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*This document has been retyped in a larger font because the document on file at Pamlico County is difficult to read. This is a working document that has incorporated into it the **Bylaws**, the **Articles of Incorporation**, an **Amendment** (dated 6-2-1995) as well as a Table of Contents for easier reference. This document has been retyped as closely as possible from the original documents which has typographical and formatting errors, page numbers have been added as well. **If there is any doubt refer to the original documents.** Documents typed by Laura Mitchell 1-22-08, Proof read by Mary Ann Eynon 2-08 and corrected by Laura Mitchell 3-19-08 from proofed copy.*

Prepared by:

STATE OF NORTH CAROLINA  
COUNTY OF PAMLICO

**DECLARATION OF PROTECTIVE  
COVENANTS OF  
BAY SHORES ESTATES**

THIS DECLARATION OF PROTECTIVE COVENANTS made and entered into this the 9<sup>th</sup> day of January, 1995 by Scarafoni Associates NC, Inc., a North Carolina corporation d/b/a Live Oak Development Company, (hereinafter referred to as "DEVELOPER").

WITNESSETH THAT:

WHEREAS, DEVELOPER is the owner of Lots 1, 2, 6, 8, 17, 18, 19, 20, 21, 22 and 24 in BAY SHORES ESTATES SUBDIVISION located in Pamlico County, North Carolina, which is more particularly shown and described on that revised map recorded in Plat Cabinet A, Slide 9 – 6, Pamlico County Registry and BAY SHORES ESTATES, Phase Two, Lots 1A – 9A, as shown in Plat Cabinet A, Slide 87-5, 6 & 7, Pamlico County Registry; and

WHEREAS, it is the desire of the DEVELOPER to insure the use of the said property for attractive residential purposes only, to prevent the impairment of the attractiveness of the property, to maintain the desired tone of the community, and thereby to secure to each lot owner the full benefit and enjoyment of each lot owner's home with no greater restriction upon the free and undisturbed use of each lot than is necessary to insure the same advantages to the other lot owners;

NOW, THEREFORE, the undersigned does hereby covenant, agree and declare to and with all persons, firms or corporations now owning or hereafter acquiring any property in BAY SHORE ESTATES SUBDIVISION, that all of the above lots in said subdivision as shown on revised map recorded in Plat Cabinet A, Slide 9-6, of the Pamlico County Registry and BAY SHORES ESTATES, Phase Two, Lots 1A-9A, as shown in Plat Cabinet A, Slide 87-5, 6 & 7, Pamlico County Registry, are hereby made subject to the following PROTECTIVE COVENANTS (hereinafter "PROTECTIVE COVENANTS"). These PROTECTIVE COVENANTS shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in and to the real

property or any part or parts thereof subject to this DECLARATION OF PROTECTIVE COVENANTS.

## ARTICLE 1

### DEFINITIONS

As used herein,

A. "Articles" mean the Articles of the Incorporation of BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION INC., which are attached hereto as Exhibit A and incorporated herein by reference.

B. "Association" means and refers to the BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION, INC., a nonprofit North Carolina corporation.

C. The "Board of Directors" or "Board" shall be the elected board governing the Association and managing the affairs of the Association.

D. "By-laws" means the Bylaws of BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION, INC.

E. "Community Use Areas" means all real and personal property, together with those areas within dedicated portions of the Subdivision, which may be deeded to or acquired by the Association or not, for the common use and enjoyment of the members of the Association or in which the owners have a partial or common right or privilege to use and enjoy as provided by these PROTECTIVE COVENANTS as well as amendments hereto. Community Use Areas specifically include, but are not limited to, the Common Access Lot, recreation areas, parking spaces, boat launching facility, boat dock facility (if any), and streets and roads within the Subdivision.

F. "Common Expenses" means and includes actual and estimated expenses of maintaining and operating the Community Use Areas and operating the Association for general purposes, including any reasonable reserve, as may be found necessary and appropriate by the Board of Directors pursuant to these PROTECTIVE COVENANTS, the Bylaws and the Articles of Incorporation of the Association.

G. "Developer" means Scarafoni Associates NC, Inc., a North Carolina corporation, d/b/a/ Live Oaks Development Company, its successors and assigns or any legal entity acquiring ownership of portions of the Development Area heretofore not dedicated with the intent and for the purpose of further developments.

H. "Development Area" shall mean that property described by that revised map recorded in Plat Cabinet A, Slide 9-6, in the Office of the Register of Deeds of

Pamlico County, North Carolina, and BAY SHORES ESTATES, Phase Two, Lots 1A-9A, as shown in Plat Cabinet A, Slide 87-5, 6 & 7, Pamlico County Registry.

I. "Lot" shall mean and refer to any one of those numbered parcels of real property which have been subdivided from the hereinabove described real property know as BAY SHORES ESTATES SUBDIVISION and which are intended for single family residential purposes only, as set forth herein below.

J. "Member" shall mean and refer to each and every person and entity who or which owns a lot in BAY SHORES ESTATES SUBDIVISION subject to this Declaration.

K. "Owner" shall mean and refer to the owner or holder (by purchase, devise, inheritance, decree or otherwise) whether one or more person or entities, of a fee simple title to or interest in any Lot(s), including DEVELOPER, and contract sellers, but excluding those having such interest merely as security for the performance of an obligation or the payment of indebtedness.

L. "Subdivision" means all of that real property known collectively as BAY SHORES ESTATES SUBDIVISION as shown on that revised map recorded in Plat Cabinet A, Slide 9-6, Pamlico County Registry, and BAY SHORES ESTATES, Phase Two, Lots 1A-9A, as shown in Plat Cabinet A, Slide 87-5, 6, & 7, Pamlico County Registry, together with additional phases or sections as the same shall be shown on the maps to be recorded in the Pamlico County Registry and the properties shown thereon made subject to this Declaration of Protective Covenants.

M. "Additional Members". The owners of the other numbered lots in BAY SHORES ESTATES SUBDIVISION as shown on that revised map thereof recorded in Plat Cabinet A, Slide 9-6, Pamlico County Registry, may become members of the Association by signing a document to be recorded in the Office of the Register of Deed in Pamlico County subjecting their lot or lots to this Declaration of Protective Covenants, paying the then current year's dues and shall thereafter enjoy the rights and obligations the same as the original members.

N. "Priority of Covenants". Whenever this Declaration of Protective Covenants conflicts with earlier covenants, this Declaration shall be superior and its provisions shall prevail and be enforceable.

## ARTICLE 2 APPLICABILITY

These PROTECTIVE CONVENANTS shall apply to all subdivision numbered lots and other real property shown on the aforesaid referenced plat or map, together with such additional phases or sections as may hereinafter be added, which lots and property are for residential purposes only, except as otherwise provided herein.

ARTICLE 3  
RESTRICTIONS ON USE AND OCCUPANCY

A. No Lot shall be used except for single family residential purposes. No structure shall be erected, placed or permitted to remain on any Lot other than one (1) detached, single family residence dwelling no to exceed two and one-half stories in height above floor or piling level and such outbuildings as are usually accessory to a single family residence dwelling including a private enclosed garage.

B. Any dwelling constructed on the Lots subject to these PROTECTIVE COVENANTS shall contain not less than 1300 square feet. The minimum square footage herein provided shall be measured by using the fully enclosed and heated floor space all devoted to general living purposes and be exclusive of roofed or unroofed porches, breezeways, decks, terraces, garages, and any outbuildings. Any dwellings in excess of one story shall contain not less than 900 square feet on the first level of such structures which shall be fully enclosed and heated floor space all devoted to living purposes exclusive of roofed or unroofed porches, breezeways, decks, terraces, garages, and any outbuildings. In addition the total built-upon area on each lot shall not exceed the requirements of the Title 1 NCAC 2H.1003 Coastal Storm water Regulations. The State of North Carolina shall be a beneficiary of this provision entitled to enforce the same by any available action or remedy against any lot owner who violates the terms of this provision.

C. No above-grade structure (except approved fences or walls) may be constructed or place on any Lot except within the minimum building setback lines as set forth herein:

1. Thirty (30) feet from the Lot front line.
2. Ten (10) feet from the Lot side line.
3. Fifteen (15) feet from the Lot rear line or in the case of waterfront lots, 75 feet from the high water mark.
4. Twenty (20) feet from any corner Lot side line.

Hardship variances from these requirements may be granted by the DEVELOPER or its designated representative or the Committee in its sole discretion.

An Owner of a Lot and a portion or all of an adjoining and contiguous Lot or Lots may construct a dwelling and/or other structures permitted hereunder upon and across the dividing line of such adjoining and contiguous Lots, all such structures shall comply with the minimum building setback lines from the actual



boundary lines of the subject Owner's property, and thereafter such combinations of Lots or portions thereof shall be treated for all purposes under these PROTECTIVE COVENANTS as a single Lot.

D. No Lot or Lots shall be subdivided except to enlarge an adjoining Lot, but any Lot so enlarged cannot be improved with more than one single family dwelling.

E. All plumbing fixtures and sources of sewerage located on a Lot shall be connected to an individual septic tank or other sewer system located upon such Lot and approved by the appropriate governmental authorities and the DEVELOPER. Each such approved individual septic tank or sewer system shall be maintained in good and proper working order and condition by the Owner in accordance with the requirements of governmental authorities having jurisdiction. No outside toilet shall be constructed or permitted on any Lot except during construction as herein expressly provided.

F. The building setback requirements set forth herein are not applicable with respect to the construction of bulkheads, docks, piers or similar structures placed upon those Lots which adjoin navigable waterways so long as such structures do not encroach on easements set forth in these PROTECTIVE COVENANTS or on the recorded maps for BAY SHORES ESTATES SUBDIVISION and otherwise are in compliance with the terms and conditions of these BAY SHORE ESTATES PROTECTIVE COVENANTS.

The Owner or Owners of the property on which bulkheads, jetties, or other artificial stabilization devices are to be constructed must, prior to construction, obtain written approval from the appropriate Federal, State, County and local authorities, and the DEVELOPER, its duly designated representative of the Committee.

Piers and docks may be constructed on the property or adjacent thereto, provided that prior to construction, written approval has been obtained from the appropriate Federal, State, County and local authorities, and the DEVELOPER, its duly designated representative or the Committee.

G. Construction activity on a Lot shall be confined within the boundaries of said Lot. Each Lot Owner shall have the obligation to collect and dispose of all rubbish and trash resulting from construction on his Lot.

H. All Lots shall be well maintained and no accumulation of rubbish or debris shall be permitted. The Owners of all unbuilt upon Lots in the subdivision, except Lots 1A through 9A, shall clear their Lots of underbrush at least one time each year. If the Owners do not clear their Lot as required by this paragraph, the Association shall have the authority to clear any such Lot of underbrush and separately assess the cost of such work against each Owner. Such charge shall be a special assessment against the Owner and his Lot(s) and may be enforced in accordance with the provisions of Article 7 herein.

I. Owners shall be responsible for any damage done to any streets, roadways, access ways, Community Use Areas, bulkheads, or property of other Owners with the Subdivision which may be caused by any Owner, his agents, employees, guests, licensees or invitees. The Association shall have the authority to assess any Owner for such damage and such charge shall be a special assessment against the Owner and his Lot(s) and may be enforced in accordance with the provisions of Article 7 herein.

J. The following general prohibitions and requirements shall apply and control the improvements, maintenance and use of all Lots:

1. No mobile home, trailer, tent, or temporary house, temporary garage or other temporary outbuildings shall be placed or erected on any Lot, provided, however, that the committee or DEVELOPER may grant permission for temporary structures for storage of materials during construction.

2. Once construction of a dwelling or other improvements are started on any Lot, the improvements must be substantially completed in accordance with the approved plans and specifications with twelve (12) months from commencement.

3. During construction of improvements on any Lot, adequate portable sanitary toilets must be provided for the construction crew and the Lot must be cleaned of excess debris at least once a week.

4. All dwellings and permitted structures erected or placed on any Lot shall be constructed of material of good grade, quality and appearance, and all the construction shall be performed in good workmanship manner and quality. The covering for all roofs shall be shingles or materials approved by the Committee. Materials and colors for the exterior of all dwellings and permitted structures must be approved by the Committee. No used structures shall be relocated or placed on any Lot and no structures shall have an exterior constructed of concrete blocks, asbestos or asphalt siding. Any permitted outbuilding shall be of the same material, quality, general appearance and workmanship as the dwelling on the Lot.

5. Except structures erected by the DEVELOPERS, no structure erected upon any Lot may be used as a model exhibit or house unless prior written permission to do so shall have been obtained from the Committee.

6. Any dwelling or improvement on any Lot that is destroyed in whole or in part by fire or other casualty may be rebuilt or all debris removed and the Lot restored to a sightly condition with reasonable promptness, provided, however, that in no event shall such debris remain on such Lot longer than three (3) months.

7. No stripped, partially wrecked, or junk motor vehicle, or part thereof, shall be permitted to be parked or kept on any Lot.

8. No vehicle of any type shall be parked on any street in the Subdivision. No truck nor other vehicle in excess of a one-ton load capacity nor any mobile home, trailer or similar vehicle shall be parked or kept overnight or longer, on any Lot, in such a manner as to be visible to the occupants of other Lots or the users of a street or recreation area. Recreational vehicles and campers are allowed, so long as they are operable.

9. All outdoor poles, clotheslines and similar equipment shall be screened or so placed as not to be visible by the occupants of other Lots or the users of any street or recreation area.

10. No advertising signs or billboards or other advertising structure(s) of any kind shall be erected on any Lot or displayed to the public on any Lot subject to these restrictions except that one sign of not more than four square feet in area may be used to advertise a completed dwelling for sale or rent. This covenant shall not apply to signs erected by the DEVELOPER used to identify and advertise the Subdivision as a whole, or construction identification signs approved by the Committee showing Lot numbers and name of builder, or by a homeowner for the purposes of identifying the homeowner as the resident on said Lot. Said identification sign shall not exceed in size a total of four square feet.

11. No satellite dish antennas larger than 20 inches in diameter are permitted to be installed on any Lot in that portion of the Lot lying between the plane of the front wall of the house and the right of way of any roadway which adjoins the Lot; any satellite dish installed shall be screened from view from the roadway which adjoins the Lot on which the satellite dish is located and also screened from view by adjoining property Owners. The design and location of the screening of the satellite dish larger than 20 inches in diameter shall be approved by the Committee.

All radio antenna installations shall be approved in writing by the Committee before the antenna is installed.

12. All dwelling connections for all utilities, including but not limited to, water, electricity, gas, telephone, and television shall be run underground from the proper connecting points to the dwelling structure in such manner as may be acceptable to the appropriate utility authority. The cost for such underground service shall be shared by the Owner and utility company in conformity with existing utility company policy, if any. In no event shall DEVELOPER be responsible for such costs. DEVELOPER may, however, in its sole discretion waive the provisions of this paragraph if, in the opinion of DEVELOPER, federal flood insurance regulations or the ordinance regulations of Pamlico County make the underground service impractical.

13. No animals shall be permitted to remain on any Lot other than dogs, cats, or other small household pets, always in reasonable numbers and subject to reasonable rules and regulations as may be promulgated from time to time by the

Association. PROVIDED, however, that Owners of Lots of more than two (2) acres in overall size are permitted to keep equine animals on their Lots in the manner of keeping and caring for such animals does not otherwise violate the terms and conditions of this Declaration.

14. The erection of fences shall require approval of the Committee or DEVELOPER, along the side line of any Lot that adjoins a street except a split-rail, wooden fence of not more than two (2) horizontal rails. No fence of chain link type construction or in excess of four (4) feet in height shall be approved by the Committee, except that the Committee or DEVELOPER, in its sole discretion, may approve fences of chain link construction and up to six feet in height for the purpose of confining pets provided same does not extend more than twenty-five (25) feet in any direction and are constructed within the minimum building setback lines. All fences must be of a decorative nature which do not interfere with adjoining property Owners' views of adjacent bodies of water.

15. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereof tending to cause embarrassment, discomfort, annoyance or nuisance to the DEVELOPER or any Owners. There shall not be maintained any plants or animals, or device or anything of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the Owners thereof.

16. In order to maintain the rural, wooded character of the Subdivision, the following restrictions on the cutting and removal of trees shall apply to all Lots:

(a) Fallen trees, dead trees and live trees less than six (6) inches in diameter may be removed from any Lot at any time without the written approval of the DEVELOPER or the Committee.

(b) All trees exceeding six (6) inches in diameter may only be removed from any Lot with the written approval of the DEVELOPER or the Committee, said approval being based upon a site plan, landscaping plan, or planting plan submitted to the DEVELOPER or the Committee by the Owner or his agent.

(c) Trees may be removed without written approval of the DEVELOPER or the Committee within the area of proposed construction for any dwelling and the surrounding fifteen (15) feet.

17. Burning as a means of clearing brush shall not be permitted. Burning may be allowed under appropriate circumstances if approved by the DEVELOPER or the Committee and the Owner has obtained all necessary government permits.

K. This Article and these PROTECTIVE COVENANTS shall not apply to any sales office which may be maintained by the DEVELOPER within the BAY SHORES ESTATES SUBDIVISION.

#### ARTICLE 4

#### ASSOCIATION

A. An Association named BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION, INC. has been or will be formed pursuant to the rules and requirements of the Nonprofit Corporation Act (Chapter 55A) of the General Statutes of North Carolina as an association of the Owners of Lots. Its purposes are to own, manage, maintain, and operate the Community Use Areas and facilities located upon the Community Use Areas; to enforce the restrictions contained herein; and to make and enforce rules and regulations governing the Owners' use and occupation of Lots.

B. Each Owner of each Lot within the Subdivision shall be a Member of the Association. The DEVELOPER, by the Declaration, and the Owners of individual Lots by their acceptance of individual deeds thereto, and by the recording of these PROTECTIVE COVENANTS, covenant and agree with respect to the Association;

1. That for so long as each is an Owner of a Lot within the Subdivision, each will perform all acts necessary to remain in good and current standing as a Member of the Association; and

2. That each shall be subject to the rules and regulations of the Association with regard to ownership of a Lot; and

3. That any unpaid assessment, whether general or special, levied by the Association in accordance with these PROTECTIVE COVENANTS, the **Articles** or the **Bylaws** shall be a lien upon the Lot upon which such assessment was levied, and shall be the personal obligation of the Owner of the Lot at the time the assessment fell due.

C. Each membership in the Association shall relate to and have a unity of interest with an individual Lot which may not be separated from ownership of said Lot.

D. The qualifications for membership in the Association, the manner of admission to membership in the Association, the manner of termination of such membership, and the voting rights of the members of the Association shall be set forth in **Article IV of the Articles of Incorporation of the Association**, the provisions of such Article being incorporated herein by reference.

E. The affairs of the Association shall be managed by a Board of Directors, the number, qualifications, term and method of election of which shall be as provided from time to time by the **Bylaws** of the Association; and provided, further that the number of members of the first Board of Directors shall be three (3), and, provided,

finally, that, notwithstanding any of the foregoing, so long as the DEVELOPER, owns twenty (20) percent or more of the residential lots in the development, but in any event, not long than December 31, 1996, said DEVELOPER shall have the right to designate and select a majority of the persons who shall serve as members of each Board of Directors of the Association who need not meet the qualifications for directors as provided by said **Bylaws** or herein.

F. After the DEVELOPER has relinquished control of the Association as set forth in E. above, there shall be a special meeting of the membership for the purpose of electing a Board of Directors to serve until the next annual meeting and until new directors are elected and qualified.

## ARTICLE 5

### MANAGEMENT AND ADMINISTRATION

The management and administration of the affairs of the Community Use Areas of the Subdivision shall be the sole right and responsibility of the Association. The management shall be carried out in accordance with the terms and conditions of these PROTECTIVE COVENANTS, the **Articles** and the **Bylaws** of the Association, but may be delegated or contracted to managers or a management service.

## ARTICLE 6

### COMMON EXPENSES

The common Expenses of the Subdivision include:

All amounts expended by the Association operating, administering, managing, maintaining, repairing, replacing and improving the Community Use Areas of the Subdivision; and amounts expended by the Association in insuring the Community Use Areas in the Subdivision; all amounts expended by the Association in legal, engineering, or architectural fees; and similar fees which may be incurred by the Association from time to time in performing the functions delegated to the Association by these PROTECTIVE COVENANTS, **Articles** or **Bylaws**; and all amounts expended in any form by the Association in enforcing these PROTECTIVE COVENANTS, the **Articles** and the **Bylaws**.

## ARTICLE 7

### ASSESSMENTS, LIABILITY, LIEN AND ENFORCEMENT

A. The Association has heretofore been given the authority to administer the operation and management of the Community Use Area of the property. To properly administer the operation and management of the Community Use Area, the Association

will incur, for the mutual benefit of all the Owners of Lots, costs and expenses sometimes herein referred to as "Common Expenses". In furtherance of the grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation of, the management of, and for capital improvements to the Community Use Areas, the following shall be operative and binding upon the Owners of all Lots.

B. Creation of the Lien and Personal Obligation of Assessments; the DEVELOPER for each Lot owned within the Development Area and each Owner for any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed and by the recording of these PROTECTIVE COVENANTS is deemed to covenant and agree to pay the Association:

- (1) annual assessments or charges, and
- (2) special assessments for capital improvements or special assessments as established by the Board of Directors of the Association, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with the interest, costs and reasonable attorney's fees, if any, shall be a charge on the Lots and shall be a continual lien upon each Lot against which they are levied. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person or entity who is the Owner, of such Lot at the time when the assessment falls due. The personal obligation for delinquent assessments shall not pass to any successor in title unless expressly assumed by him.

PROVIDED, the DEVELOPER shall be exempt from the payment of the yearly assessment fee for any unsold Lots which are platted of record in the Office of the Register of Deeds of Pamlico County.

C. Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision and in particular for the improvements, maintenance, repair to the Community Use Areas above provided, the maintenance of all roads and streets of the property, as have been mapped or constructed within the overall tract of BAY SHORES ESTATES SUBDIVISION, until such time as they are taken over by the State of North Carolina, as well as the acquisition and maintenance of any and all other Community Use Areas of the Subdivision, including but not limited to, the cost of repairs, repaving, replacements and additions the cost of labor, equipment, materials, management and supervision, the payments of taxes assessed against the easement areas and Community Use Areas, utility services and the procurement and maintenance of insurance as may be deemed necessary by the Board of Directors.

PROVIDED; HOWEVER, that those Lot Owners who shall purchase from the DEVELOPER an individual boat slip within the docking facility as an appurtenance

to their Lot shall be assessed an annual fee for the maintenance of said dock area as an additional annual assessment payable to the Association, being an additional sum payable over and above the amount, required as the general assessment payable by each Lot Owner. This additional assessment pertaining to the owners of boat slips shall be payable to the Association for the maintenance, repair, replacements and additions, utility services, ad valorem property taxes, procurement of insurance and future dredging, if any, payable by the "boat slip owners" to the Association. The assessment amount shall be established by the Board of Directors annually and shall be separately accounted for from the general association assessments and expenditures.

D. Initial and Maximum Annual Assessment: The initial assessment, payable to the Association shall be prorated and paid at the time of closing of the purchase of a Lot, so that all payments thereafter shall be due on January 1 of that year. The initial assessment payable to BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION is to be \$225.00 per annum, and the maximum annual assessment for each calendar year thereafter shall be established by the Board of Directors of the Association and may be increased by the Board of Directors for any calendar year without approval by the membership by an amount not to exceed ten percent (10%) of the maximum annual assessment of the previous year. The initial annual assessment for the owners of boat slips shall be \$100.00 per annum in addition to the general assessment for all Lot owners.

The maximum annual assessment for any calendar year may be increased without limit by a vote of two-thirds of the Members who are voting in person or by proxy at a meeting called for this purpose.

Excess amounts collected through assessments for any particular calendar year shall be carried over to the next budget year, and said sums carried over shall be considered by the Board of Directors of the Association in formulating the budget for the approaching year and arriving at the assessments required of the Lot Owners for the approaching year.

E. Special Assessments for Capital Improvement: In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part, the costs of any construction, reconstruction, repair, replacement or repaving of a capital improvement to the roads and streets of the property, the easement areas described above, or any other Community Use Areas of the property, including fixtures and personal property related thereto, provided that any such assessments shall have the assent of two-thirds of the vote of the Members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments shall be fixed to the uniform rate for all Lots and may be collected on a schedule determined by the vote of the Members at said meeting,



PROVIDED, HOWEVER, special assessments required for capital improvements to the docking facility shall be assessed only to those Lot Owners who also own a boat slip.

F. Date and Commencement of Annual Assessments; Due Dates: The annual assessments provided for herein shall be collected on an annual basis and shall commence as to all Lots on the first day of January, 1995, and thereafter as to Owners other than the DEVELOPER, on the first day of each calendar year following the conveyance of a Lot to any such Owner. At least thirty (30) days in advance of each annual assessment, the Board of Directors shall fix the amount of the annual assessment to every Owner subject thereto. If no notice is given of a new assessment, then the previous year's assessment will apply.

G. Effect of Nonpayment of Assessments; Remedies of the Association: Any general or special assessment, if not paid within thirty (30) days after the date of such assessment is due, together with interest at the rate of twelve percent (12%) per annum, costs of collection, court costs, and reasonable attorney's fees shall constitute a lien against the Lot upon which such assessments are levied., The Association may record notice of the same in the Office of the Clerk of Superior Court of Pamlico County or file a suit to collect such delinquent assessments and charges. The Association may file Notice of Lis Pendens; bring an action at law against the Owner personally obligated to pay the same and/or bring an action to foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein.

H. Sale or Transfer of Property: The sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding sections. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust pursuant to a foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which become due prior to such sale or transfer. No such sale or transfer shall release such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE 8

### COMPLIANCE WITH THIS DECLARATION, THE ARTICLES AND BYLAWS OF THE CORPORATION

In the case of failure of an Owner to comply with the terms and provisions contained in this Declaration, the Articles, the Bylaws or Rules and Regulations of the Association, the following relief shall be available:

A. The Association, the DEVELOPER and any Owner, an aggrieved Owner within the Subdivision on behalf of the Association or any Owner on behalf of all the Owners within the Subdivision shall have the right to enforce by any proceeding at law or in equity, all of the conditions, covenants and restrictions of these PROTECTIVE CONVENANTS and the Articles, Bylaws and rules and regulations of the Association

and any and all laws hereinafter imposed pursuant to the terms of these PROTECTIVE COVENANTS. The prevailing party shall be entitled to collect all costs thereof, including reasonable attorney's fees.

B. The Association shall have the right to remedy the violation and assess the costs of remedying same against the offending Owner as a special assessment as provided in Article 6 herein.

C. For any violation by an Owner, including, but not limited to, the nonpayment of any general or special assessment, the Association shall have the right to suspend the offending Owner's voting rights and the use by such Owner, his agents, employees, licenses and invitees of the Community Use Areas in the Subdivision for any period during which a violation continues except that such penalties may not be for more than sixty (60) days for violation of any of the Association's published rules and regulations.

D. The remedies provided by this Article are cumulative, and are in addition to any other remedies provided by law.

E. The failure of the Association or any person or Owner to enforce any restriction contained in these PROTECTIVE COVENANTS, the **Articles**, the **Bylaws** or the rules and regulations shall not be deemed a waiver of the right to do so thereafter.

## ARTICLE 9

### PROPERTY RIGHTS OF LOT OWNER, CROSS-EASEMENTS, AND EXCEPTIONS AND RESERVATIONS BY DECLARANT

A. Every Owner of a Lot within the Subdivision, as an appurtenance to such Lot, shall have a perpetual easement over and upon the Community Use Areas within the Subdivision, except the boat docking facility, for each and every purpose or use to which such Community Use Areas were intended as determined by their type, or for which such Community Use Area generally are used, including, but not limited to, easement of access, maintenance, repair or replacement of the Community Use Areas. Such easements shall be appurtenant to and shall pass with the title to every Lot located within the Subdivision, whether or not specifically include in a deed thereto, subject to the following provisions:

1. The Association shall have the right to make reasonable rules and regulations respecting the use of same.

2. An easement for future dredging of the areas adjacent to the boat docking facility for the purpose of maintaining the dock as may be necessary is granted to those Lot Owners who shall also purchase a boat slip within the dock.

3. An easement for the docking of boats, privately owned by the Owners, along said docking facility within one of the slips of said docking facility and an easement over and across the boat docking facilities is granted to those Lot Owners who shall also purchase a boat slip within the dock,. Each Owner's slip shall be designated by the DEVELOPER, which slip number shall be affixed to the slip of the docking facility to be used by the Owner thereof.

B. The Association hereinafter may grant easements for utility purposes for the benefit of the Subdivision and the Lots now or hereafter located thereon, over, under, along and through the Community Use Areas. Provided, however, that no such grant of easement shall have a material adverse effect on the use, enjoyment or value of any Lot.

C. Any Owner may delegate, in accordance with the **Bylaws**, his right of enjoyment of the Community Use Areas, and facilities to the Members of his family, his tenants, and contract purchasers who reside on the property.

D. Easements and rights of way over and upon each Lot for drainage and the installation and maintenance of utilities and services are reserved to DEVELOPER and its successors and assigns for such purposes as DEVELOPER may deem incident and appropriate to its overall development plan, such easements and rights of way being shown or noted on the aforesaid recorded plat of the Subdivision. The easements and right of way areas reserved by DEVELOPER on each Lot pursuant hereto shall be maintained continuously by the Owner but no structures or plantings or other material shall be placed or permitted or remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Improvements within such areas also shall be maintained by the respective Owner except those for which a public authority or utility company is responsible. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary in the opinion of the DEVELOPER to provide an economical and safe installation.

E. The DEVELOPER and the Owners, by these presents, hereby establishes, grants, gives and conveys to each and every Owner or future Owners of a Lot in BAY SHORES ESTATES SUBDIVISION an easement of ingress, egress and regress over and across all of the roads and streets of BAY SHORES ESTATES SUBDIVISION as shown on maps thereof. It is the intent of the DEVELOPER that this grant of easement be deemed hereinafter as an appurtenance to each and every Lot within BAY SHORES ESTATES SUBDIVISION, and any conveyance or transfer of the title to any Lot in BAY SHORES ESTATES SUBDIVISION shall be deemed to include this easement, whether expressly stated therein or not.

F. Every Owner shall have a right and easement of enjoyment in and to any and all other Community Use Areas which are owned or leased by the Association for

the enjoyment of the Owners; this right and easement of enjoyment shall be appurtenant to and shall pass with the title to every Lot.

G. There is granted to Carolina Power and Light Company, its successors and assigns, a blanket easement to go upon the property that is the subject of these PROTECTIVE CONENANTS for the purpose of installing and maintaining the appropriate electrical transmission wires and equipment; provided, however, this easement is subordinate to and is expressly subject to any and all existing structures, including septic tanks, located on the property at the time Carolina Power and Light Company, its successors and assigns, seeks to place electrical transmission wires and equipment on the property.

H. There is reserved an easement twenty (20) feet in width immediately adjacent to and along a bulkhead across all bulk headed Lots which easement shall be for purposes of providing access to and allowing the maintenance, repair and replacement of the bulkhead and it components as may be necessary. Any such repairs, maintenance and replacement to the bulkhead shall include the restoration of the Lots immediately adjacent thereto and effected by such work so that said Lots are returned to their natural conditions as preceded such work.

I. DEVELOPER reserves the right to complete the development of BAY SHORES ESTATES SUBDIVISION and further DEVELOPER reserves the right to add additional properties to BAY SHORES ESTATES SUBDIVISION and the Owners of which properties shall be entitled to use the Common Areas and facilities the same as other BAY SHORES ESTATES SUBDIVISION Owners. The additional properties and Owners thereof shall be subject to the same dues and assessments as the BAY SHORES ESTATES SUBDIVISION Owners, be members of the Association, and such additional properties shall be subjected to restrictive covenants comparable to those of BAY SHORES ESTATES SUBDIVISION.

## ARTICLE 10

### ARCHITECTURAL CONTROL COMMITTEE AND PROCEDURES

A. 1. The DEVELOPER, in conjunction with the Association, shall create and establish an Architectural Control Committee (hereinafter referred to as the "Committee") for the purpose of reviewing and approving any and all proposed structures, buildings and improvements as to conformity and harmony of external design and consistency with plans of existing residences or other buildings and site locations.

2. In addition to its duties of review and approval of external harmony and design, the Committee shall monitor the compliance with all use restrictions, design and architectural control provisions and conditions and other restrictions. The Committee shall report such violations as may come to its attention to the DEVELOPER or the Association for appropriate actions of enforcement.

3. The Committee shall be composed of a minimum of three (3) members of the Association. Until such time as the Committee has been established, the DEVELOPER shall perform the functions as outlined above and elsewhere herein. Where the term "The Developer" or "The Committee" have been used, this term shall be construed to mean that only one of the two entities will perform the duties and function, and when the Committee is established, that Committee will perform the duties and functions as outlined above. Upon the appointment and organization of the Committee, the Committee shall adopt such administrative procedures as will insure the submission, review and approval of any and all buildings and/or improvements constructed.

B. No construction, which term shall include within its definition clearing, excavation, grading and other site work, shall take place except in strict compliance with this Article, and until the approval of the Committee or DEVELOPER has been obtained.

C. The Committee or DEVELOPER shall have jurisdiction over all original construction on any Lot and later changes or additions after initial approval thereof together with any modifications, additions or alterations subsequently to be constructed on any Lot or made to any improvements initially approved.

D. The Committee or DEVELOPER shall have the right to disapprove any plans, specifications and details submitted to it in the event the same are not in accordance with any of the provisions of these PROTECTIVE COVENANTS and the guidelines.

Disapproval of plans, locations, specifications or details may be based upon any grounds, including purely aesthetic considerations which the Committee or DEVELOPER, in its sole and uncontrolled discretion, shall deem sufficient; however, approval of plans shall not be unreasonably withheld.

An Owner shall have the right to appeal disapproval of plans, location, specification and details to the Board of Directors. The decision by the Board of Directors shall be final and not subject to appeal or review.

E. The Committee or DEVELOPER shall approve or disapprove plans, specifications and details submitted in accordance with its procedures within thirty (30) days from the receipt thereof. In the event that the Committee or DEVELOPER fails to approve or disapprove plans, specifications and details within thirty (30) days after submission of the same to the Committee or DEVELOPER approval, for the purposes of this Article, shall be deemed to have been given by the Committee or DEVELOPER.

F. The Committee, or its agent, or the DEVELOPER shall have the right to inspect all construction to ensure that it is performed in strict accordance with the approved plans, specifications and details.

G. Nothing contained herein shall be construed to limit the right of the Owner to remodel the interior of any residence or permitted pertinent structures, or to paint the interior of the same any color desired.

H. Neither the DEVELOPER nor the Committee nor the Board of Directors or any architecture agent thereof shall be responsible in any way for any defects in plans, specifications or details submitted, revised or approved in accordance with the provisions contained herein or in the guidelines, nor for any structural or other defect in any construction.

## ARTICLE 11

### AMENITIES AND FACILITIES

Every park, recreation area, recreation facility, dedicated access and other amenities appurtenant to the Subdivision, whether or not shown and delineated on any recorded plat of the Subdivision, shall be considered private and for the sole and exclusive use of the Member Owners of Lots within the Subdivision. Neither DEVELOPER'S execution nor the recording of any plat nor any other act of DEVELOPER with respect to such areas is, or is intended to be, or shall be construed as a dedication to the public of any such areas, facilities, or amenities. The roads shown on the maps of BAY SHORES ESTATES SUBDIVISION were constructed in accordance with the then existing standards and specifications of the North Carolina Department of Transportation and will be dedicated to the State of North Carolina. The roads shall be maintained by the Association until such time as they are accepted by the State of North Carolina.

## ARTICLE 12

### WAIVER

No provision contained in these PROTECTIVE COVENANTS, the [Articles](#) or the [Bylaws](#) shall be deemed to have been waived, abandoned, or abrogated by reason of failure to enforce them on the part of any person as to the same or similar future violations, no matter how often the failure to enforce is repeated.

## ARTICLE 13

### VARIANCES

The Board of Directors in its discretion may allow reasonable variances and adjustments of these PROTECTIVE COVENANTS in order to alleviate practical difficulties and hardship in their enforcement and operation. Any such variances shall not violate the spirit or the intent of this document to create a Subdivision of Lots owned in fee by various persons with each such Owner having an easement upon areas owned by the Association.

## ARTICLE 14

### DURATION, AMENDMENT AND TERMINATION

A. All covenants, conditions, restrictions and affirmative obligations set forth in these PRTECTIVE COVENANTS shall run with the property and Development Area and all portions thereof, and be binding on all parties having any right, title or interest in the property and Development Area, or any portion thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of the same, for a term of twenty (20) years from the date these PROTECTIVE COVENANTS are recorded in the Pamlico County Registry, after which time these PRTECTIVE COVENANTS shall be automatically extended for successive periods of twenty (20) years unless a majority of the then Owners agree to revoke the same. These Articles may be amended at any time by a vote of not less than a majority of the Owners and an instrument must be recorded in the Pamlico County Registry for such an amendment to be effective.

B. Invalidation of any one of the covenants, conditions or restrictions contained in these PROTECTIVE COVENANTS by any court, agency or legislative order shall in no way affect any other covenants, conditions or restrictions contained in these PROTETIVE COVENANTS which shall remain in full force and effect.

## ARTICLE 15

### CAPTIONS

The captions preceding the various Articles of these PROTECTIVE COVENANTS are for the convenience of reference only, and shall not be used as an aid in interpretation or construction of these PROTECTIVE COVENANTS. As used herein, the singular includes the plural and where there is more than one Owner of a Lot; said Owners are jointly and severally liable for the obligations herein imposed. Throughout this Declaration, references to the masculine shall be deemed to include the feminine, the feminine to include the masculine and the neuter to include masculine and feminine.

## ARTICLE 16

### ASSIGNABILITY OF RIGHTS AND LIABILITIES

DEVELOPER shall have the right to sell, lease, transfer, assign, license and in any manner alienate or dispose of any rights, interests and liabilities retained, accruing and reserved to it by these PROTECTIVE COVENANTS. Following any such disposition, DEVELOPER in no way shall be liable or responsible to any party with

regard to any such right, interest, or liability or any claim or claims out of same in any manner.

## ARTICLE 17

### LIBERAL CONSTRUCTION

The provisions of this Declaration shall be construed liberally to effectuate its purpose of creating a Subdivision of fee simple ownership of Lots and buildings governed and controlled by rules, regulations, restrictions, covenants, conditions, reservations and easements administered by an Owners' Association with each Owner entitled to and burdened with the rights and easements equivalent to those of other Owners.

In TESTIMONY WHEREOF, SCARAFONI ASSOCIATES NC, INC, the DEVELOPER, has caused this instrument to be executed and the undersigned Owners have put their hands and seals as of the day and year first above written.

Witnessed: 01-09-1995

Presented for registration and recorded in Book 303: 03-24-1995

*Book 303 Page 821 - 835*



STATE OF NORTH CAROLINA  
COUNTY OF PAMLICO

AMENDMENT TO DECLARATION  
OF PROTECTIVE COVENANTS OF  
BAY SHORES ESTATES

*Amendment: 06-02-1995*

THIS AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS of BAY SHORES ESTATES made and entered into this the 2nd day of June, 1995, by Scarafoni Associates NC, Inc., a North Carolina corporation d/b/a Live Oak Development Company, (hereinafter referred to as "DEVELOPER").

WITNESSETH THAT:

WHEREAS, DEVELOPER has previously recorded a Declaration of Protective Covenants of BAY SHORES ESTATES in Book 303, Page 821, et seq, Pamlico County Registry; and

WHEREAS, said Covenants provide for making amendments to said Declaration of Protective Covenants pursuant to Article 14 of the Declaration of Protective Covenants of BAY SHORES ESTATES, a majority of owners may amend said Declaration; and

WHEREAS, Developer is the owner of a majority of the lots and has voted to amend Article 3, Section C-3, of said Declaration as relates to BAY SHORES ESTATES and BAY SHORES ESTATES, PHASE TWO and all other further Phases thereof, said amendment being effective as of the recordation hereof as is set forth as follows:

ARTICLE 3

RESTRICTIONS ON USE AND OCCUPANCY

C. 3. Fifteen (15) feet from the Lot rear line or in the case of waterfront lots, 40 feet from the high water mark or at such greater distances as may be required by governmental agencies

IN TESTITMONY WHEREOF, SCARAFONI ASSOCIATES NC, INC., the DEVELOPER, has caused this instrument to be executed and the undersigned Owners have put their hands and seals as of the day and year first above written.

**BYLAWS  
OF  
BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION, INC.**

**ARTICLE I  
ASSOCIATION MEMBERS**

**Section 1. ANNUAL MEETING OF MEMBERS.**

The annual meeting of the Members of the Association shall be held in January of each year, the place and time shall be fixed by the President for the purpose of electing directors and for the transaction of such other business as may be brought before the meeting.

**Section 2. SUBSTITUTE ANNUAL MEETING.**

If the annual meeting shall not be held on the day designated in these Bylaws, a substitute annual meeting may be called in accordance with the provisions of Section 3 of this Article I. A meeting so called shall be designated and treated for all purposes as the annual meeting.

**Section 3. SPECIAL MEETINGS OF MEMBERS.**

Special meetings of the members may be held by consent of the members, whenever called in writing by the President or any member of the Board of Directors of the corporation or by members representing twenty percent (20%) of the membership entitled to vote.

**Section 4. NOTICE OF MEETING.**

Written or printed notices stating the time and place of meeting shall be mailed or delivered by the Secretary to each member of record at the member's last known address.

The notice of each meeting shall be mailed or delivered by the Secretary not less than ten days nor more than fifty days prior to the date set for such meeting and as to a special meetings, the Notice shall indicate the purpose or purposes thereof.

**Section 5. QUORUM.**

At any meeting of the members, forty percent (40%) of the members entitled to vote, present in person or represented by proxy shall constitute a quorum of the membership for all purposes.

If a quorum is not present, the meeting may be recessed from time to time by announcement from the chair at the time such meeting was set and such shall be sufficient notice of the time and place of the recessed meeting. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

**Section 6. ORGANIZATION.**

The President, or, in the absence of the President, the Vice President, shall preside over all

meetings of members and the Secretary of the Association shall act as Secretary at all meetings of the members; provided, however, in the Secretary's absence the President may appoint a Secretary for the meeting of the members.

**Section 7. VOTING.**

Each member of the Association, as defined in the Articles of Incorporation of said Association, shall be entitled to one vote on each matter submitted to a vote at a meeting of members.

*(Articles of Incorporation of Bay Shores Estates Property Owners' Association, Inc., IV, (C), "There are two classes of membership in BAY SHORES ESTATES PROPERTY OWNER'S ASSOCIATION, INC., the classes of membership and the respective voting rights of each class of membership is as follows: Type A: Type A Members shall be all Owners (including the Developer) of Lots which do not also own a boat slip. An Owner of a Lot shall be entitled to one vote for each Lot that he owns. Type B: Type B Members shall be all owners of Lots (including the Developer) who also own boat slips. An Owner of a boat slip shall be entitled to one vote for each Lot owned. Boat slip ownership is appurtenant to and passes with ownership of a lot.")*

The vote of a majority of the members at a meeting of members at which a quorum is present shall be the act of the members on that matter, unless the vote of a greater number is required by law or by the charter or other Bylaws of this Association. Cumulative voting shall not be allowed.

**Section 8. VOTING BY PROXY.**

The vote allocated to a member may be cast pursuant to a dated written proxy signed by the member. A member may not revoke a proxy except by written notice delivered to the person presiding over a meeting of the Association. A proxy terminates after the meeting for which it was solicited.

**ARTICLE II  
BOARD OF DIRECTORS**

**Section 1. NUMBER AND TERM OF OFFICE.**

The affairs of the Association shall be managed by a Board of Directors of at least three (3) members, which shall be entitled to act on behalf of the Association, in all routine, day to day operation of the Association.

**Section 2. ELECTION OF BOARD OF DIRECTORS.**

The members of the Board of Directors shall be elected from member-candidates of the Association nominated from the floor at the annual meeting of the Association. Election shall be by secret written ballot and by a majority of the members present in person or represented by proxy, at such meeting provided that a quorum is present. Cumulative voting shall not be allowed. Each member elected shall serve until the next annual election or until their successor shall have been elected.

**Section 3. COMPENSATION.**

No Board member shall receive compensation for any service that they may have rendered to the Association. However, with the prior approval of the Board, any Board member may be reimbursed for actual expenses incurred in the performance of their duties.

**Section 4. ACTION WITHOUT MEETING.**

The Board shall have the right to take any action in the absence of a meeting which they could take at a duly held meeting by obtaining the written consent of a majority of the Board members to the action. Any action so approved shall be filed in the corporate books and records and shall have the same effect as though taken at a meeting of the Board.

**Section 5. QUORUM**

A majority of the Board members shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Board members present at a duly held meeting shall be regarded as the act of the Board.

**Section 6. POWER AND AUTHORITY OF THE BOARD OF DIRECTORS.**

Subject to the provisions contained herein and applicable law, the Board shall have the power and authority to exercise all of the rights and powers of the Association, including, but not limited to, the following powers:

- (a) To adopt rules and regulations governing the use of the community use areas and facilities, the personal conduct of the members and their guests thereon, and establish penalties for the infraction thereof;
- (b) To suspend the voting rights and right of use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association or violations of other terms and conditions of Declaration of Protective Covenants, the Articles of Incorporation or the Bylaws; and to suspend such rights, after notice and hearing, for infraction of published rules and regulations for a period of at least 60 days;
- (c) To declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;
- (d) To employ a manager, an independent contractor, or other employees as is deemed necessary, and prescribe their duties; provided, that any contract for professional management must contain a clause requiring not more than 90 days termination notice;
- (e) To procure, maintain, and pay premiums on, insurance policy(s) and equitably assess the members same for their prorata portion of such expense;
- (f) To impose and receive any payments, fees, or charges for the use, rental, or operation of the community use areas or elements other than for service provided to members;
- (g) To exercise all other powers that may be exercised in this state by legal entities of the same type as the Association;

(h) To exercise any other powers necessary and proper for the governance and operation of the Association; and

(i) To have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the state of North Carolina by law may now or hereafter have or exercise.

**Section 7. DUTIES OF THE BOARD OF DIRECTORS.**

It shall be the duty of the Board to do the following:

(a) To cause the community use areas or common elements to be maintained, repaired, and replaced as necessary, and to assess the members to recover the cost of the upkeep of the community use areas or common elements;

(b) To appoint the members of the architectural committee duties of which are set forth in the Declaration of Protective Covenants;

(c) To appoint the members of the audit committee, duties of which are to review the financial records of the Association and report their findings to the Board within sixty (60) days of the fiscal year end;

(d) To keep a complete record of all its acts and corporate affairs and present a statement thereof to the members at the annual meeting, or at any special meeting when such statement is requested in writing by 20% of the members;

(e) To supervise all officers, agents and employees of the Association, and see that their duties are properly performed;

(f) To fix the amount of the annual assessment in advance of each annual assessment period based on the projected budget for the annual assessment period and pursuant to the provisions set forth in the Declaration of Protective Covenants;

(g) To send written notice of each assessment to every member at least thirty (30) days in advance of the due date for each annual assessment;

(h) To foreclose any unpaid assessments and liens resulting therefrom against any property for which assessments are not paid within one hundred, eighty (180) days after due date or to bring an action at law against the member personally obligated to pay the same;

(i) To procure and maintain, at all times, adequate hazard insurance on the property owned by the Association and all property for which the Association has the duty to maintain, and sufficient liability insurance to adequately protect the association as provided in the Declaration of Protective Covenants; and

(j) To cause all officers or employees, including officers and employees of

professional management, having fiscal responsibilities to be bonded, as it may deem appropriate.

**Section 8. REMOVAL.**

Any member of the Board may be removed with or without cause, by a vote of at least sixty-seven percent (67%) of all members present and entitled to vote at any meeting of the members at which a quorum is present. In the event of death, resignation or removal of a member of the Board, his successor shall be selected by the Board to serve until the next annual meeting of the members at which election of The Board of Directors shall be had when his successor shall be elected.

**ARTICLE III  
OFFICERS**

**Section 1. OFFICERS.**

The Executive officers of the Association shall be a President, Vice President, Secretary and Treasurer.

**Section 2. ELECTION OF OFFICERS.**

The officers shall be elected by majority vote of the Directors. All Officers shall hold office at the pleasure of the Board of Directors.

**Section 3. POWERS AND DUTIES OF THE EXECUTIVE OFFICERS.**

(a) The President shall; preside at all meetings of the Board; see that all orders and resolutions of the Board are carried out, sign all leases, mortgages, deeds and other written instruments, and co-sign all checks and promissory notes.

(b) The Vice President shall; act in the place of the President in the event of absence, or inability, or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

(c) The Secretary shall; record the votes and keep the minutes of all meetings and proceedings of the Board and of the members, keep the Association seal and affix it on all papers requiring said seal, serve notice of meetings of the Board and of the members, keep appropriate current records showing the members of the Association together with their addresses, prepare, execute, certify, and record amendments to the Declaration of Protective Covenants on behalf of the Association, and perform such other duties as required by the Board.

(d) The Treasurer shall; receive and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by the Board, sign all checks and promissory notes (such checks and promissory notes to be co-signed by the President) of the Association, keep proper books of account, cooperate with an annual audit of the Association books to be made by an audit committee at the completion of each fiscal year, and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its annual meeting, and deliver a copy to each member.

**ARTICLE IV  
BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any members or a mortgagee of any member. The Articles of Incorporation and the Declaration of Protective Covenants and Bylaws of the Association shall be available for inspection by any member through any Board member, where copies may be purchased at reasonable cost.

**ARTICLE V  
FORM OF PROXY**

**Section 1. FORM OF PROXY.**

The following form of proxy shall be deemed sufficient, but any other form may be used which is sufficient in law:

Bay Shores Estates Property Owners' Association

ANNUAL MEETING PROXY

KNOW ALL PERSONS BY THESE PRESENTS that the undersigned member of Bay Shores Estates Property Owners' Association Inc. hereby constitutes and appoints \_\_\_\_\_ the attorney and proxy of the undersigned to the annual meeting of the members of Bay Shores Estates Property Owners' Association Inc., at which I am not present and on behalf of the undersigned, to vote as the undersigned would be entitled to vote if personally present, hereby ratifying and confirming all that said attorney and proxy shall do in the premises, and giving and granting unto said attorney and proxy full power of substitution and revocation. The proxy pertains to the January \_\_\_\_\_, \_\_\_\_\_ annual meeting only.

DATED: \_\_\_\_\_

MEMBER: (signed) \_\_\_\_\_

Member, please print your name \_\_\_\_\_

WITNESS: \_\_\_\_\_

LOT #: \_\_\_\_\_

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NOMINATIONS FOR BOARD of DIRECTORS

*Enter any nominations that you would like to submit for the Board of Directors in the space/spaces below.*

DIRECTOR \_\_\_\_\_

DIRECTOR \_\_\_\_\_

DIRECTOR \_\_\_\_\_

DIRECTOR \_\_\_\_\_



**ARTICLE VI  
GENERAL PROVISIONS**

**Section 1. AMENDMENTS.**

Except as otherwise provided herein or in the Declaration of Protective Covenants, these Bylaws may be amended or repealed and new bylaws may be adopted at a regular or special meeting of the members at which a quorum is present, by a vote of the majority of the members.

**Section 2. ASSOCIATION SEAL.**

A seal with the word "Bay Shores Estates Property Owners' Association, Inc." on the outer circle and the date "1995" within the circle shall be the common corporate seal of the Association and shall be in the custody of the Secretary.

**Section 3. FISCAL YEAR.**

The fiscal year of the Association shall be the calendar year.

**CERTIFICATION**

I, the undersigned, do hereby certify: That I am the duly elected and acting Secretary of BAY SHORE ESTATES PROPERTY OWNERS' ASSOCIATION, INC., a North Carolina corporation; and

That the foregoing Bylaws constitute the revised Bylaws of said Association, as duly adopted by the membership thereof, held on the 15 day of June, 2006.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 15 day of June, 2006.

\_\_\_\_\_  
*William Fink*

Secretary

**ARTICLES OF INCORPORATION**  
OF  
BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION, INC.

This is to certify that we, the undersigned, do hereby associate ourselves into a corporation under and by virtue of the laws of the State of North Carolina, as contained in Chapter 55A of the General Statutes of North Carolina entitled "Non-Profit Corporation Act" and the several amendments thereto, and to that end hereby set forth:

I

The Name of the corporation is BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION, INC.

II

The period of existence of this corporation shall be perpetual.

III

The purposes for which the corporation is organized are as follows:

- (1) To operate and manage a planned unit subdivision development known as BAY SHORES ESTATES, hereinafter called BAY SHORES, located in Number Two Township, Pamlico County, North Carolina;
- (2) To undertake the performance of, and carry out the acts and duties incident to the administration of operation and management of BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION, INC. in accordance with the terms, provisions, conditions and authorization contained in both these Articles and in the **Declaration of Restrictions** which shall be recorded in the Public Records of Pamlico County, North Carolina, at such time as the real property and the improvements thereon are submitted to said Declaration;
- (3) To make, establish and enforce reasonable rules and regulations governing the use of subdivision development, common elements, land and other real and personal property which may be owned by the Association itself;
- (4) To make, levy and collect assessments against lot owners; to provide the funds to pay for common expenses of the Association as provided in the **Declaration of Protective Covenants** and to use and expend the proceeds of assessments in the exercise of the powers and duties of the Association; to use said assessments to promote the recreation, acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of

the common areas, including but not limited to the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management, supervision thereof, the maintenance of insurance in accordance with the **Bylaws**, including the employment of attorneys to represent the Association when necessary for such other needs as may arise;

- (5) To maintain, repair, replace and operate the properties for which the Association is responsible;
- (6) To enforce by any legal means, the provisions of the **Declaration of Protective Covenants**, the **Bylaws** of the Association, and the rules and regulations for the use of the Association property;
- (7) To contract for the management of the recreational property and to delegate to such manager or managers all powers and duties of the Association except those powers and duties which are specifically required to have approval of the Board of Directors or the membership of the Association.
- (8) To have all of the common law and statutory powers of a non-profit corporation and also those powers as set out in the **Restrictions** of BAY SHORES and all powers reasonably necessary to implement the purposes of the Association.

#### IV

A. The membership of BAY SHORES ESTATES PROPERTY OWNERS' ASSOCIATION, INC. shall consist of the owners of lots in BAY SHORES subdivision, the Developer, and the owners of any other lands which may be added thereto by the Developer. Membership shall be established by acquisition of fee title to a lot in BAY SHORES subdivision whether by conveyance, devise, descent, or judicial decree. A new owner designated in such a deed or other instrument shall thereupon become a member of the Association, and the membership of the prior owner as to a lot designated shall be terminated. Each new owner shall deliver to the Association a true copy of such deed or instrument of acquisition of title.

B. Neither one's membership in the Corporation nor a member's share in the funds and assets of the Corporation may be assigned, hypothecated or transferred in any manner except as an appurtenance to BAY SHORES subdivision.

C. There are two classes of membership in BAY SHORE ESTATES PROPERTY OWNERS' ASSOCIATION, INC., the classes of membership and the respective voting rights of each class of membership shall be as follows:

Type A: Type A Members shall be all Owners (including the Developer) of Lots which do not also own a boat slip. An Owner of a Lot shall be entitled to one vote for each Lot that he owns.

Type B: Type B Members shall be all owners of Lots (including the Developer) who also own boat slips. An Owner of a boat slip shall be entitled to one vote for each Lot owned. Boat slip ownership is appurtenant to and passes with ownership of a Lot.

D. As stated herein, the term "Developer" shall mean Scarafoni Associates NC, Inc. d/b/a Live Oak Development Company, its successors or assigns.

V  
DIRECTORS

A. The number of Directors and the method of election of the Directors shall be fixed by the **Bylaws**; however, the number of Directors shall not be less than three. Directors shall be elected at large from the membership.

B. The first election by the members of the Association for Directors shall not be held until after the Developer has relinquished control of the Association as set out in the **Declaration of Protective Covenants**. Thereafter, the election of Directors shall take place at the annual meeting of the membership as provided in the **Bylaws**.

VI

The number of Directors constituting the initial Board of Directors shall be three and the names and address of the persons who are to serve as the first Board of Directors are as follows:

NAME	ADDRESS
1. Dean Scarafoni	616 Princess St. New Hanover County Wilmington, NC 28401
2. J. Michael Sanders	616 Princess St. New Hanover County Wilmington, NC 28401
3. Duncan Harrison	616 Princess St. New Hanover County Wilmington, NC 28401

## VII TAX STATUS

The Corporation shall have all the powers granted non-profit corporations under the laws of the State of North Carolina. Notwithstanding any other provision of these Articles, this Corporation hereby elects tax-exempt status under Section 528 of the Internal Revenue Code of 1986. This Corporation shall not carry on any activities prohibited by a Corporation electing tax-exempt status under Section 528, or any corresponding sections or provisions of any future United States Internal Revenue law. It is further provided that no distributions of income of the Corporation are to be made to members, directors or officers of the Corporation; provided, however, that members of the Corporation may receive a rebate of any excess dues and assessments previously paid.

## VIII DISSOLUTION

Upon dissolution of the corporation the assets of the corporation shall be distributed in accordance with NCGS 55A-14-03 as the same may exist or be amended at time of said dissolution.

## IX INDEMNIFICATION

Every director and every officer of the Corporation shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a part, or in which he may become involved, by reason of his being or having been a director or officer of the Corporation, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful malfeasance or malfeasance in the performance of his duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the Corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

## X REGISTERED OFFICE AND AGENT

The address of the initial registered office of this corporation is 616 Princess Street, New Hanover County, Wilmington, NC 28401 and the name of the initial registered agent at such address is Dean Scarafoni.

XI  
INCORPORATOR

The name and address of the original incorporator is Dean Scarafoni, 616 Princess Street, New Hanover County, Wilmington, NC 28401.

IN WITNESS WHEREOF, the incorporator has hereunto set his hand and seal this the 29 day of December, 1994.