights to traverse the Dunes and thereby enter upon the Beach may be subject to restrictions imposed thereon by the United States of America, the Commonwealth of Virginia, Northampton County and/or the Town of Cape Charles. Furthermore, Bay Creek, L.L.C., by the establishment of this easement, does not relinquish any right of title in and to the Beach and/or the Dunes, including, but not limited to, its riparian rights, rights of accretion, and/or its rights in and to the waters of the Chesapeake Bay, if any. Each such Owner, for said Owner and on behalf of said Owner's heirs, successors, assigns, guests, and invitees, shall be deemed, by such Owner acquiring title to a Lot, to acknowledge hereby that the right to enter upon the Beach, including the area comprised by the Dunes, is a right of usage granted solely by this instrument and that the title to said real property remains the sole and exclusive property of Bay Creek, L.L.C., and/or its successors and assigns.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK

SIGNATURE PAGE FOLLOWS THIS PAGE

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, have caused this instrument to be executed in the respective names of the companies by duly authorized persons.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: *Richard S. Foster*
Richard S. Foster, Manager

BAY CREEK AT CAPE CHARLES COMMUNITY
ASSOCIATION, INC.,
a Virginia corporation

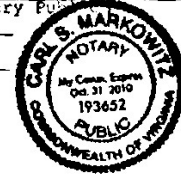
By: *Richard S. Foster*
Richard S. Foster, President

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 13th day of ~~January~~^{February}, 2008.

Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31, 2010
Notary Registration Number: 193652

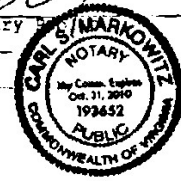


COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as President of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 13th day of ~~January~~^{February}, 2008.

Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31, 2010
Notary Registration Number: 193652



DECLARATION OF
LAKE ACCESS EASEMENT AND BULKHEAD MAINTENANCE AGREEMENT
FOR
SECTION II - BAYSIDE VILLAGE
RAY CREEK AT CAPE CHARLES

THIS DECLARATION OF LAKE ACCESS EASEMENT AND BULKHEAD MAINTENANCE AGREEMENT, Made this 22nd day of February, 2008, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes. Also index in the name of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock, non-profit corporation, (the "Association"), GRANTOR for the purposes of indexing.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES" (the "Subdivision"); and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Successor Declarant is the owner in fee simple of certain real property situate in the Town of Cape Charles, Northampton County, Virginia, now constituting a portion of the Subdivision, and more particularly described as follows:

ALL THOSE CERTAIN lots, pieces or parcels of land, with the building and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia, and being known, numbered and designated as Lots 1 through 19, both inclusive, (the "Lots") as shown on that certain plat entitled "SECTION II - BAYSIDE VILLAGE, BEING A SUBDIVISION OF PARCEL M PHASE 1 (INSTRUMENT #070003284; M.B. 39, PG. 50) AND

Parcel Number: Part of 00099-A-1E

COURSE PARCEL 1D-8C-1 (INSTRUMENT #070003284: M.B. 39, PG. 59), FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON, CO., VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 080000356, in Plat Book 39, at Pages 82 through 85 (the "Plat").

WHEREAS, portions of the Lots are encumbered by those certain easement areas identified as "15' Lake Easement Hereby Created" on the Plat and further depicted and delineated thereon; within the easement areas a continuous bulkhead has been constructed by the Successor Declarant;

WHEREAS, the Plat also depicts a tract therein described as "Parcel M - Lake 1", within which a lake exists;

WHEREAS, the Successor Declarant wishes to establish and reserve a perpetual right of easement unto itself, its successors and/or assigns, and the Association, to enter upon the easement areas for access to the lake and the bulkhead, in their sole discretion, in order to maintain the cleanliness and water quality of the lake and to maintain and ensure the structural integrity of the bulkhead.

NOW, THEREFORE, for and in consideration of the mutual benefits accruing to (i) the Successor Declarant, (ii) the Association, and (iii) the future owners of the Lots on the Plat, the Successor Declarant does hereby declare, create, reserve and establish a perpetual right of easement over and across the easement areas designated on the Plat as aforesaid, for the purposes set forth above. The easements shall run with the land and inure to the benefit of the Successor Declarant, its successors and/or assigns, and the Association, and shall be binding upon the future owners of the Lots.

No buildings or structures of any kind shall be constructed, erected or permitted within the easement areas without the consent of the Successor Declarant, its successors and/or assigns, and the Association. The Association shall have the right of reasonable access to the bulkhead upon the Lots, within the easement areas, to (i) ensure the integrity and safety of the bulkhead and (ii) to maintain and/or repair or replace the bulkhead, or any portions thereof as required. The Association shall have the power and authority to impose a special assessment upon individual lot owners for the cost of bulkhead maintenance and/or repair or replacement thereof, as set forth in the Declaration.

CONFIRMATION BY BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.: The Association joins in this instrument to evidence its consent to the establishment of the easements and maintenance responsibilities set forth herein. It is the intent of the Successor Declarant and the Association that the Association will have access over and across the easement areas as required to maintain the said bulkheads in the exercise of its power and authority as set forth in the Declaration.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, have caused this instrument to be executed in the respective names of the companies by duly authorized persons.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

BAY CREEK AT CAPE CHARLES COMMUNITY
ASSOCIATION, INC.,
a Virginia corporation

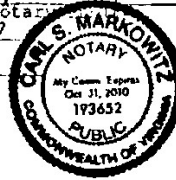
By: Richard S. Foster
Richard S. Foster, President

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State
aforesaid, do hereby certify that Richard S. Foster, as Manager of
BAY CREEK, L.L.C., a Virginia limited liability company, whose name
as such is signed to the foregoing writing, has acknowledged the
same before me this 25th day of February, 2008.

Carl S. Markowitz
Notary

My Commission Expires: Oct 31, 2010
Notary Registration Number: 193652

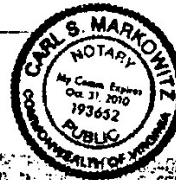


COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State
aforesaid, do hereby certify that Richard S. Foster, as President
of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a
Virginia corporation, whose name as such is signed to the foregoing
writing, has acknowledged the same before me this 25th day of
February, 2008.

Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31, 2010
Notary Registration Number: 193652



NOTARY PUBLIC
OFFICE OF THE CLERK OF COURTS
SOUTHWEST COUNTY, VA
SEP 24 2008 AT 10:47AM

002044

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 18th day of October, 2000, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions: it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse affect upon the rights of more than 2% of the Owners, as defined in the Declaration; that as of the date hereof, there is only one Owner other than the Successor Declarant, being less than 2% thereof; and

WHEREAS, Article VIII, Section 8.10 of the Declaration provides, in part, for an initial capitalization of the Association in an amount equal to one-sixth (1/6) of the annual Base Assessment per Unit, payable as more particularly described in said Section and Declarant wishes to amend said initial capitalization as set forth in this Amendment;

NOW THEREFORE, pursuant to said Article XX, Section 20.1 and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend the third line of said Article VIII, Section 8.10 so that the words "one-sixth (1/6)" in said third line are deleted and replaced with the words "one-fourth (1/4)" and in all other respects said Section shall remain in full force and effect.

Includes Parcel Nos. 00990(GA)00-001A and 00990(02)00-0001

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 18th day of October, 2000.

Robert H. Reed
Notary Public

My Commission Expires: 7-31-2004



INSTRUMENT #00002044
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
OCTOBER 20, 2000 AT 03:35PM
KENNETH F. ARNOLD, CLERK

BY: Kenneth F. Arnold (DC)

00538

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 15th day of March, 2001, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse affect upon the rights of more than 2% of the Owners, as defined in the Declaration; that, as of the date hereof, Owners other than the Successor Declarant constitute less than 2% of the Owners; and

WHEREAS, Article XII, Section 12.2(d) of the Declaration addresses certain water management issues and Declarant wishes to amend said Section by adding additional language thereto, as set forth in this Amendment;

NOW THEREFORE, pursuant to said Article XX, Section 20.1 of the Declaration and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend Section 12.2(d) of Article

Parcel Numbers: SEE ATTACHED EXHIBIT A

XII by adding the following sentence thereto: "Water for landscape irrigation throughout the Community shall be derived from ground-water wells and no municipal source of water shall be used for such irrigation."; in all other respects said Section shall remain in full force and effect.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

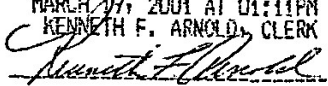
I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 15th day of March, 2001.

William A. Workman
Notary Public
My Commission Expires: January 31, 2003

EXHIBIT A: PARCEL NUMBERS

00090 (02) 00 000H
00090 (02) 00 0001
00090 (02) 00 0000
00090 (02) 00 001
00090 (02) 00 001A
00090 (02) 00 001B
00090 (02) 00 001C
00090 (02) 00 001D
00090 (02) 00 001F
00090 (02) 00 001G
00090 (02) 00 001H
00090 (02) 00 001I
00090 (02) 00 001J
00090 (02) 00 002
00090 (02) 00 002B
00090 (02) 00 009D
00090 (03) 00 000B
00090 (0A) 00 000F
00090 (0A) 00 000G
00090 (0A) 00 000K

INSTRUMENT #010000538
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 27, 2001 AT 01:11PM
KENNETH F. ARNOLD, CLERK

BY:  (10C)

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 5th day of September, 2001, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse affect upon the rights of more than 2% of the Owners, as defined in the Declaration; that, as of the date hereof, Owners other than the Successor Declarant constitute less than 2% of the Owners; and

WHEREAS, Exhibit C to the Declaration sets forth the Initial Restrictions and Rules applicable to the Properties and Declarant wishes to amend said Exhibit C by adding an additional provision to Paragraph 4 and by adding Paragraph 5 thereto, the same having been erroneously omitted from Exhibit C due to a scrivener's error;

NOW THEREFORE, pursuant to said Article XX, Section 20.1 of the Declaration and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend Exhibit C appended to the

Parcel Numbers: SEE ATTACHED EXHIBIT A

Declaration by [i] adding the following provision to Paragraph 4 "The use of any sign for the purpose of renting or leasing a Unit is prohibited."; and [ii] adding to Exhibit C the following paragraph: "5. Sale of Units by Real Estate Agents/Brokers. Each Owner desiring to offer his or her Unit for sale to the general public through a real estate agent/broker shall list said Unit for sale with a duly licensed real estate company that satisfies all of the following requirements: (a) is licensed by the appropriate licensing agency of the Commonwealth of Virginia, (b) is familiar with the Bay Creek at Cape Charles community, (c) is familiar with the Governing Documents and all other covenants, conditions, restrictions, rules and regulations applicable to Bay Creek at Cape Charles, and (d) meets such other reasonable requirements as the Board may establish. The Board's determination, made in its reasonable business judgment, as to whether a real estate company satisfies all such requirements shall be conclusive and binding. The use of any sign for the purpose of identification or selling of a Unit, is prohibited, except signs offering a Unit for sale erected by a builder during the ordinary course of construction."

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, and the Exhibits thereto, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 5th day of September, 2001.

William A. Workman
Notary Public

My Commission Expires: January 31, 2003

EXHIBIT A: PARCEL NUMBERS

00090 (02) 00 000H
00090 (02) 00 000I
00090 (02) 00 000O
00090 (02) 00 001
00090 (02) 00 001A
00090 (02) 00 001B
00090 (02) 00 001C
00090 (02) 00 001D
00090 (02) 00 001F
00090 (02) 00 001G
00090 (02) 00 001H
00090 (02) 00 001I
00090 (02) 00 001J
00090 (02) 00 002
00090 (02) 00 002B
00090 (02) 00 009D
00090 (03) 00 000B
00090 (0A) 00 000F
00090 (0A) 00 000G
00090 (0A) 00 000K

INSTRUMENT #010001945
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
SEPTEMBER 10, 2001 AT 10:54AM
KENNETH F. ARNOLD, CLERK
BY: Antoniale F. Smith (DC)

*This Instrument Prepared
By and Return to:
Pender & Coward, P.C. (DJG)
222 Central Park Avenue
Virginia Beach, Virginia 23462*

**AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BAY CREEK AT CAPE CHARLES**

THIS AMENDMENT (the "Amendment") TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made this 30th day of November, 2004, by **BAY CREEK, L.L.C.**, a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of **BAYMARK CONSTRUCTION CORPORATION**, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia, to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES";

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument;

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 1000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners, as defined in the Declaration; that, as of the date hereof, Owners other than the Successor Declarant constitute less than 2% of the Owners or this Amendment has no material adverse effect upon more than 2% of the Owners, to-wit: this Amendment shall provide for a time period for completion of construction for any project for which Plans have been approved.

Parcel Numbers: 00090-02-00-000H See Attached Exhibit A for additional numbers.

NOW THEREFORE, pursuant to said Article XX, Section 20.1 of the Declaration and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend the Declaration as follows:

1. The second and third sentences of the seventh (7th) paragraph of Article IV, Section 4.3(b), shall be modified so that same reads as follows:

Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed and, if the improvement constructed is a Unit, a certificate of occupancy shall issue to an Owner other than a Builder, within nine (9) months of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing prior to the expiration of such nine (9) month period, which it shall not be obligated to do.

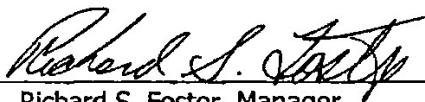
2. A fifth (5th) sentence shall be added to the seventh (7th) paragraph of Article IV, Section 4.3(b), as follows:

If the Association, or, during the Class B Control Period, the Declarant, determines, in its sole and absolute discretion, that any Project for which approval shall have been given is not proceeding diligently toward substantial completion, the Association may require the Owner to provide not less than monthly reports reflecting the percentage (%) of progress made. If such reports or information are not provided as requested, the approval of the Plans may be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, and the Exhibits thereto, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By 
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit

I the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 30 day of NOVEMBER, 2008.



Notary Public

My Commission Expires: _____

My Commission Expires 4-30-2008

EXHIBIT A

BAY CREEK

00090-02-00-000H
00090-02-00-001
00090-02-00-001A
00090-02-00-001B
00090-02-00-001B
00090-02-00-001C
00090-02-00-001D
00090-02-00-001F
00090-02-00-001G
00090-02-00-001H
00090-02-00-001I
00090-02-00-001J
00090-02-00-002
00090-02-00-002B
00090-02-003
00090-02-0009D

PHASE I THE SIGNATURE

00090-04-00-000CA

00090-04-00-001 thru 0090-04-00-0094

PHASE K THE HOLLIES

00090-05-00-000CA
00090-05-00-001 thru 00090-05-00-111

PHASE B NEW QUARTER

00090-06-00-000B1
00090-06-00-00B2
00090-06-00-000CA1
00090-06-000PS1
00090-06-00-001 thru 00090-06-00-005
00090-06-00-005A
00090-06-00-006 thru 00090-06-00-072

PHASE O HERON POINTE

00090-07-00-001 thru 00090-07-00-063

PHASE F PLANTATION POINTE

00090-09-00-000F1
00090-09-00-000F2
00090-09-00-0019
00090-09-00-020

THE COLONY (MARINA)

083A1-11-00-000F
083A1-11-00-000M
083A1-11-00-000T
083A1-11-00-000ZZ
083A1-11-00-001 thru 083A1-11-118

KINGS BAY

083A1-12-00-000F1
083A1-12-00-000RW
083A1-12-00-119 thru 083A1-12-00-188

INSTRUMENT #050001114
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 22, 2005 AT 12:55PM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

*This Instrument Prepared
By and Return to:
Pender & Coward, P.C. (DJG)
222 Central Park Avenue
Virginia Beach, Virginia 23462*

**AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BAY CREEK AT CAPE CHARLES**

THIS AMENDMENT (the "Amendment") TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made this 30th day of November, 2004, by **BAY CREEK, L.L.C.**, a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of **BAYMARK CONSTRUCTION CORPORATION**, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia, to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES";

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument;

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners, as defined in the Declaration; that, as of the date hereof, Owners other than the Successor Declarant constitute less than 2% of the Owners or this Amendment has no material adverse

Parcel Numbers: 00090-02-00-000H See Attached Exhibit A for additional numbers.

effect upon more than 2% of the Owners, to-wit: this Amendment shall provide for the election of Voting Members within a Neighborhood in a manner consistent with the election of Directors to the Association's Board.

NOW THEREFORE, pursuant to said Article XX, Section 20.1 of the Declaration and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend the Declaration as follows:

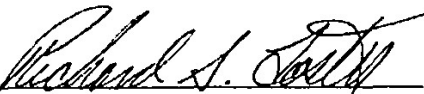
1. The first sentence of the second (2nd) paragraph of Article VI, Section 6.4, is hereby stricken in its entirety and shall be modified so that same reads as follows:

The first election of a Voting Member and alternate Voting Member from each Neighborhood shall occur within thirty (30) days after twenty-five percent (25%) of the total number of Units in the Neighborhood have certificates of occupancy issued thereon and have been conveyed to Class "A" Members other than Builders.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, and the Exhibits thereto, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By 
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit

I the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 30 day of NOVEMBER, 2004.


Notary Public

My Commission Expires: _____

My Commission Expires 4-30-2008

EXHIBIT A

BAY CREEK

00090-02-00-000H
00090-02-00-001
00090-02-00-001A
00090-02-00-001B
00090-02-00-001B
00090-02-00-001C
00090-02-00-001D
00090-02-00-001F
00090-02-00-001G
00090-02-00-001H
00090-02-00-001I
00090-02-00-001J
00090-02-00-002
00090-02-00-002B
00090-02-003
00090-02-0009D

PHASE I THE SIGNATURE

00090-04-00-000CA

00090-04-00-001 thru 0090-04-00-0094

PHASE K THE HOLLIES

00090-05-00-000CA
00090-05-00-001 thru 00090-05-00-111

PHASE B NEW QUARTER

00090-06-00-000B1
00090-06-00-00B2
00090-06-00-000CA1
00090-06-000PS1
00090-06-00-001 thru 00090-06-00-005
00090-06-00-005A
00090-06-00-006 thru 00090-06-00-072

PHASE O HERON POINTE

00090-07-00-001 thru 00090-07-00-063

PHASE F PLANTATION POINTE

00090-09-00-000F1
00090-09-00-000F2
00090-09-00-0019
00090-09-00-020

THE COLONY (MARINA)

083A1-11-00-000F
083A1-11-00-000M
083A1-11-00-000T
083A1-11-00-000ZZ
083A1-11-00-001 thru 083A1-11-118

KINGS BAY

083A1-12-00-000F1
083A1-12-00-000RW
083A1-12-00-119 thru 083A1-12-00-188

INSTRUMENT #050001113
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 22, 2005 AT 12:52PM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

000355

This Deed is exempt from recordation taxes pursuant to Section 58.1-811(10) of the Code of Virginia, 1950, As Amended, inasmuch as it is a conveyance to a limited liability company from a grantor entitled to receive more than fifty percent of the profits of such limited liability company.

THIS DEED, Made this 23rd day of February, 2000, by and between BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation, party of the first part, GRANTOR; and BAY CREEK, L.L.C., a Virginia limited liability company, party of the second part, GRANTEE, address: 1100 Eaglewood Drive, Virginia Beach, Virginia 23454.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid, and other good and valuable considerations, the receipt of which is hereby acknowledged, the said GRANTOR does hereby grant and convey, with General Warranty and the English Covenants of Title, unto the said GRANTEE, the following described property, to-wit:

PARCEL ONE: ALL THOSE CERTAIN lots, pieces or parcels of land, with the buildings and improvements thereon and the appurtenances and rights, including riparian rights, thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "COURSE PARCEL 1A-9A", "COURSE PARCEL 2B-4B", "COURSE PARCEL 1B, 5B-9B", "COURSE PARCEL 1C-9C", "COURSE PARCEL 1D-8D", "COURSE PARCEL 9D", "GOLF ACADEMY PARCEL", "PRACTICE RANGE PARCEL", "CLUBHOUSE PARCEL", " MAINTENANCE FACILITY PARCEL", "COMMUNITY CENTER PARCEL", "ROAD PARCEL-1", "ROAD PARCEL-2", "PARCEL H", "PARCEL I", "PARCEL O", "PARCEL F", "PARCEL G", "PARCEL K", "PARCEL K-K", and "ROAD PARCEL 3", on that certain plat entitled "SUBDIVISION OF BAY CREEK AT CAPE CHARLES PHASE TWO & AMENDED SUBDIVISION OF BAY CREEK AT CAPE CHARLES PHASE ONE FOR BAYMARK CONSTRUCTION CORPORATION, REF. D.B. 177, PG. 431, M.B. 26, PG. 49, M.B. 26, PG. 62, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", dated February 25, 1999, prepared by the TAF Group, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 27, at pages 26 through 43.

PARCEL TWO: ALL THAT CERTAIN lot, tract, piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "PARCEL E", on the plat entitled "SUBDIVISION OF PROPERTY OF BETTY JEAN F. MARTIN D.B. 160, PG. 287, D.B. 113, PG. 482 (PLAT), FOR BROWN & ROOT, INC." dated April 14, 1998, prepared by the TAF Group, recorded in the Clerk's Office aforesaid in Plat Book 26, at page 2.

PARCEL THREE: ALL THOSE CERTAIN lots, pieces or parcels of land situate, lying and being in the Town of Cape Charles, Virginia as Lots 176 and 177, as shown on the plat entitled "MAP OF THE TOWN OF CAPE CHARLES", which plat is recorded in the Clerk's Office aforesaid in Deed Book 41, at pages 483, 484 and 485.

*Consolvo, Markowitz
& Webb*
4520 COLLINGS LOOP
VIRGINIA BEACH, VIRGINIA 23462

Preparation by Consolvo, Markowitz & Webb

PARCEL FOUR: ALL THOSE CERTAIN lots, pieces or parcels of land situate, lying and being in the so-called Sea Cottage Addition to the Town of Cape Charles, Virginia as Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 in Block 11 and Lots 91, 92, 93, 94, 95, 96 and 97 and also that certain area situate on the East side of Bay Avenue between Mason Avenue and Randolph Avenue containing by survey Seventeen One Hundredths of an acre (0.17 Ac) and described in Deed Book 93 at page 395, all in Block 2, which plat is of record in the Clerk's Office aforesaid in Deed Book 65, page 181.

PARCEL FIVE: ALL THOSE CERTAIN lots, pieces or parcels of land designated as Lots 1, 2, 3, 4, 5, 6 and 7 and Lots 17, 18, 19, 20, 21, 22 and part of 23, in Block A and Lots 24 through 39, Lots 47 through 60, and Lots 65, 66 and 67, in Block B and Lots 31 and 32 on the south side of Monroe Avenue extended and Lots 44A through 49A, inclusive, on the North side of Monroe Avenue extended, as shown on plat entitled "Sub-Division of The Estate of Mathilde Townsend Welles, Dec'd., East End-Cape Charles, Northampton County, Virginia", said plat recorded in the Clerk's Office aforesaid in Map Book 5 at page 184.

IT BEING the same property conveyed to the Grantor by deeds dated July 2, 1999 and duly recorded in the said Clerk's Office in Deed Book 311, at page 510 and Deed Book 311, at Page 516.

This conveyance is expressly made subject to the reservations, covenants, restrictions and/or easements of record, if any, affecting the aforesaid property and constituting constructive notice.

IN WITNESS WHEREOF, BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation, has caused this instrument to be executed in its name by its duly authorized President.

BAYMARK CONSTRUCTION CORPORATION

By: Richard S. Foster
Richard S. Foster, President

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State, do hereby certify that Richard S. Foster, as President of Baymark Construction Corporation, a Virginia corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 24th day of February, 2000.

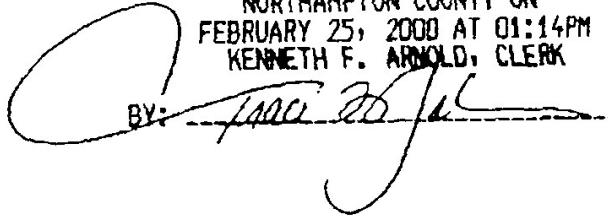
*Carole Markowitz
& Webb*
4500 COLLINGS LOOP
VIRGINIA BEACH, VIRGINIA 23462

Cynthia Sue Byrum
Notary Public

My Commission Expires: June 30, 2003



INSTRUMENT #000000355
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
FEBRUARY 25, 2000 AT 01:14PM
KENNETH F. ARNOLD, CLERK

BY:  (DC)

*This Instrument Prepared
By and Return to:
Pender & Coward, P.C. (DJG)
222 Central Park Avenue
Virginia Beach, Virginia 23462*

**AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BAY CREEK AT CAPE CHARLES**

THIS AMENDMENT (the "Amendment") TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made this 30th day of November, 2004, by **BAY CREEK, L.L.C.**, a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of **BAYMARK CONSTRUCTION CORPORATION**, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia, to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES";

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument;

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners, as defined in the Declaration; that, as of the date hereof, Owners other than the Successor Declarant constitute less than 2% of the Owners or this Amendment has no material adverse

Parcel Numbers: 00090-02-00-000H See Attached Exhibit A for additional numbers.

effect upon more than 2% of the Owners, to-wit: this Amendment shall provide for the election of Voting Members within a Neighborhood in a manner consistent with the election of Directors to the Association's Board.

NOW THEREFORE, pursuant to said Article XX, Section 20.1 of the Declaration and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend the Declaration as follows:

1. The first sentence of the second (2nd) paragraph of Article VI, Section 6.4, is hereby stricken in its entirety and shall be modified so that same reads as follows:

The first election of a Voting Member and alternate Voting Member from each Neighborhood shall occur within thirty (30) days after twenty-five percent (25%) of the total number of Units in the Neighborhood have certificates of occupancy issued thereon and have been conveyed to Class "A" Members other than Builders.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, and the Exhibits thereto, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By 
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit

I the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 30 day of NOVEMBER, 2004.


Notary Public

My Commission Expires: _____

My Commission Expires 4-30-2008

New Qtr Supplemental Assessment

CORPORATE RESOLUTION of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.


The following resolution was unanimously approved by the Board of Directors of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, at a meeting of the Board held on the 7th day of March, 2001 and remains a valid and subsisting resolution of the Corporation:

WHEREAS, a portion of the Bay Creek subdivision has been developed by the Successor Declarant, Bay Creek, L.L.C., into LOTS 1 through 72, both inclusive, as shown on that certain plat entitled "PLAT OF BAY CREEK AT CAPE CHARLES, PHASE B, BEING A SUBDIVISION OF PARCEL B, BAY CREEK - PHASE THREE, M.B. 29, P. 1, REF. D.B. 177, P. 431, D.B. 311, P. 516, D.B. 317, P. 378, TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County in Map Book 29, at Pages 29 through 38 (hereinafter the "Phase B Units"); and

WHEREAS, the Association wishes to provide for certain lawn maintenance by the Association within the Phase B Units, upon those portions of the Phase B Units initially established as lawns therein by the builder of residences upon the Units;

BE IT RESOLVED THEREFORE, that the Board does hereby declare that the portions of the Phase B Units that become established as lawn areas, shall be maintained by the Association following the initial installation of such lawns by the builder of residences upon the Units and/or the Association. The Association shall have the power and authority to assess the future owners of the individual Phase B Units for the costs and expenses incurred by the Association due to said lawn maintenance, all in the exercise of its power and authority as set forth in the Declaration.

Given under my hand this 7th day of March, 2001.


Secretary of the Corporation

Attest:


President of the Corporation

CONSENT IN WRITING
OF
THE BOARD OF DIRECTORS
OF
BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

Pursuant to §13.1-685 of the Code of Virginia of 1950, as amended, the Board of Directors of Bay Creek At Cape Charles Community Association, Inc. (the "Association"), by unanimous consent of the undersigned, being all of the Directors of the Corporation, adopts the following resolutions:

WHEREAS: Bay Creek Marina and Resort, LLC owns lot 64A in Marina Village East; and,

WHEREAS: An entrance feature for Marina Village East is currently located on Lot 64A; and,

WHEREAS: Bay Creek Marina and Resort, LLC desires to convey to the Association the entrance feature along with so much of Lot 64A as is reasonably necessary to access and maintain the entrance feature; and,

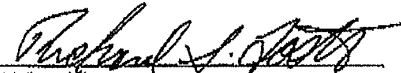
WHEREAS: Bay Creek Marina and Resort, LLC has agreed to convey the balance of Lot 64A to the owners of the adjacent Lot 64, by way of a lot line adjustment that enlarges Lot 64 and reduces the size of Lot 64A.

Now therefore, the undersigned Directors finding it to be in the best interest of the Association resolve as follows:

RESOLVED: That the Association will accept as common area the conveyance of Lot 64A from Bay Creek Marina and Resort, LLC; and,

RESOLVED: That upon and after recordation of the lot line adjustment, Lot 64 shall continue to be assessed as one "Unit" subject to the Declaration.


RESOLVED: That this Consent in Writing is effective as of November 14, 2013.


Richard S. Foster

11-14-13 Date Signed


Jeffrey A. Foster

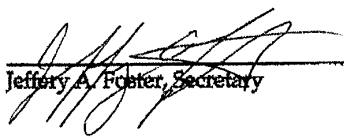
11-14-13 Date Signed


Bobby Jamman

11-14-13 Date Signed

Received on behalf of the Association this 14 day of November, 2013.

By:


Jeffrey A. Foster, Secretary

**Books and Records
Cost Schedule Policy Resolution
Bay Creek Community Association, Inc.**

Date approved by the Board of Directors:

WHEREAS, Section 55-510 of the Virginia Property Owners' Association Act provides that charges for access to association books and records may be imposed; and,

WHEREAS, Section 55-510D of the Virginia Property Owners' Association Act provides that charges may be imposed only in accordance with a cost schedule adopted by the Board; and,

WHEREAS, the Board of Directors desires to create a policy and procedure by which owners in good standing may request and be provided access to books and records,

NOW THEREFORE LET IT BE RESOLVED, that the following procedure shall be used for members requesting access to books and records.

All books and records kept by or on behalf of the association, including, but not limited to the association's membership list, addresses and aggregate salary information of association employees, shall be available for examination and copying by an owner in good standing or his authorized agent so long as the request is for a proper purpose related to his membership in the association, and not for pecuniary gain or commercial solicitation. This right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five days written notice reasonably identifying the purpose for the request and the specific books and records of the association requested.

Books and records kept by or on behalf of an association may be withheld from examination or copying by owners and contract purchasers to the extent that they are drafts not yet incorporated into the association's books and records or if such books and records concern:

1. Personnel matters relating to specific identified persons or a person's medical records;
 2. Contracts, leases, and other commercial transactions to purchase or provide goods or services currently in or under negotiation;
 3. Pending or probable litigation. Probable litigation means these instances where there has been a specific threat of litigation from a party or the legal counsel of a party;
 4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to §55-513;
 5. Communications with legal counsel which relates to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;
 6. Disclosure of information in violation of law;
 7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55-510.1;
 8. Documentation, correspondence or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or
 9. Individual unit owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.
- The association shall impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs thereof. **The charges are: Labor - \$15.00 per 15 minute increment (\$60 per hour) and Materials - Copy cost of \$.15 per page for black and white; \$.75 per page for color; copies of larger documents (greater than 8.5" X 11") shall be charged the actual copying cost from a third party.**

Circuit Court Deed Calculation for Northampton Circuit

Deed Type:	DG --> DEED (GIFT)
Grantor Exempt:	N
Grantee Exempt:	N
Consideration Amount:	\$0.00
Assume/Value Amount:	\$0.00
Locality Percent:	100.00000%
Pages:	2
Names:	0
O/P:	0
Date:	10/21/2014
Fee	
	Amount
Clerk Recording and Indexing Fee (301)	\$ 14.50
VSLA (145)	1.50
Technology Trust Fund (106)**	5.00
State Grantee Tax (039)	0.00
Local Grantee Tax (213/214)	0.00
State Grantor Tax (038)	0.00
Local Grantor Tax (220/223)	0.00
Transfer Fee (212)	1.00
Regional Congestion Relief Fee (014)	0.00
Virginia Outdoors Foundation (035)	1.00
Processing Fee (036)*	0.00
Copy Fee (236)	0.00
Total:	\$ 23.00
*Clerk and Deed Processing Fees do not apply to any agency of the Commonwealth of Virginia.	
**The Technology Trust Fund fee does not apply to any federal, state, or local government.	

THE SUBJECT PROPERTY CONSTITUTES OPEN OR COMMON SPACE AND IS NOT ASSESSABLE PURSUANT TO SECTION 58.1-3284.1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED. PURSUANT TO SECTION 58.1-811(D) OF THE CODE OF VIRGINIA, 1950, AS AMENDED, THIS INSTRUMENT IS A DEED OF GIFT IN THAT NO CONSIDERATION HAS PASSED BETWEEN THE PARTIES, AND, AS SUCH, IS NOT SUBJECT TO TAXATION.

THIS DEED OF GIFT, Made this 29th day of September, 2014, by and between BAY CREEK, L.L.C., a Virginia limited liability company, and BAY CREEK SOUTH, LLC, a Virginia limited liability company, as their respective interests may appear, GRANTORS; and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock corporation, GRANTEE, mailing address of: c/o Community Group, 4534 Bonney Road, Virginia Beach, Virginia 23462.

WITNESSETH:

That for and in consideration of the mutual benefits accruing or to be accrued to the above mentioned parties; and other good and valuable considerations, the receipt of which is acknowledged, the said Grantors do hereby grant and convey, with GENERAL WARRANTY and English Covenants of Title, as their respective interests may appear, unto the Grantee, the following described property, to-wit:

ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known and designated as Road Parcel-5, as shown on that certain plat entitled "RESUBDIVISION OF BAY CREEK AT CAPE CHARLES, CCP-1, CCP-2, MFP-1 AND ROAD PARCEL-5 FOR BAY CREEK, L.L.C. AND BAY CREEK SOUTH, LLC, BEING A RESUBDIVISION OF 'MAINTAINENCE FACILITY PARCEL' AND 'COMMUNITY CENTER PARCEL' (D.B. 318, PG. 676; INSTRUMENT NUMBER 080000470; P.B. 26, PG 62; P.B. 27, PG. 26), TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON CO., VIRGINIA, MAY 13, 2014", made by MidAtlantic Surveying - Land Design, duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 140001730.

IT BEING a portion of the same property conveyed to the Grantors by deeds duly recorded in the said Clerk's Office as Instrument Number 080000470 and in Deed Book 318, at page 676.

This conveyance is expressly made subject to [i] the Declaration of Covenants, Conditions and Restrictions for Bay Creek at Cape Charles dated February 1, 2000 duly recorded in the aforesaid Clerk's Office in Deed Book 316, at Page 656, and the amendments and/or supplements thereto, if any; and [ii] any easements of record affecting the aforesaid property and constituting constructive notice.

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*

LYONSHEW CORPORATE CENTER II - SUITE 101
780 LYNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

VSB#
Markowitz - 4211
Webb - 17740

Part of Parcel Numbers: 00090-((02))-00-001I & 00090-((02))-00-001H
Preparation by Carl S. Markowitz, Esq. VSB#4211
No Title Insurer

It is the express intent of the Grantors that the Grantee shall maintain the aforesaid property by virtue of the Grantee's power and authority as set forth in said Declaration, or in the corporate By-Laws of the Grantee, or by virtue of the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, and BAY CREEK SOUTH, LLC, a Virginia limited liability company, have caused this instrument to be executed in their respective names by their duly authorized Managers.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

BAY CREEK SOUTH, LLC,
a Virginia limited liability company

By: Keyser-Bay Creek, LLC,
a Maryland limited liability company
qualified to transact business in
the Commonwealth of Virginia,
Managing Member

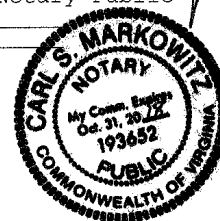
By: W. Gary Dorsch
W. Gary Dorsch, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State, do hereby certify that Richard S. Foster, as Manager of Bay Creek, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of October, 2014.

PREPARATION BY:
RETURN TO:
**Consolvo, Markowitz
& Webb, P.C.**
LIVINGSIDE CORPORATE CENTER II - SUITE 101
780 LIVINGSIDE PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7825
VSB#
Markowitz - 4211
Webb - 17740

Carl S. Markowitz
Notary Public
My Commission Expires: Oct 31, 2018
Notary Registration Number: 193652



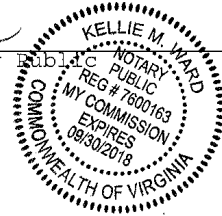
STATE OF Virginia
CITY/COUNTY OF Northampton, to-wit:

I, the undersigned, a Notary Public in and for the said City/County and State, do hereby certify that W. Gary Dorsch, as the Manager of Keyser-Bay Creek, LLC, a Maryland limited liability company qualified to transact business in the State of Virginia, the Managing Member of Bay Creek South, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 9th day of October, 2014, on behalf thereof.

Kellie M. Ward

Notary Public

My Commission Expires: 9/30/2018



PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*
LYNNHAVEN CORPORATE CENTER II - SUITE 101
780 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325
VSB#
Markowitz - 4211
Webb - 17740

INSTRUMENT #140001731
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
OCTOBER 21, 2014 AT 01:38PM

TRACI L. JOHNSON, CLERK
RECORDED BY: EFP



OFFICIAL RECEIPT
NORTHAMPTON COUNTY CIRCUIT COURT
DEED RECEIPT

DATE: 10/21/14 TIME: 13:38:13 ACCOUNT: 131CLR140001731 RECEIPT: 14000005657
CASHIER: EFP REG: NB15 TYPE: DG PAYMENT: FULL PAYMENT
INSTRUMENT : 140001731 BOOK: PAGE: RECORDED: 10/21/14 AT 13:38
GRANTOR: BAY CREEK LLC EX: N LOC: CO
GRANTEE: BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION IN EX: N PCT: 100%
AND ADDRESS : CO COMMUNITY GRP/4534 BONNEY RD VIRGINIA BEACH, VA. 23462
RECEIVED OF : CONSOLVO MARKOWITZ & WEBB PLC DATE OF DEED: 09/29/14
CHECK: \$23.00 1081
DESCRIPTION 1: ROAD PARCEL-5 PAGES: 3 OP: 0
2: NAMES: 0
CONSIDERATION: .00 A/VAL: .00 MAP: 90-2-1I&90-2-1H
PIN:
301 DEEDS 14.50 145 VSLF 1.50
212 TRANSFER FEES 1.00 106 TECHNOLOGY TRST FND 5.00
035 VOF FEE 1.00
TENDERED : 23.00
AMOUNT PAID: 23.00
CHANGE AMT : .00

CLERK OF COURT: TRACI L. JOHNSON

PAYOR'S COPY
RECEIPT COPY 1 OF 3



OFFICIAL RECEIPT
NORTHAMPTON COUNTY CIRCUIT COURT
DEED RECEIPT

DATE: 12/18/14 TIME: 11:38:05 ACCOUNT: 131CLR140002065 RECEIPT: 1400006857
CASHIER: TLJ REG: NB14 TYPE: DG PAYMENT: FULL PAYMENT
INSTRUMENT : 140002065 BOOK: PAGE: RECORDED: 12/18/14 AT 11:38
GRANTOR: BAY CREEK LLC EX: N LOC: CO
GRANTEE: BAY CREEK SOUTH LLC EX: N PCT: 100%
AND ADDRESS : 10706 BEAVER DAM ROAD COCKEYSVILLE, MD. 21030
RECEIVED OF : CONSOLVO MARKOWITZ & WEBB PLC DATE OF DEED: 12/12/14
CHECK: \$92.00 1102
DESCRIPTION 1: ROAD PARCEL 1,B-2,2-B,3-B,E PAGES: 3 OP: 0
2: BAY CREEK, TOWN OF CAPE CHARLES NAMES: 0
CONSIDERATION: .00 A/VAL: .00 MAP: 90-2-1,90-6-82
PIN:
301 DEEDS 14.50 145 VSLF 1.50
212 TRANSFER FEES 1.00 106 TECHNOLOGY TRST FND 5.00
035 VOF FEE 1.00
TENDERED : 92.00
AMOUNT PAID: 23.00
CHANGE AMT : 69.00

CLERK OF COURT: TRACI L. JOHNSON

PAYOR'S COPY
RECEIPT COPY 1 OF 2

PURSUANT TO SECTION 58.1-811(D) OF THE CODE OF VIRGINIA, 1950, AS AMENDED, THIS INSTRUMENT IS A DEED OF GIFT IN THAT NO CONSIDERATION HAS PASSED BETWEEN THE PARTIES, AND, AS SUCH, IS NOT SUBJECT TO TAXATION.

THIS DEED OF GIFT, Made this 12th day of December, 2014, by and between BAY CREEK, L.L.C., a Virginia limited liability company, GRANTOR; and BAY CREEK SOUTH, LLC, a Virginia limited liability company, GRANTEE, address: 10706 Beaver Dam Road, Cockeysville, Maryland 21030.

WITNESSETH:

That for and in consideration of the mutual benefits accruing, or to be accrued, to the Grantor and the Grantee, and other good and valuable considerations, the receipt of which is hereby acknowledged, the said GRANTOR does hereby grant and convey, with General Warranty and the English Covenants of Title, unto the GRANTEE, the following described property, to-wit:

ALL THOSE CERTAIN pieces or parcels of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known and designated as ROAD PARCEL 1, ROAD PARCEL B-2, ROAD PARCEL 2-B, PARCEL I-2, ROAD PARCEL 3-B, ROAD PARCEL E, and REMAINING PORTION OF ROAD PARCEL 2, as shown on that certain plat entitled "COMPOSITE PLAT OF SUBDIVISION, BAY CREEK AT CAPE CHARLES, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", made by AES Consulting Engineers, duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 140002064.

IT BEING a portion of the same properties conveyed to the Grantor by deeds duly recorded in the said Clerk's Office as Instrument Number 000000355, Instrument Number 010000385, and Instrument Number 050001930.

Preparation by Carl S. Markowitz, Esq. VSB #4211

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
LIVINGSTON CORPORATE CENTER II - SUITE 101
760 LIVINGSTON PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325
VSB#
Markowitz - 4211
Webb - 17743

Tax Parcel Numbers: 90-2-1, 90-6-82, part of 90-2-8, part of 90-2-3
There are no assigned Tax Parcel Numbers for: Parcel I-2,
Road Parcel E and Remaining Portion of Road Parcel 2

No Consideration

No Title Insurer

This conveyance is expressly made subject to the reservations, covenants, restrictions and/or easements of record, if any, affecting the aforesaid property and constituting constructive notice.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized Manager.

BAY CREEK, L.L.C.

By: *Richard S. Foster*
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Virginia Beach, to-wit:

I, the undersigned, a Notary Public in and for the aforesaid City/County and State, do hereby certify that Richard S. Foster, as Manager of Bay Creek, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 16th day of December, 2014.

Carl S. Markowitz
Notary Public
My Commission Expires: Oct 31, 2018
Notary Registration Number: 193652



PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
LYONSWAYNE CORPORATE CENTER II - SUITE 101
760 LYONSWAYNE PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325
VSB#
Markowitz - 4211
Webb - 17740

INSTRUMENT #140002065
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 18, 2014 AT 11:38AM

TRACI L. JOHNSON, CLERK
RECORDED BY: TLJ



OFFICIAL RECEIPT
NORTHAMPTON COUNTY CIRCUIT COURT
DEED RECEIPT

DATE: 12/18/14 TIME: 11:41:36 ACCOUNT: 131CLR140002066 RECEIPT: 1400006858
CASHIER: EFP REG: NB14 TYPE: DG PAYMENT: FULL PAYMENT
INSTRUMENT : 140002066 BOOK: PAGE: RECORDED: 12/18/14 AT 11:41
GRANTOR: BAY CREEK SOUTH LLC EX: N LOC: CO
GRANTEE: BAY CREEK AT CAPE CHARLES COMMUNITY ASSOC EX: N PCT: 100%
AND ADDRESS : 4534 BONNEY ROAD VIRGINIA BEACH, VA. 23462
RECEIVED OF : CONSOLVO MARKOWITZ & WEBB PLC DATE OF DEED: 12/12/14
CHECK: \$69.00 1102
DESCRIPTION 1: OPEN SPACE O AND ROAD PARCEL F-2-C PAGES: 2 OP: 0
2: BAY CREEK, TOWN OF CAPE CHARLES NAMES: 0
CONSIDERATION: .00 A/VAL: .00 MAP: 90-2-1D&90-14-RW
PIN:
301 DEEDS 14.50 145 VSLF 1.50
212 TRANSFER FEES 1.00 106 TECHNOLOGY TRST FND 5.00
035 VOF FEE 1.00
TENDERED : 69.00
AMOUNT PAID: 23.00
CHANGE AMT : 46.00

CLERK OF COURT: TRACI L. JOHNSON

PAYOR'S COPY
RECEIPT COPY 1 OF 2

THE SUBJECT PROPERTY CONSTITUTES OPEN OR COMMON SPACE AND IS NOT ASSESSABLE PURSUANT TO SECTION 58.1-3284.1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED. PURSUANT TO SECTION 58.1-811(D) OF THE CODE OF VIRGINIA, 1950, AS AMENDED, THIS INSTRUMENT IS A DEED OF GIFT IN THAT NO CONSIDERATION HAS PASSED BETWEEN THE PARTIES, AND, AS SUCH, IS NOT SUBJECT TO TAXATION.

THIS DEED OF GIFT, Made this 12th day of December, 2014, by and between BAY CREEK SOUTH, LLC, a Virginia limited liability company, GRANTOR; and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock corporation, GRANTEE, mailing address of: c/o Community Group, 4534 Bonney Road, Virginia Beach, Virginia 23462.

WITNESSETH:

That for and in consideration of the mutual benefits accruing, or to be accrued, to the above mentioned parties; and other good and valuable considerations, the receipt of which is acknowledged, the said Grantor does hereby grant and convey, with GENERAL WARRANTY and English Covenants of Title, unto the Grantee, the following described property, to-wit:

ALL THOSE CERTAIN pieces or parcels of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known and designated as OPEN SPACE O and ROAD PARCEL F-2-C, as shown on that certain plat entitled "COMPOSITE PLAT OF SUBDIVISION, BAY CREEK AT CAPE CHARLES, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", made by AES Consulting Engineers, duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 14002064.

IT BEING a portion of the same properties conveyed to the Grantor by deed duly recorded in the said Clerk's Office as Instrument Number 080000470.

This conveyance is expressly made subject to [i] the Declaration of Covenants, Conditions and Restrictions for Bay Creek at Cape Charles dated February 1, 2000 duly recorded in the aforesaid Clerk's Office in Deed Book 316, at Page 656, and the amendments and/or supplements thereto, if any; and [ii] any easements of record affecting the aforesaid property and constituting constructive notice.

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
Lynchburg Corporate Center II - Suite 101
760 LYNCHBURG PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325
VSB#
Markowitz - 4211
Webb - 17740

Tax Parcel Number: part of 90-2-1D and 90-14-RW

Preparation by Carl S. Markowitz, Esq. VSB#4211

No Title Insurer

No Consideration

It is the express intent of the Grantor that the Grantee shall maintain the aforesaid property by virtue of the Grantee's power and authority as set forth in said Declaration, or in the corporate By-Laws of the Grantee, or by virtue of the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, BAY CREEK SOUTH, LLC, a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized Managing Member.

BAY CREEK SOUTH, LLC,
a Virginia limited liability company

By: Keyser-Bay Creek, LLC,
a Maryland limited liability company
qualified to transact business in
the Commonwealth of Virginia,
Managing Member

By: W. Gary Dorsch
W. Gary Dorsch, Manager

STATE OF VIRGINIA
CITY/COUNTY OF Northampton, to-wit:

I, the undersigned, a Notary Public in and for the said City/County and State, do hereby certify that W. Gary Dorsch, as the Manager of Keyser-Bay Creek, LLC, a Maryland limited liability company qualified to transact business in the State of Virginia, the Managing Member of Bay Creek South, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 15 day of December, 2014, on behalf thereof.

Kellie M Ward
Notary Public

My Commission Expires: 09/30/2018

Notary Registration Number: 7600163



PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*

LYNNHURST CORPORATE CENTER II - SUITE 101
760 LYNNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

VSB#
Markowitz - 4211
Webb - 17740

INSTRUMENT #140002066
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 18, 2014 AT 11:41AM

TRACI L. JOHNSON, CLERK
RECORDED BY: EFF



OFFICIAL RECEIPT
NORTHAMPTON COUNTY CIRCUIT COURT
DEED RECEIPT

DATE: 12/18/14 TIME: 11:45:30 ACCOUNT: 131CLR140002067 RECEIPT: 1400006859
CASHIER: EFP REG: NB14 TYPE: DG PAYMENT: FULL PAYMENT
INSTRUMENT : 140002067 BOOK: PAGE: RECORDED: 12/18/14 AT 11:45
GRANTOR: BAY CREEK LLC EX: N LOC: CO
GRANTEE: BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION IN EX: N PCT: 100%
AND ADDRESS : C/O COMMUNITY GROUP/4534 BONNE VIRGINIA BEACH, VA. 23462
RECEIVED OF : CONSOLVO MARKOWITZ & WEBB PLC DATE OF DEED: 12/12/14
CHECK: \$46.00 1102
DESCRIPTION 1: ROAD PARCEL 2-A, 3-A, F-2-A, F-2-B PAGES: 3 OP: 0
2: BAY CREEK, TOWN OF CAPE CHARLES NAMES: 0
CONSIDERATION: .00 A/VAL: .00 MAP: PART OF 90-2-8, ETC
PIN:
301 DEEDS 14.50 145 VSLF 1.50
212 TRANSFER FEES 1.00 106 TECHNOLOGY TRST FND 5.00
035 VOF FEE 1.00
TENDERED : 46.00
AMOUNT PAID: 23.00
CHANGE AMT : 23.00

CLERK OF COURT: TRACI L. JOHNSON

PAYOR'S COPY
RECEIPT COPY 1 OF 2

THE SUBJECT PROPERTY CONSTITUTES OPEN OR COMMON SPACE AND IS NOT ASSESSABLE PURSUANT TO SECTION 58.1-3284.1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED. PURSUANT TO SECTION 58.1-811(D) OF THE CODE OF VIRGINIA, 1950, AS AMENDED, THIS INSTRUMENT IS A DEED OF GIFT IN THAT NO CONSIDERATION HAS PASSED BETWEEN THE PARTIES, AND, AS SUCH, IS NOT SUBJECT TO TAXATION.

THIS DEED OF GIFT, Made this 12th day of December, 2014, by and between BAY CREEK, L.L.C., a Virginia limited liability company, GRANTOR; and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock corporation, GRANTEE, mailing address of: c/o Community Group, 4534 Bonney Road, Virginia Beach, Virginia 23462.

WITNESSETH:

That for and in consideration of the mutual benefits accruing, or to be accrued, to the above mentioned parties, and other good and valuable considerations, the receipt of which is acknowledged, the said Grantor does hereby grant and convey, with GENERAL WARRANTY and English Covenants of Title, unto the Grantee, the following described property, to-wit:

ALL THOSE CERTAIN pieces or parcels of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known and designated as ROAD PARCEL 2-A, ROAD PARCEL 3-A, ROAD PARCEL F-2-A, and ROAD PARCEL F-2-B, as shown on that certain plat entitled "COMPOSITE PLAT OF SUBDIVISION, BAY CREEK AT CAPE CHARLES, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", made by AES Consulting Engineers, duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 140002064.

IT BEING a portion of the same properties conveyed to the Grantor by deeds duly recorded in the said Clerk's Office as Instrument Number 000000355 and Instrument Number 050001930.

This conveyance is expressly made subject to [i] the Declaration of Covenants, Conditions and Restrictions for Bay Creek at Cape Charles dated February 1, 2000 duly recorded in the aforesaid Clerk's Office in Deed Book 316, at Page 656, and the amendments and/or supplements thereto, if any; and [ii] any easements of record affecting the aforesaid property and constituting constructive notice.

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, PLLC*

LYNNHURST CORPORATE CENTER II - SUITE 101
760 LYNNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325

VSB#
Markowitz - 4211
Webb - 17740

Tax Parcel Number: part of 90-2-8, part of 90-2-3,
part of 90-9-RW, part of 90-9-RW

Preparation by Carl S. Markowitz, Esq. VSB#4211

No Consideration

No Title Insurer

It is the express intent of the Grantor that the Grantee shall maintain the aforesaid property by virtue of the Grantee's power and authority as set forth in said Declaration, or in the corporate By-Laws of the Grantee, or by virtue of the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized Manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: *Richard S. Foster*
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Virginia Beach, to-wit:

I, the undersigned, a Notary Public in and for the City/County and State, do hereby certify that Richard S. Foster, as Manager of Bay Creek, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 16th day of December, 2014.

Carl S. Markowitz
Notary Public
My Commission Expires: Oct 31, 2018
Notary Registration Number: 193652



PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7825
VSB#
Markowitz - 4211
Webb - 17740

INSTRUMENT #140002067
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 18, 2014 AT 11:45AM

TRACI L. JOHNSON, CLERK
RECORDED BY: EFF

A handwritten signature in black ink, appearing to be 'TJ', located to the right of the typed name 'TRACI L. JOHNSON, CLERK'.



OFFICIAL RECEIPT
NORTHAMPTON COUNTY CIRCUIT COURT
DEED RECEIPT

DATE: 12/18/14 TIME: 11:50:32 ACCOUNT: 131CLR140002068 RECEIPT: 1400006860
CASHIER: TLJ REG: NB14 TYPE: DG PAYMENT: FULL PAYMENT
INSTRUMENT : 140002068 BOOK: PAGE: RECORDED: 12/18/14 AT 11:50
GRANTOR: HERON POINTE LLC EX: N LOC: CO
GRANTEE: BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION IN EX: N PCT: 100%
AND ADDRESS : C/O COMM GRP 4534 BONNEY RD VIRGINIA BEACH, VA. 23462
RECEIVED OF : CONSOLVO MARKOWITZ & WEBB PLC DATE OF DEED: 12/12/14
CHECK: \$23.00 1102
DESCRIPTION 1: ROAD PARCEL O BAY CREEK AT CAPE CHARLES PAGES: 4 OP: 0
2: NAMES: 0
CONSIDERATION: .00 A/VAL: .00 MAP: 90-7-RW
PIN:
301 DEEDS 14.50 145 VSLF 1.50
212 TRANSFER FEES 1.00 106 TECHNOLOGY TRST FND 5.00
035 VOF FEE 1.00
TENDERED : 23.00
AMOUNT PAID: 23.00
CHANGE AMT : .00

CLERK OF COURT: TRACI L. JOHNSON

PAYOR'S COPY
RECEIPT COPY 1 OF 2

THE SUBJECT PROPERTY CONSTITUTES OPEN OR COMMON SPACE AND IS NOT ASSESSABLE PURSUANT TO SECTION 58.1-3284.1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED. PURSUANT TO SECTION 58.1-811(D) OF THE CODE OF VIRGINIA, 1950, AS AMENDED, THIS INSTRUMENT IS A DEED OF GIFT IN THAT NO CONSIDERATION HAS PASSED BETWEEN THE PARTIES, AND, AS SUCH, IS NOT SUBJECT TO TAXATION.

THIS DEED OF GIFT, Made this 12th day of December, 2014, by and between HERON POINTE, L.L.C., a Virginia limited liability company in dissolution, GRANTOR; and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock corporation, GRANTEE, mailing address of: c/o Community Group, 4534 Bonney Road, Virginia Beach, Virginia 23462.

WITNESSETH:

That for and in consideration of the mutual benefits accruing, or to be accrued, to the above mentioned parties; and other good and valuable considerations, the receipt of which is acknowledged, the said Grantor does hereby grant and convey, with GENERAL WARRANTY and English Covenants of Title, unto the Grantee, the following described property, to-wit:

ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known and designated as ROAD PARCEL O, as shown on that certain plat entitled "COMPOSITE PLAT OF SUBDIVISION, BAY CREEK AT CAPE CHARLES, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", made by AES Consulting Engineers, duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 140002064.

IT BEING a portion of the same property conveyed to the Grantor by deed duly recorded in the said Clerk's Office as Instrument Number 020003260. This Deed is made in winding up the business of the Grantor, as a conveyance of its real property situate in Northampton County, Virginia still owned in the name of the Grantor.

This conveyance is expressly made subject to [i] the Declaration of Covenants, Conditions and Restrictions for Bay Creek at Cape Charles dated February 1, 2000 duly recorded in the aforesaid Clerk's Office in Deed Book 316, at Page 656, and the amendments and/or supplements thereto, if any; and [ii] any easements of record affecting the aforesaid property and constituting constructive notice.

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325
VSB#
Markowitz - 4211
Webb - 17740

Tax Parcel Number: 90-7-RW
Preparation by Carl S. Markowitz, Esq. VSB#4211
No Title Insurer
No Consideration

It is the express intent of the Grantor that the Grantee shall maintain the aforesaid property by virtue of the Grantee's power and authority as set forth in said Declaration, or in the corporate By-Laws of the Grantee, or by virtue of the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, HERON POINTE, L.L.C., a Virginia limited liability company in dissolution, has caused this instrument to be executed in its name by its Trustee-in-Dissolution/Manager.

HERON POINTE, L.L.C.,
a Virginia limited liability company
in dissolution

By: Richard S. Foster
Richard S. Foster,
Trustee-in-Dissolution/Manager

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Virginia Beach, to-wit:

I, the undersigned, a Notary Public in and for the City/County and State, do hereby certify that Richard S. Foster, as Trustee-in-Dissolution/Manager of Heron Pointe, L.L.C., a Virginia limited liability company in dissolution, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 16th day of December, 2014.

Carl S. Markowitz
Notary Public

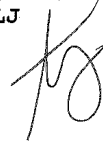
My Commission Expires: Oct 31, 2018
Notary Registration Number: 193652



PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
LYMANHURST CORPORATE CENTER II - SUITE 101
760 LYMANHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23462-7325
VSB#
Markowitz - 4211
Webb - 17740

INSTRUMENT #140002068
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 18, 2014 AT 11:50AM

TRACI L. JOHNSON, CLERK
RECORDED BY: TLJ

A handwritten signature in black ink, appearing to be 'TLJ', located to the right of the typed name 'TRACI L. JOHNSON, CLERK'.

Bay Creek at Cape Charles Community Association, Inc.

Bylaws



PMA

Property Management Associates

#00316 #12730

Exhibit "D"

BY-LAWS

OF

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

TABLE OF CONTENTS

Article I Name, Principal Office, and Definitions 1

 1.1. Name 1

 1.2. Principal Office 1

 1.3. Definitions 1

Article II Membership: Meetings, Quorum, Voting, Proxies 1

 2.1. Membership 1

 2.2. Place of Meetings 1

 2.3. Annual Meetings 2

 2.4. Special Meetings 2

 2.5. Notice of Meetings 2

 2.6. Waiver of Notice 2

 2.7. Adjournment of Meetings 3

 2.8. Voting 3

 2.9. Proxies 3

 2.10. Majority 4

 2.11. Quorum 4

 2.12. Conduct of Meetings 4

 2.13. Action Without a Meeting 4

Article III Board of Directors: Selection, Meetings, Powers 4

 A. Composition and Selection 4

 3.1. Governing Body; Composition 4

 3.2. Number of Directors 5

 3.3. Directors During Class "B" Control Period 5

 3.4. Nomination and Election Procedures 5

 3.5. Election and Term of Office 6

 3.6. Removal of Directors and Vacancies 7

 B. Meetings 8

 3.7. Organizational Meetings 8

 3.8. Regular Meetings 8

 3.9. Special Meetings 8

 3.10. Notice; Waiver of Notice 9

 3.11. Telephonic Participation in Meetings 9

 3.12. Quorum of Board 9

 3.13. Conduct of Meetings 10

 3.14. Open Meetings; Executive Session 10

 3.15. Action Without a Formal Meeting 10

C. <u>Powers and Duties</u>	10
3.16. Powers.....	10
3.17. Duties.....	11
3.18. Compensation.....	12
3.19. Right of Class "B" Member to Disapprove Actions.....	12
3.20. Management.....	13
3.21. Accounts and Reports.....	13
3.22. Borrowing.....	14
3.23. Right To Contract.....	14
3.24. Enforcement.....	14
3.25. Board Standards.....	15
Article IV Officers.....	16
4.1. Officers.....	16
4.2. Election and Term of Office.....	16
4.3. Removal and Vacancies.....	16
4.4. Powers and Duties.....	16
4.5. Resignation.....	17
4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc.....	17
4.7. Compensation.....	17
Article V Committees.....	17
5.1. General.....	17
5.2. Covenants Committee.....	17
5.3. Neighborhood Committees.....	17
Article VI Miscellaneous.....	18
6.1. Fiscal Year.....	18
6.2. Parliamentary Rules.....	18
6.3. Conflicts.....	18
6.4. Books and Records.....	18
6.5. Notices.....	19
6.6. Amendment.....	20

PER 316 REG 733

BY-LAWS
OF
BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

Article I
Name, Principal Office, and Definitions

1.1. Name.

The name of the corporation is Bay Creek at Cape Charles Community Association, Inc. (the "Association").

1.2. Principal Office.

The principal office of the Association shall be located in Northampton County, Virginia. The Association may have such other offices, either within or outside the State of Virginia, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that certain Recorded Declaration of Covenants, Conditions, and Restrictions for Bay Creek at Cape Charles, as it may be amended (the "Declaration"), unless the context indicates otherwise.

Article II
Membership: Meetings, Quorum, Voting, Proxies

2.1. Membership.

The Association shall have two classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration. The provisions of the Declaration pertaining to membership are incorporated by this reference.

2.2. Place of Meetings.

Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate.

2.3. Annual Meetings.

The first meeting of the Association, whether a regular or special meeting, shall be held within one year after the date of incorporation of the Association. Meetings shall be of the Voting Members unless otherwise required by Virginia law or specified by the Board. Subsequent regular annual meetings shall be set by the Board so as to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Board.

2.4. Special Meetings.

The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Voting Members representing at least 10% of the total Class "A" votes of the Association.

2.5. Notice of Meetings.

Written or printed notice stating the place, day, and hour of any meeting of the Voting Members shall be delivered, either personally or by mail, to each Voting Member entitled to vote at such meeting, not less than 10 nor more than 60 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Member at his or her address as it appears on the Association's records, with postage prepaid.

Notwithstanding the foregoing, notice of any meeting for the purpose of considering an amendment to the Articles, a plan of merger, a proposed sale of assets pursuant to Virginia Code §13.1-900, or the dissolution of the Association, shall be given in accordance with Virginia Code §13.1-842.

2.6. Waiver of Notice.

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

2.7. Adjournment of Meetings.

If any meeting of the Association cannot be held because a quorum is not present, a majority of the Voting Members who are present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Voting Members in the manner prescribed for regular meetings.

Voting Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8. Voting.

The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference.

2.9. Proxies.

Voting Members may not vote by proxy but only in person or through their designated alternates; provided, however, any Voting Member who is only entitled to cast the vote(s) for his or her own Unit(s) pursuant to Section 6.4 of the Declaration may cast such vote in person or by proxy until such time as the Board first calls for election of a Voting Member to represent the Neighborhood of which the Unit is a part. On any matter as to which a Member is entitled personally to cast the vote for his or her Unit, such vote may be cast in person or by proxy, subject to the limitations of Virginia law relating to the use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws.

Every proxy shall be in writing specifying the Unit for which it is given, signed by the Member or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Unit for which it was given, (b) receipt by the Secretary of a written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person, or (c) 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

2.10. Majority.

As used in these By-Laws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11. Quorum.

Except as otherwise provided in these By-Laws or in the Declaration, the presence of Voting Members representing a majority of the total Class "A" votes in the Association shall constitute a quorum at all Association meetings.

2.12. Conduct of Meetings.

The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting.

Any action required or permitted by law to be taken at a meeting of the Voting Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by the Voting Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Voting Members entitled to vote thereon were present. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated, and delivered to the Association. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Voting Members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Voting Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

Article III

Board of Directors: Selection, Meetings, Powers

A. Composition and Selection.

3.1. Governing Body; Composition.

The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one vote. Except with respect to directors appointed by the Class "B" Member, directors shall be Members or residents; provided, however, no Owner and resident representing the same Unit may serve on the Board at the same time. A "resident" shall be any natural person 18 years of age or older whose principal residence is a Unit within the Properties. If a Member is not a natural person, any officer, director, partner, or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association

signed by such Member; provided, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

3.2. Number of Directors.

The Board shall consist of three to seven directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3. Directors During Class "B" Control Period.

Directors appointed by the Class "B" Member pursuant to Section 3.5 of these By-Laws shall be appointed by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member.

3.4. Nomination and Election Procedures.

(a) Nominations and Declarations of Candidacy. Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which each and every eligible person who has a bona-fide interest in serving as a director may file as a candidate for any position to be filled by Class "A" votes. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient, and cost-effective manner. Nominations also may be permitted from the floor.

Except with respect to directors selected by the Class "B" Member, nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairperson, who shall be a member of the Board, and three or more Members or representatives of Members, with at least one representative from each Voting Group. Members of the Nominating Committee shall be appointed by the Board not less than 30 days prior to each annual meeting to serve a term of one year and until their successors are appointed, and such appointment shall be announced in the notice of each election.

The Nominating Committee may make as many nominations for election to the Board as it shall, in its discretion, determine. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members and Voting Members and to solicit votes.

(b) Election Procedures. Each Voting Member may cast all votes assigned to the Units which it represents for each position to be filled from the slate of candidates on which such Voting Member is entitled to vote. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5. Election and Term of Office.

Except as these By-Laws may otherwise specifically provide, election of directors shall take place at the Association's annual meeting. Notwithstanding any other provision of these By-Laws:

(a) Within 30 days after the time that Class "A" Members other than Builders own 25% of the Units permitted by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call for an election by which the Voting Members shall be entitled to elect one of the three directors, who shall be an at-large director. The remaining two directors shall be appointees of the Class "B" Member. The director elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (b), whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b), a successor shall be elected for a like term.

(b) Within 30 days after the time that Class "A" Members other than Builders own 50% of the Units permitted by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the Board shall be increased to five directors. The President shall call for an election by which the Voting Members shall be entitled to elect two of the five directors, who shall serve as at-large directors. The remaining three directors shall be appointees of the Class "B" Member. Directors elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

(c) Within 90 days after termination of the Class "B" Control Period, the President shall call for an election by which the Voting Members shall be entitled to elect three of the five directors, who shall serve as at-large directors. The remaining two directors shall be appointees of the Class "B" Member. Directors elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall serve until the first annual meeting following the termination of the Class "B" Control Period. If such annual meeting is scheduled to occur within 90 days after termination of the Class "B" Control Period, this subsection shall not apply and directors shall be elected in accordance with subsection (d) below.

(d) Not later than the first annual meeting after the termination of the Class "B" Control Period, the Board shall be increased to seven directors and an election shall be held. Six directors shall be elected by the Voting Members, with an equal number of directors elected by the Voting Members representing each Voting Group and any remaining directorships filled at large by the vote of all Voting Members. Three directors shall serve a term of two years and three directors shall serve a term of one year, as such directors determine among themselves.

Until termination of the Class "B" membership, the Class "B" Member shall be entitled to appoint one director. Upon termination of the Class "B" membership, the director elected by the

Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve until the next annual meeting, at which time the Voting Members shall be entitled to elect a director to fill such position. Such director shall be elected for a term of two years.

Upon expiration of the term of office of each director elected by the Voting Members, Voting Members entitled to elect such director shall be entitled to elect a successor to serve a term of two years. Directors elected by the Voting Members shall hold office until their respective successors have been elected.

Diagram 3.1 illustrates the concept of transition of control of the Board of Directors.

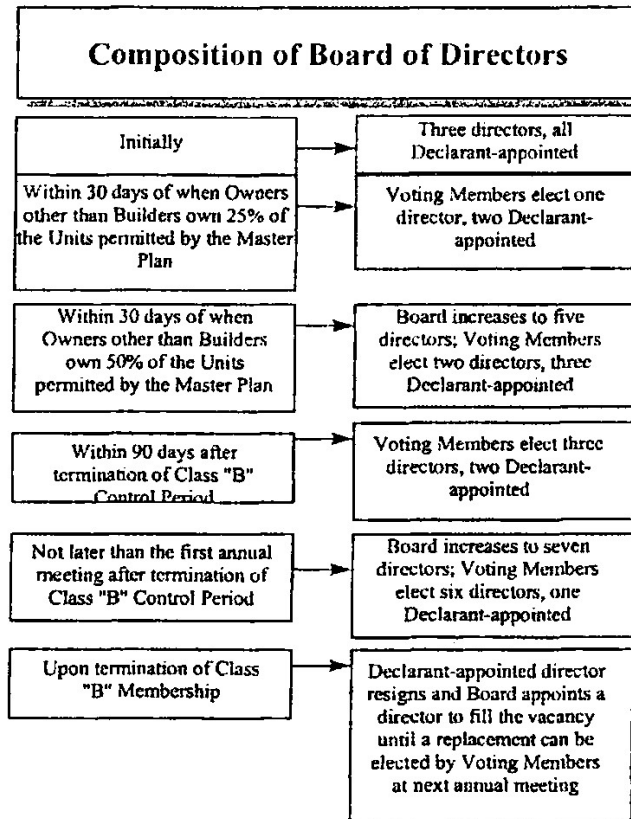


Diagram 3.1 - Composition of Board of Directors

3.6. Removal of Directors and Vacancies.

Any director elected by the Voting Members may be removed, with or without cause, by the vote of Voting Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Voting

Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Voting Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Members entitled to fill such directorship may elect a successor for the remainder of the term.

Any director whom the Board appoints shall be selected from among Members within the Voting Group represented by the director who vacated the position.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as Declarant's representative. The Class "B" Member or Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by or elected as a representative of the Class "B" Member or Declarant.

B. Meetings.

3.7. Organizational Meetings.

The first meeting of the Board following each annual meeting of the Voting Members shall be held within 10 days thereafter at such time and place as the Board shall fix.

3.8. Regular Meetings.

Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter.

3.9. Special Meetings.

Special meetings of the Board shall be held when called by written notice signed by the President or Vice President or by any two directors.

3.10. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, computer, fiberoptics, or other electronic communication device, with confirmation of transmission. All such notices shall be given at the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown in the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the date set for the meeting. Notices given by personal delivery, telephone, facsimile, electronic mail, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11. Telephonic Participation in Meetings.

Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

3.12. Quorum of Board.

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any Board meeting cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.13. Conduct of Meetings.

The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.14. Open Meetings; Executive Session.

(a) Subject to the provisions of Section 3.14(b) and Virginia Code §55-510, as it may be amended, all Board meetings shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless a director requests that they be granted permission to speak. In such case, the President may limit the time any such individual may speak.

(b) Notwithstanding the above, upon a motion in an open meeting to assemble in executive session, which motion states the purpose for the executive session and is approved by majority vote of the Board, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than directors, to consult with legal counsel, to discuss matters of a sensitive nature, such as contracts, potential or pending litigation, personnel matters, matters involving violations or alleged violations of the Governing Documents, and matters involving the personal liability of a Member to the Association. The Board shall restrict discussions during any executive session to those specific matters stated in the motion. No action agreed upon in executive session shall become effective unless the Board reconvenes in an open meeting to take a vote on such matter, the substance of which shall be reasonably identified in the open meeting. Nothing herein shall require the disclosure of information in violation of law.

3.15. Action Without a Formal Meeting.

Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.16. Powers.

The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents, and as provided by law. The Board may do or cause to be done on behalf of the Association all acts and things except those which the Governing Documents or Virginia law require to be done and exercised exclusively by the Voting Members or the membership generally.

3.17. Duties.

Duties of the Board shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget and establishing each Owner's share of the Common Expenses and any Neighborhood Expenses;
- (b) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;
- (c) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (d) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve funds may be deposited, in the Board's best judgment, in depositories other than banks;
- (e) making and amending use restrictions and rules in accordance with the Declaration;
- (f) opening bank accounts on behalf of the Association and designating the signatories required;
- (g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;
- (h) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association's obligation in this regard shall be conditioned in the manner provided in the Declaration;
- (i) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the costs thereof, and filing and adjusting claims, as appropriate;
- (j) paying the cost of all services rendered to the Association;
- (k) keeping books with detailed accounts of the Association's receipts and expenditures;
- (l) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing

Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;

(m) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;

(n) indemnifying a director, officer, or committee member, or former director, officer, or committee member of the Association to the extent such indemnity is required by Virginia law, the Articles of Incorporation, or the Declaration; and

(o) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

3.18. Compensation.

Directors shall not receive any compensation from the Association for acting as such. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.19. Right of Class "B" Member to Disapprove Actions.

So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy, or program of the Association, the Board, and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of Declarant or Builders under the Declaration or these By-Laws, interfere with development or construction of any portion of the Properties, or diminish the level of services being provided by the Association.

(a) Notice. The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to Board meetings with Sections 3.8, 3.9, 3.10, and 3.11 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) Opportunity to be Heard. The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the applicable committee. The Class "B" Member, acting through any officer, director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, the Board, or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.20. Management.

The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. Declarant or its affiliate may be employed as managing agent or manager.

The Board may delegate to one of its members the authority to act on the Board's behalf on all matters relating to the duties of the managing agent or manager, if any, which might arise between Board meetings.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control Period unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class "B" Control Period upon not more than 90 days' written notice.

3.21. Accounts and Reports.

The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm or entity providing goods or services to the Association shall be disclosed promptly to the Board; and

(f) an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant; provided, upon written request of any holder, guarantor, or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement.

3.22. Borrowing.

The Association shall have the power to borrow money for any legal purpose; provided, the Board shall obtain Voting Member approval in the same manner provided in Section 8.4 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the Association's budgeted gross expenses for that fiscal year.

3.23. Right To Contract.

The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Neighborhood and other owners or residents associations, within and outside the Properties. Any common management agreement shall require the consent of a majority of the Board.

3.24. Enforcement.

The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Governing Documents. To the extent specifically required by the Declaration, the Board shall comply with the following procedures prior to imposition of sanctions:

(a) Notice. The Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article V; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Covenants Committee, or if none has been appointed, then before the Board in executive session. The Covenants Committee or Board shall provide at least 14 days' prior written notice to the alleged violator of the date, time, and location of the hearing. Proof of proper notice shall be placed in the minutes of the hearing. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the hearing. The alleged violator shall be afforded a reasonable opportunity to be heard and may be represented by counsel at the hearing. The minutes of the hearing shall contain a written statement of the results of the hearing and the sanction, if any, imposed. Written notice of the decision reached and the sanction imposed, if any, shall be sent to the alleged violator within 5 days after the hearing.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, a written notice of appeal must be received by the Association's manager, President, or Secretary within 10 days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, towing vehicles that violate parking rules) or, following compliance with the dispute resolution procedures set forth in Article XV of the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred. Any entry onto a Unit for purposes of exercising this power of self-help shall not be deemed as trespass.

3.25. Board Standards.

While conducting the Association's business affairs, the Board shall be protected by the business judgment rule. The business judgment rule protects a director from personal liability so long as the party claiming liability does not prove that the director failed to: (a) serve

in a manner the director believes to be in the best interests of the Association and the Members; (b) serve in good faith; or (c) act with such care as an ordinarily prudent person in a like position would use under similar circumstances.

In fulfilling its governance responsibilities, the Board's actions shall be governed and tested by the rule of reasonableness. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

Operational standards of the Board and any committee appointed by the Board shall be the requirements set forth in the Governing Documents or the minimum standards which Declarant, the Board, and the Architectural Review Committee may establish. Such standard shall, in all cases, meet or exceed the standards set by Declarant and the Board during the Class "B" membership. Operational standards may evolve as the needs and demands of the Properties change.

Article IV **Officers**

4.1. Officers.

Officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among Board members; other officers may, but need not be Board members. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office.

The Board shall elect the Association's officers at the first Board meeting following each annual meeting of the Voting Members, to serve until their successors are elected.

4.3. Removal and Vacancies.

The Board may remove any officer whenever in its judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties.

The Association's officers shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for preparation of the budget as provided for in the

Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation.

Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.18.

Article V
Committees

5.1. General.

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

5.2. Covenants Committee.

In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions which the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24 of these By-Laws.

5.3. Neighborhood Committees.

In addition to any other committees appointed as provided above, each Neighborhood which has no formal organizational structure or association may elect a Neighborhood Committee to determine the nature and extent of services, if any, to be provided to the Neighborhood by the Association in addition to those provided to all Members of the

Association in accordance with the Declaration. A Neighborhood Committee may advise the Board on any other issue but shall not have the authority to bind the Board. Such Neighborhood Committees, if elected, shall consist of three to five Members, as determined by the vote of at least 51% of the Owners of Units within the Neighborhood.

Neighborhood Committee members shall be elected for a term of one year or until their successors are elected. Any director elected to the Board from a Neighborhood shall be an *ex officio* member of the Neighborhood Committee. The Voting Member representing such Neighborhood shall be the chairperson of the Neighborhood Committee, shall preside at its meetings, and shall be responsible for transmitting any and all communications to the Board.

In the conduct of its duties and responsibilities, each Neighborhood Committee shall abide by the notice and quorum requirements applicable to the Board under Sections 3.8, 3.9, 3.10, and 3.11. Meetings of a Neighborhood Committee shall be open to all Owners of Units in the Neighborhood and their representatives. Members of a Neighborhood Committee may act by unanimous written consent in lieu of a meeting.

Article VI Miscellaneous

6.1. Fiscal Year.

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Virginia law or the Governing Documents.

6.3. Conflicts.

If there are conflicts among the provisions of Virginia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Virginia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. Except as otherwise specifically provided in this Section 6.4, any Member, any holder of a first Mortgage on a Unit, or the duly appointed representative of any of the foregoing, shall have the right to examine and copy the books and records maintained by the Association, including the Governing Documents, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. Such right may be exercised only for a purpose reasonably related to the requesting party's interest in a Unit. The Association's membership roster shall not be used for purposes of commercial solicitation.

Notwithstanding the above, the Association's books and records may be withheld from inspection and copying to the extent that they concern:

- (i) personnel matters or a person's medical records;
- (ii) communications with legal counsel or attorney work product;
- (iii) transactions currently in negotiation and agreements containing confidentiality requirements;
- (iv) pending litigation;
- (v) pending matters involving enforcement of the Governing Documents;
- (vi) disclosure of information in violation of law; or
- (vii) minutes or other records of Board meetings held in executive session pursuant to Section 3.14 of these By-Laws.

Such right of inspection may be exercised only during reasonable business hours or at another mutually convenient time, and upon five days' prior written notice to the Board. The Board may impose and collect a charge, reflecting its actual costs of materials and labor, prior to providing copies of any books and records under this Section. The Board shall provide for such inspection to take place at the Association's office or at such other place within the Properties as the Board shall designate.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the Association's expense.

6.5. Notices.

Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member or Voting Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member or Voting Member;

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section; or

(c) if to any committee, at the principal address of the Association or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6. Amendment.

(a) By Class "B" Member. Prior to the conveyance of the first Unit by Declarant to a Person other than a Builder, the Class "B" Member may unilaterally amend these By-Laws. Thereafter, the Class "B" Member may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary: (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing.

So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member, and such amendments shall be subject to disapproval by the U.S. Department of Housing and Urban Development and/or the U.S. Department of Veterans Affairs if either such agency is insuring or guaranteeing residential loans within the Properties.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 51% of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon Recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its Recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant, the Class "B" Member, or the assignee of such right or privilege.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Bay Creek at Cape Charles Community Association, Inc., a Virginia corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 1st day of February, 2000.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 1st day of February, 2000.

Virginia S. Samudio [SEAL]
Secretary

5346.01/CADocs/VC

INSTRUMENT #000000213
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
FEBRUARY 3, 2000 AT 03:14PM
KENNETH F. ARNOLD, CLERK

BY: 

(DC)

Bay Creek at Cape Charles Community Association, Inc.

Rules and Regulations



PMA

Property Management Associates

EXHIBIT "C"

Initial Restrictions and Rules

The following restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed, or limited pursuant to Article III of the Declaration.

1. **General.** The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of property described in Exhibits "A" or "B," offices for any property manager retained by the Association, or business offices for Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

2. **Restricted Activities.** The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats, and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages; provided, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area;

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Dumping grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Properties, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;

(m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;

(n) Swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams, or other bodies of water within the Properties (excluding the community beach), except that fishing from the shore of such bodies of water shall be permitted with appropriate licenses and Declarant, its successors and assigns, shall be permitted and shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas and to draw water from lakes, ponds, and streams within the Properties for purposes of irrigation and such other purposes as Declarant shall deem desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the community beach, lakes, ponds, streams, or other bodies of water within or adjacent to the Properties;

(o) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns;

(p) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(q) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV;

(r) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Properties; (iii) the business activity does not involve door-to-door solicitation of residents of the Properties; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Properties which is noticeably greater than that which is typical of Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program;

(s) Capturing, trapping, or killing of wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons using the Properties;

(t) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Properties or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(u) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV;

(v) Operation of motorized vehicles on pathways or trails maintained by the Association, except that golf carts may be operated on cart paths intended for such purposes; and

(w) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets, and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; hedges, walls, dog runs, or animal pens; and satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter;

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals;

(collectively, "Permitted Antennas") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Architectural Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Properties, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited at the Properties:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties; and

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair.

4. Leasing of Units. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. The Board may require a minimum lease term, which requirements may vary from Neighborhood to Neighborhood.

000316 142729

Each Owner desiring to lease his or her Unit shall use a leasing company that satisfies all of the following requirements: (a) is licensed; (b) is familiar with the Bay Creek at Cape Charles community; (c) is familiar with the Governing Documents, including advertising policies, pet restrictions, leasing restrictions, and all other covenants, conditions, restrictions, rules, and regulations applicable to Bay Creek at Cape Charles; and (d) meets such other reasonable requirements as the Board may establish. The Board's determination, made in its reasonable business judgment, as to whether a leasing company satisfies all such requirements shall be conclusive and binding. The Board shall provide the name(s) of such qualifying leasing companies to each Unit Owner upon request.

The Board may require a security deposit, in such amount as the Board reasonably determines adequate, to ensure each lessee's and occupant's compliance with the Governing Documents and to cover the costs of any damage to or destruction of the Common Areas or other property within Bay Creek at Cape Charles. Notwithstanding the above, collection of a security deposit shall in no way limit the Board's right to assess and collect the entire repair or replacement costs or pursue other enforcement remedies against the violator, lessee, or Owner, as appropriate. The Board may also impose an administrative fee on each lease in an amount reasonably based on the costs to the Association of administering that lease.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the leasing company within 10 days of execution of the lease. The Board may require the leasing company to use the Association's lease package, which shall include the lease; a copy of the Declaration, By-Laws, and the Restrictions and Rules; a signed statement from the lessee agreeing to comply with the Governing Documents; and such other information relating to the lease or lessee as the Board may reasonably require.



Bay Creek Community Rules and Regulations

As a guest of Bay Creek, we want you to enjoy your stay and we ask that you understand and abide by the community rules and regulations at all times during your stay.

1. Occupancy of a rental home must not exceed the maximum number of guests allowed by the Vacation Rental Agreement.
2. Tents are prohibited from being erected on a property.
3. Parking of boats, jet skis, trailers and recreational vehicles on the street or driveway of a home is prohibited.
4. Parking on the grass, at private residences, is prohibited.
5. Villages of Bay Creek are primarily private residences. Guests should keep noise at a reasonable level as you would expect near your home.
6. Pets must be kept on leash and cleaned up after.
7. Bay Creek is a gated community. Only one car is allowed through the gate at a time. Renters will be liable for any damage they cause to gate.
8. Trash pick-up is on Tuesday mornings and trash cans need to be brought to the curb for pick up. Trash cans must be stored inside the garage (not seen on outside of house) within 24 hours of trash pickup.
9. Bay Creek and Cape Charles is golf cart friendly. Golf carts can be driven by only those who have a valid driver's license.
10. Personal golf carts are not allowed on the golf course at any time.
11. Walking/running or biking is not allowed on the golf course at any time.
12. For safety reasons, no climbing on breakwaters at the beach front.
13. Do not walk through private yards to access the beach, follow the streets.
14. Stay off the dunes. Foot traffic destroys them.

I, ((Guest's Name)), guest of Bay Creek understands and agrees to abide by these rules and regulations.

Guest Signature

Date

OPEN HOUSE RULES

DATED JUNE 21,2007

The Bay Creek Homeowners Association authorizes real estate "open house" activities to be conducted within the following guidelines:

1. Real estate agents representing homes listed for sale in Bay Creek may hold such properties "open" to the general public during the hours of 10:00am until 5:00pm.
2. "Broker" Open Houses conducted for the purposes of viewing by other agents during the week may also be held with at least 72 hour notice given and approved as described below.
3. Notice of said planned open house, including property address, date, hours and name(s) of the attending agent(s) must be given to the Bay Creek security staff 72 hours prior to the Broker Open House. Failure to do so shall preclude the open house from being held on the desired date. Notice must be given by email to [sstamper@thinkpma.com](mailto:ssstamper@thinkpma.com) (on behalf of the security staff) and must be approved by Bay Creek security staff as a condition of holding the open house event.
4. Open House "directional" signage shall be limited to three per property: one at the median of Bay Creek Parkway and Palmer Drive, one at the entrance to the village of the property being held open, and the other directly in front of the property.
5. Open House signage shall be professionally manufactured and in good condition. No balloons or additional paraphernalia shall be attached to the signs.
6. Open House signs may be placed at 10:00am or at the beginning of the published open house hours and must be taken up not later than 5:00pm of each day that the house is held open.
7. Open House signs not removed by 6:00pm may be confiscated by Bay Creek security staff. Repeated failure by agent to remove signs may be cause for prohibition of future open houses held by agent or agent's firm.
8. Agent(s) holding properties open to the public must "check in" at the Bay Creek Gate House to confirm previously approved registration and receive the appropriate Open House Pass to be displayed on the vehicle during their presence within Bay Creek. Such pass entitles the agent to go directly to the open property.
9. Visitors to Open Houses shall check in with the Bay Creek Gate House to receive the appropriate Open House pass, which entitles the visitors to go directly to the open properties.
10. The Bay Creek Homeowners Association reserves the right to refuse future Open House activities by real estate agents, and/or other members of their firm, who fail to abide by these procedures.