

UNOFFICIAL UNOFFICIAL

RET Seven Sugar Total 131 REV TC# 4

REC# CK AMT 13 CK#2351

CASH REF BY HELL

Prepared by: Steven F. Siegel

1908 Eastwood Road Ste. 320

Wilmington, NC 28403

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

DECLARATIONS OF UNIT OWNERSHIP
AND COVENANTS, CONDITIONS AND
RESTRICTIONS OF
NAVIGATION POINT AT SOUTH
HARBOUR VILLAGE CONDOMINIUMS

THIS DECLARATION OF UNIT OWNERSHIP, made this 13 day of July, 2006 by HAGOOD HOMES OF WILMINGTON, INC., 1908 EASTWOOD ROAD, SUITE 328, WILMINGTON, NC 28403, hereinafter called "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in the City of Southport, Brunswick County, North Carolina, which is more particularly described in Exhibit "A", attached hereto and incorporated herein by reference.

WHEREAS, Declarant has constructed or will construct on this real property certain improvements, more fully described hereafter, which real estate and improvements Declarant desires to submit to condominium ownership;

NOW, THEREFORE, Declarant declares its intention, by the filing of this Declaration, to submit, and does hereby submit, the above-described real property and improvements thereon to the provisions of the North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes, as a unit ownership project to be named NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS; and further publishes and declares that all of the property described herein is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved, subject to the following covenants, conditions, restrictions, uses,





limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the conversion of said property into a condominium facility, and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

- 1. <u>DEFINITIONS</u>. Certain terms in this Declaration and in the Articles of Incorporation and Bylaws appended hereto shall be defined as follows, unless the context clearly indicates a different meaning therefor:
- a. "Act" means the provisions of the North Carolina Condominium Act, Chapter 47C of the General Statutes of the State of North Carolina, as such may be supplemented or amended from time to time.
- b. "Allocated interests" means the undivided interests in the common elements, the common expense liability and votes in the association allocated to each unit.
- c. "Association" means NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS UNITOWNERS ASSOCIATION, INC., which is an entity comprised of all owners of units in NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS.
- d. "Assessment" means a share of the funds required for the payment of common expenses, late fees and fines which from time to time is assessed against a unit owner by the Association.
- e. "Board of Directors" or "Board" means the Board of Directors of the Association or its agents, which shall be the executive board of the Association, as defined in N.C.G.S. 47C-1-103(13). "Director" means a member of the Board.
- f. "Boat Dock Facility" shall mean and refer to all of the property shown on the plat entitled "CAMA Major Permit Application Lot 33-36 South Harbor Village" attached hereto as Exhibit "F" and incorporated herein fully by reference.
- g. "Boat Slip" shall mean the space in and above the water adjacent to the facility for the docking of a boat shown diagrammatically as docks 1 through 8, inclusive, on the plat of the docking spaces referred to in Paragraph 1(f) above. The terms "Boat Slip" and "Docking Space" shall have the same meaning and may be used interchangeably. Each boat slip will be for the exclusive use of one unit owner as a limited common area for that unit owner.
- h. "Building" means the building currently existing or to be built upon the real property described in Exhibit "A" and which houses the condominium units.
 - i. "Bylaws" means the bylaws of the Association providing for the government





and administration of the Association. "Articles" means the Articles of Incorporation of the Association.

- j. "Common Element or Common Area" means the portion of the condominium property owned in common by all of the unit owners as more specifically set forth herein and shall mean all real and personal property owned by the Association for the common use and enjoyment of the members of the Association.
- k. "Common expenses" means the expenses incurred by the Association the administration, maintenance, operation, enjoyment, safety, repair, and replacement (including a capital reserve for repair, maintenance, and replacement) of the common areas and facilities as well as any other expense incurred by the Association which is and declared to be a common expense by the Association, this Declaration, the Bylaws of the Act.
- 1. "Common surplus" means the balance of all income, rents and revenues of the Association remaining after the deduction of the common expenses.
- m. "Condominium project" or "Project" means the entire proposed development consisting of all the land, the building and other "property" as that term is herein defined.
- n. "Declarant" means HAGOOD HOMES OF WILMINGTON, INC., its successors and assigns.
- o. "Declaration" means this instrument as it may from time to time be lawfully amended or supplemented.
- p. "Limited Common Element" means those common areas and facilities which are reserved for the use of a certain unit or units to the exclusion of other units, as more specifically identified herein.
- q. "membership" shall mean and refer to the rights, benefits, duties and obligations, which shall insure to the benefit of and burden each member of the Association.
- r. "Period of Declarant Control" means the period commencing on the date hereof and continuing until all the units are sold.
- s. "Person" means an individual, corporation, partnership, association, trustee, or other legal entity.
- t. "Property" means and includes the land, the building, all improvements and structures thereon and all articles of personal property intended for use in connection therewith which are submitted to condominium ownership by this Declaration.
 - u. "Real Property" shall mean and refer to all of the real property described in



Exhibit "A" attached hereto.

- v. "Unit" or "Condominium Unit" shall mean that enclosed space within the building as shown on the building plans described in the Declaration, together with any additional area or space accompanying the same and described herein, which is intended for private ownership and to be sold as a dwelling unit pursuant to the Declaration and the Act. The enclosed space representing each unit shall be bounded by the interior surface material of its perimeter walls, ceilings and floors. Each unit is defined to include:
- defined enclosed space; all non-load bearing partition walls located entirely within the above-
 - (ii) all interior finished surfaces of the perimeter walls and ceilings;
 - (iii) all earpet, tile, viny wood floor or other decorative floor covering;
- (iv) all windows, including screens, window frames, exterior doors, and exterior door frames;
- (v) all heating and air conditioning equipment and accompanying ducts and components (if separate for each unit);
- (vi) all wires, ducts pipes, lines and other facilities for the furnishing of utility services located within the above-defined enclosed space, but specifically excluding all wires, ducts, pipes and other facilities which lie within the above-defined enclosed space but are for the common use of one or more other units in the project.
- w. "Unit Designation" means the letter thereof which designates a unit within the condominium.
- x. "Unit Owner" means a person, corporation, partnership, association, trust, other legal entity, or any combination thereof, in whose name or names the title to or an interest in the title to any unit is vested, excluding those who own or hold such title or interest under the terms of any mortgage or deed of trust or other similar instrument for the purposes of securing the payment of an indebtedness or the performance of an obligation. The terms "Unit Owner" and "Member" shall have the same meaning and may be used interchangeably.
- 2. <u>DESCRIPTION OF REAL PROPERTY</u>. The real property on which the building and improvements are or are to be located is described in Exhibit "A", attached hereto and incorporated herein by reference.
- 3. <u>DESCRIPTION OF BUILDINGS.</u> The buildings in which the units are located is described in building plans which are attached hereto as Exhibit "B" and incorporated herein by reference. The buildings will consist of two stories.





- 4. <u>UNIT DESIGNATION AND DESCRIPTION.</u> The unit designation of each unit and a description of its location, area, floor plan and number of rooms, are shown on the building plans attached hereto as Exhibit "B".
- 5. <u>DESCRIPTION OF COMMON ELEMENTS AND FACILITIES.</u> The common elements and facilities shall consist of all the real property described in Exhibit "A", which is subjected to the terms of this Declaration, and all of the improvements and facilities thereon which are not units as defined herein and which are not items of personal property owned, held, or maintained by unit owners. Without in any way limiting the scope thereof, the common elements and facilities shall include the following:
- a. All foundations, columns, girders, beams, supports, roofs, exterior walls, interior load bearing walls, ventilation fans and vents of the building;
- b. All stairways, stairwells, halls, passageways, corridors, lobbies, exits and entrances which give access to the units, except as designated on Exhibit "B" for a specific unit;
- c. All yards, gardens, parking areas, driveways, boat docks and other amenities;
- d. All installations for the provision of utility services, including, but not limited to, electricity, water, gas, refrigeration, telephone, heating, air conditioning, sewer, trash disposal, incineration, and television which are for the common use and benefit of the unit owners and which are not defined as being a part of the units;
- e. All tanks, pumps, motors, fans, compressors and control equipment existing for common use.
- f. All of the boat docking facility as shown on the plat attached hereto as Exhibit "F" except for the boat slips themselves which shall be the responsibility of the unit owner who has the right to use that boat slip.
- 6. <u>ALLOCATED INTERESTS.</u> Unless and until this project shall be expanded as herein provided, the percentage of each unit owner's undivided interest in the common elements of NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS is set forth in Exhibit "C", attached hereto and incorporated herein by reference. This percentage is based on the relation that the total volume in square feet of each unit bears to the aggregate square feet contained in all units as of the date of this Declaration. The number of members in the Association shall be limited to EIGHT (8). Such membership shall become apparatement to and may not be separated from the ownership of a unit in Navigation Point at South Harbour Village Condominiums.
- 7. <u>LIMITED COMMON ELEMENTS.</u> The decks or porches adjacent to each unit and any storage space allotted to each unit, designated in Exhibit "B" attached hereto as "limited





common areas" are limited common areas for the sole use of the unit owner of a unit to which the same are adjacent or allocated as indicated on said plans.

8. NATURE AND INCIDENTS OF UNIT OWNERSHIP.

- a. <u>Nature of Interest.</u> Every unit, together with its undivided interest in the common elements shall for all purposes be treated as a separate parcel of real property with all the incidents thereof. Each unit may be individually conveyed, leased and encumbered and may be inherited or devised by will as if it were solely and entirely independent of the other units in the building of which it forms a part. Each unit may be held and owned by more than one person, either as tenants in common or tenants by the entirety, or in any other manner recognized under State law.
- b. <u>Partitioning.</u> No unit may be divided or subdivided into a smaller unit or units, nor shall any unit or portion thereof be added to or incorporated into any other unit unless written approval is first obtained from the Board of Directors of the Association. The common elements shall remain undivided and no unit owner or any other person shall bring an action for partition or division of any part thereof, unless the property has been removed from the provisions of the Unit Ownership Act.
- c. <u>Common Elements Appurtenant to Unit</u>. The undivided interest in the common elements, including but not limited to the boat docking facility, shall not be conveyed, encumbered, or otherwise separated from the unit to which it appertains and shall be deemed conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.
 - d. <u>Assignment of Boat Slips.</u> The boat slips are assigned as follows:

Building 5000, Unit A - Slip

Building 5000, Unit B - Slip 2

Building 5002, Unit A - Slip 3

Building 5002, Unit B - Slip 4

Building 5004, Unit A - Slip 5

Building 5004, Unit B - Slip 6

Building 5006, Unit A - Slip 7

Building 5006, Unit B - Slip 8

e. <u>Taxes.</u> Each unit and its percentage of undivided interest in the common elements shall be deemed to be a separate parcel and shall be separately assessed and taxed for all types of taxes authorized by law, including, but not limited to special ad valorem levies and special assessments. Each unit owner shall be liable solely for the amount of taxes on his individual unit and shall not be affected by the consequences resulting from the tax delinquency of other unit holders. Neither the buildings, the property, nor any of the common elements shall be deemed to be a separate parcel for purposes of taxation.





f. Rights of Members.

- (i) Each member of the Association shall have the exclusive right subject to the provisions hereof and subject to the By-laws and Rules and Regulations promulgated by the Board of Directors to occupy, possess and lawfully use the boat slip assigned to such member and the walkways referred to in this Declaration.
- (ii) Each member shall have the right and easement of enjoyment in and to the common area subject to the right of the Association:
 - (1) To limit the number of guests of members;
- (2) In accordance with its Articles and By-Laws to borrow money for the purpose of improving the properties common area and facilities;
- (3) To suspend all rights of any member for any period during which any dues or assessments against such member remains unpaid, and for a period not to exceed thirty (30) days for any infraction of its published Rules and Regulations.

9. <u>USE RESTRICTIONS.</u>

- a. Each unit shall be used for single-family residential purposes only, which shall include the rental and long term leases of individual units by the owner. No use shall be made of any portion of the properties, common area or any boat slip for any commercial purpose nor for any purpose not in accordance with this Declaration, the By-Laws and the Rules and Regulations.
- b. No immoral, improper, offensive, noxious or unlawful use shall be made of any unit or of the common elements, and all applicable laws zoning ordinances and regulations of all governmental authorities shall be observed. No owner of any unit shall permit or suffer anything to be done or kept in his unit, or on the common elements, which will increase the rate of insurance on the unit, or which will obstruct or interfere with the rights of other occupants of the other units or annoy or embarrass them, nor shall any owner undertake any use or practice which shall constitute a nuisance to any other owner of a unit, or which interferes with the peaceful possession and proper use of any other unit or the common elements.
- c. No owner of a unit shall permit any structural modification or alteration to be made to the unit without first obtaining the written consent of the Board of Directors of the Association, nor alter nor cause any changes to be made to the exterior of the building (including painting, installing television or radio antenna or installing signs), or in any manner alter the appearance of the exterior portion of the building without obtaining such consent. No unit owner shall fix any object to the common elements (including fences, flowers, trees, shrubs, or any other vegetation) or in any manner change the appearance of the common elements or limited common elements without first obtaining the written consent of the Board of Directors of the Association.





- d. The Declarant or its agent shall have the right to maintain a sales office or model unit in any of the units of its choice for the sole purpose of selling the remaining units in the project. This right will terminate upon the sale of the last unit by the Declarant.
- e. No cooking or use of grills or similar devises shall be allowed on the stairways, porches or decks within 10 feet of the building.
- f. No boats, trailers, motor homes or similar vehicles may be stored on the property or common areas, except as designated by the Unitowners Association.
- g. No satellite dishes may be placed on any unit without the written approval of the Unitowners Association.
- h. The Unitowners Association shall have the exclusive right to assign parking spaces and designate their use.
- i. The Unitowners Association shall have the right to require the Unit Owner to remove any pet from their Unit if it is determined that the pet is nuisance.
- j. The use of the property shall be subject to any restrictions contained in the Bylaws of the Association and to any Rules and Regulations established by the Board of Directors of the Association. These additional use restrictions shall have the same force and effect as the restrictions contained herein.

10. EASEMENTS.

- a. In case of any emergency originating in or threatening any unit, regardless of whether the owner is present at the time of such emergency, the Declarant, the Board of Directors of the Association, or any other person authorized by it, or the manager, shall have the right to immediately enter the unit for the purpose of remedying or abating the cause of the emergency.
- b. Each unit owner shall have an easement to use all pipes, wires, ducts, cables, conduits, public utility lines and other such facilities which are located in another unit and serve his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other such facilities which are located in such unit and serve other units. The Board of Directors of the Association shall have a right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair, or replace the common facilities contained therein or elsewhere in the building.
- c. The Board of Directors may grant or assume easements, leases, or licenses for utility purposes for the benefit of the property, including the right to install, lay, maintain, repair, and replace water lines, pipes, sewer lines, gas mains, telephone and television wires and equipment and electrical conduits and wires over, under, along and on any portion of the units or common





elements. Each unit owner hereby grants to the Board of Directors, or the manager, an irrevocable power of attorney to execute, acknowledge and record for or in the name of the Association or each unit owner such instruments as may be necessary to effect the foregoing.

- d. In the event that any unit shall encroach upon any of the common elements, or any other unit or units, for any reason not caused by the purposeful or negligent act of the unit owner, or agents of such owner, then an easement appurtenant to such unit shall exist for the continuance of such encroachment upon the common elements or upon a unit for so long as such encroachment shall naturally exist. In the event that any portion of the common elements shall encroach upon any unit, an easement shall exist for the continuance of such encroachment of the common elements upon any unit for so long as such encroachment shall naturally exist. If any unit or any portion of the common elements shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of the unit or the common elements in accordance with this Declaration, portions of the common elements encroach upon any unit, or any unit encroaches then such encroachment shall be permitted and a valid easement for the maintenance thereof shall exist so long as the encroachment naturally remains.
- e. The Association, or any member, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by or under the provisions of this Declaration. Failure of the Association or any member to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- f. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.
- g. The covenants, conditions and restrictions of this Declaration shall run with and bind the common area and boat slips, and shall inure to the benefit of and be enforceable by the Association, or any member, their respective legal representative, heirs, successors and assigns, subject to this Declaration, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time such covenants shall be automatically extended for the successive periods of ten (10) years each.

11. MANAGEMENT.

a. Generally. The management of the affairs of the project shall be the right and responsibility of the Association and said management duties shall be carried out in accordance with the terms and conditions of this Declaration, the Articles of Incorporation and the Bylaws of the Association, copies of which are attached hereto and incorporated herein by reference; provided, however, that the Association shall not be authorized to take over management rights and responsibilities until conveyance of management responsibilities to the Association, as provided in the Declaration and in the Bylaws.





- b. <u>Conveyance of Control and Management Responsibilities.</u> Conveyance of control and management responsibilities to the Association shall take place when all of the units have been conveyed to unit purchasers or one year from the date of the conveyance of the first unit, whichever comes first.
- c. <u>Manager</u>. The Board of Directors of the Association shall have the right to contract with or employ a manager for the purpose of operating, supervising, maintaining and managing the property. All the management powers and duties of the Association may be delegated to the manager by the Board of Directors, except those which are specifically reserved to the Board of Directors by this Declaration, the Articles and Bylaws, or the Act.
- 12. <u>MAINTENANCE</u>. The respective responsibilities of the unit owners and the Association to maintain, repair and replace the property shall be as set forth in the Bylaws.

IIINO FFTCTAII

COMMON EXPENSES AND ASSESSMENTS. The unit owners are bound to contribute, according to their allocated interest in the common areas and facilities as set forth herein, toward the common expenses of the Association. No unit owner may exempt himself from contributing toward such expenses by waiver of the use or enjoyment of the common areas and facilities or by abandonment of the unit belonging to him. The common profits of the property, if any, shall be distributed among the unit owners according to the same percentage undivided interest. Each unit owner shall be subject to an assessment from the Board of Directors for his share of the common expenses. The manner of computing and collecting this assessment is set forth in the Bylaws.

14. INSURANCE.

- a. <u>Hazard Insurance</u>. The Board of Directors of the Association, or the manager, shall obtain insurance upon the property for the benefit of the unit owners and their mortgagees against (1) loss or damage by fire and other hazards covered by the standard extended coverage endorsement and (2) such other hazards or risks covered for similar projects, including those covered by the standard "all risk" endorsement. Such policies shall make provision for the issuance of certificates of insurance or mortgagee endorsements to the mortgagees of unit owners, and if the companies writing such policies will agree, the policies shall provide that the insurer waivers its rights of subrogation as to any claims against unit owners, the Association and their respective servants, agents and guests. In addition to the above, the Board of Directors may obtain such other insurance coverage as they deem necessary and desirable. All liability insurance shall contain cross-liability endorsements to cover liability of the unit owners as a group to a single unit owner. Each unit owner may obtain insurance at his own expense, affording coverage upon his own unit, his personal property and such other coverage as he may desire. All hazard insurance shall meet the minimum requirements and standards of the rederal National Mortgage Association.
- b. Amount of Coverage. The Board of directors or the manager shall insure all buildings and improvements upon the land and all personal property included in the common areas and facilities in an amount equal to their maximum insurance replacement value as determined





annually by the Board of Directors, or manager, with the assistance of the insurance company or companies providing coverage.

- c. <u>Premiums</u>. All premiums on insurance policies purchased by the Board of Directors or manager and any deductibles payable in the event of loss shall be paid by the Association and chargeable to the Association as a common expense.
- d. <u>Proceeds</u>. All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Board of Directors or manager as insurance trustee for the unit owners and their mortgagees. The insurance trustee shall have authority to deal with the insurer in the compromise and settlement of claims and to execute and deliver releases to the insurer upon the payment of claims. The insurance trustee's duty upon receipt of any insurance proceeds shall be to hold the same in trust for the benefit of the unit owners and their mortgagees.
- e. <u>Distribution of Insurance Proceeds</u>. Proceeds of insurance policies shall be distributed by the insurance trustee to or for the benefit of the beneficial unit owners in the following manner:

IJINOFFICTAJI

- (i) Expenses of the insurance trustee. All expenses of the insurance trustee shall be paid first.
- (ii) Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds remaining after deduction of the insurance trustee's expenses shall be paid to defray the cost of such repair or reconstruction. Any proceeds remaining after defraying such costs shall be distributed to the unit owners, in accordance with each unit owner's percentage undivided interest in the common areas and facilities, as set forth in Exhibit "C". In the event a mortgagee endorsement has been issued for a condominium unit, any proceeds remitted under this section shall be payable jointly to the unit owner and the mortgagee.
- (iii) Failure to reconstruct or repair. If it is determined as provided below that the damage for which the proceeds are paid will not be reconstructed or repaired, the remaining proceeds shall be distributed to the unit owners in accordance with each unit owner's percentage undivided interest in the common areas and facilities, as set forth in Exhibit "C".

f. Damage and destruction.

(i) Determination to reconstruct or repair. Damage to or destruction of the buildings and improvements, except that which is solely the responsibility of the unit owner, shall be promptly required or restored by the Board of Directors or manager, using the proceeds of insurance on the building for that purpose, and unit owners shall be liable for assessment for any deficiency in accordance with their percentage undivided interest in the common areas and facilities; provided, however, if the buildings shall be more than two-thirds destroyed and the owners of three-fourth of the units resolve not to proceed with repair or reconstruction, then in that event, the property shall be deemed to be owned as tenants in common by the unit owners and shall be governed by the provisions of Chapter 47C of the North Carolina General Statutes and any





amendments thereto. No mortgagee shall have any right to participate in the decision to reconstruct or repair the damaged property.

Plans and specifications. Any reconstruction or repair must be (ii) substantially in accordance with the plans and specifications of the original building and improvements unless other plans and specifications are unanimously approved by the unit owners.

YCIZA]/L

UNIO FIFTCTAN

- g. Flood Insurance. If any part of the project is in a special flood hazard area, as defined by the Federal Emergency Management Agency, the Unitowners Association must maintain flood insurance on all units at the unit owners expense. The amount of insurance should be at least equal to the lesser of:
 - (i) 100% of the current replacement cost of the Unit; or UKI(O)LI :
- (ii) the maximum coverage available for the property under the National Flood Insurance Program.
- h. <u>Liability Insurance</u>. The Association must maintain a comprehensive general liability insurance policy covering all common areas, public ways and any other areas that are under its supervision. The policy should provide coverage of at least \$1,000,000 for bodily injury and property damage for any single occurrence. The liability insurance should provide coverage for:
- (i) bodily injury and property damage that results from the operation, maintenance or use of the projects common areas; and ICIA/L
- (ii) any legal liability that results from law suits related to employment contracts in which the owners' Association is a party.
- Without Prejudice. Such insurance shall be obtained without prejudice to the right of each member to insure his personal property for his own benefit at his own expense. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by members or their mortgagees

15. COMPLIANCE WITH DECLARATION, BYLAWS AND REGULATIONS.

Binding Nature of Declaration, Bylaws and Regulations. The restrictions and obligations imposed by this Declaration and the Articles and Bylaws of the Association are intended to and shall constitute covenants running with the land and shall constitute an equitable servitude upon each unit and its appurtenant undivided interest in the common areas and facilities. Each unit owner, his tenants, invitees, guests, employees, agents, grantees, successors and assigns, shall comply strictly with the covenants set forth in this Declaration, the Articles and Bylaws of the Association, and any Rules and Regulations adopted by the Association as the same may be lawfully amended from time to time, the acceptance of a deed of conveyance, the entering into a lease, or occupancy of a unit shall constitute an agreement that the provisions of this Declaration,





the Articles and Bylaws, and any Rules and Regulations are accepted and ratified by the grantee, tenant, or occupant whether or not these provisions are referred to in the deed of lease.

- b. Remedies for Violation. Failure to comply with the covenants and restrictions set forth in this Declaration, the Articles, Bylaws and the Rules and Regulations shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board of Directors or manager on behalf of the Association or by an aggrieved unit owner. The Board of Directors shall also have authority to enforce such covenants and restrictions by levying fines for infractions in an amount not to exceed one hundred fifty dollars (\$150.00) per day, and by such other means as are provided in this Declaration, Bylaws, and Rules and Regulations or by law.
- c. <u>Liability for Expenses</u>. Each unit owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness, or by that of any member of his family, or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include liability for any increase in fire insurance rates occasioned by the use, misuse, occupancy, or abandonment of a unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.
- Waiver. The failure of the Association, any unit owner, or other person to enforce any right, provision, covenant, or condition which may be granted by this Declaration or the other above-mentioned documents shall not constitute a waiver of the right of the Association or of the unit owner to enforce such right, provision, covenants, or condition in the future.
- Remedies Cumulative. All rights, remedies and privileges granted to the Association or the owner or owners of a unit pursuant to any terms, provisions, covenants, or conditions of this Declaration or the other above-mentioned documents, shall be deeded to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be available to such party at law or in equity. ÚNOFFICIAL

PARTY WALLS. 16.

- The walls and flooring connecting adjacent units are "party walls" and are situated on or about the boundary line separating such units.
- All finish flooring and any other materials constituting any part of the walls, floors, or ceilings are a part of the common elements, pursuant to G.S. 47C-2-102(1).

To the extent any duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated exclusively to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements, pursuant to





G.S. 47C-2-102(2).

Any decks, porches balconies, patios and all other exterior doors and windows or other fixtures designated to serve a single unit but located outside the unit's boundaries are limited common elements allocated exclusively to that unit, pursuant to G.S. 47C-2-102(4).

- c. Each wall which is built as part of the original construction of a unit and placed on the dividing line between the units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.
- d. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.
- e. Notwithstanding any other provisions of this Article, an owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- f. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.
- g. If any owner desires to sell his unit, such owner may, in order to assure a prospective purchaser that no adjoining unit owner has a right of contribution as provided in this Section, request of the adjoining unit owner a certification that no right of contribution exists, whereupon it shall be the duty of the adjoining unit owner to make such certification immediately upon request and without charges; provided, however, that where the adjoining unit owner claims a right of contribution the certification shall contain a recital of the amount claimed.
- h. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, such dispute shall be settled by arbitration as provided by the laws of North Carolina as then existing.
- 17. PROCESS AGENT. HAGOOD HOMES OF WILMINGTON, INC., JAMES KENNY, 1908 EASTWOOD ROAD, SUITE 328, WILMINGTON, NC 28403 is hereby designated to receive service of process in any action which may be brought under the Act. The Board of Directors may change the process agent by filing a Declaration of Change of Registered Agent in the office of Register of Deeds of Brunswick County, North Carolina.
- 18. MORTGAGE OF UNITS. Any unit owner may give a deed of trust or mortgage on his unit without prior notice to or authorization by the Declarant or the Board of Directors of the Association. Any rights the Association may have to place a lien upon the property of the unit owner shall be subordinate to and inferior to any deed of trust or mortgage that said unit owner has placed on his property.





- 19. TERMINATION. The condominium may be terminated and removed from the provisions of the Unit Ownership Act only by written agreement of all the owners of units expressed in an instrument to that effect and duly recorded, provided that the holders of all liens affecting any of the units must consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest in the property which the unit owner owns after termination. The termination shall become effective when the above instruments have been duly recorded in the public records. After termination of the condominium, the unit owners shall own the property as tenants in common in undivided shares and the holders of mortgages and liens against the units formerly owned by such unit owners shall have mortgages and liens against the respective undivided shares of the unit owners. The undivided share or interest in the property owned as tenants in common which shall appertain to each unit owner shall be the percentage of the undivided interest previously owned by such unit owner in the, common areas and facilities.
- 20. ASSOCIATION. The Association shall be formed in accordance with Articles and Bylaws attached hereto as Exhibits "D" and "E". The Association shall have all the powers and duties set forth in the Act as well as all of the powers and duties granted to or imposed upon it by this Declaration, the Bylaws attached hereto as Exhibit "E", and the Articles attached hereto as Exhibit "D" as the same may be amended from time to time. Each unit owner, by the acceptance and recording of the deed to such unit owner's unit, appoints irrevocably the Board of Directors of the Association as herein provided, to act on the unit owner's behalf, including the right to execute in such unit owner's name any and all instruments or documents necessary or reasonably required in regard thereto. The operation of the Association shall be governed by the Bylaws and Articles. No modification or amendment of the Bylaws or Articles shall be valid unless set forth in or annexed to an amendment to this Declaration, certified by the President and Secretary of the Association and recorded in the office of the Register of Deeds of Brunswick County.
- 21. AMENDMENT OF DECLARATION. This Declaration may be amended at any regular or special meeting of the Association, called and convened in accordance with the Bylaws, by the affirmative vote of or written agreement signed by unit owners of units to which at least 100% of the votes in the Association are allocated. Any holder of a first mortgage on a unit who receives a written request from the Association to approve any proposed modification and does not deliver or post to the Association a negative response within thirty (30) days following receipt of such request shall be deemed to have approved same. Notwithstanding the aforesaid, no amendment shall change, affect or alter the allocated interest in the common areas appurtenant to a unit, a unit owner's proportionate share of the common expenses or common profits, or the voting rights appurtenant to any unit create or increase special Declarant rights, increase the number of units, change the boundaries of any unit, or the uses to which a unit is restricted, in the absence of unanimous consent of the unit owners, and all holders of first mortgages on units. Further, no amendment shall be effective until certified by the President and Secretary of the Association and recorded in the office of the Register of Deeds of Brunswick County.
- 22. <u>SEVERABILITY</u>. The invalidity of any provision of this Declaration shall not impair or affect the validity and enforceability of the remainder of this Declaration and, in such





event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included.

- 23. <u>LAW CONTROLLING</u> This Declaration, the Bylaws and any Rules and Regulations adopted thereunder shall be construed under and controlled by the laws of the State of North Carolina.
- 24. <u>WARRANTIES</u>. The Declarant disclaims any warranty or representation in connection with the condominium project, except as specifically set forth herein, and no person shall rely upon any warranty or representation not specifically made herein. Any estimates of common expenses, taxes, or other charges are deemed accurate, but no warranty or guaranty is made or intended, no may one be relied upon.
- 25. <u>RIGHTS OF OWNER.</u> The rights of any owner, as provided herein, shall not include mortgagees of any property within the project unless said mortgagee obtains title to the property by means of foreclosure or other legal methods.

26. **DISPUTE ARBITRATION**.

- a. Any unit owners having disputes regarding matters touching and concerning NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS hereby agree that disputes will be settled by arbitration if such disputes are not resolved by mutual agreement among the unit owners within sixty (60) days of the disputing unit owner giving written notice of the dispute to the unit owner with whom the dispute exists.
- b. One Arbitrator mutually acceptable to the disputing unit owners shall be chosen by said owners.
- c. The Arbitrator shall be governed by the United States Arbitration Act, 9 U.S.C. 1-16, and judgement upon the award rendered by the Arbitrator may be entered by any court having jurisdiction thereof.
- d. The Arbitrator is not empowered to award damages (including punitive damages) in excess of actual damages.

IN TESTIMONY WHEREOF, the Declarant has caused this Declaration to be signed in his name and duly attested and sealed, this the 13 day of 100, 2006.







HAGOOD HOMES OF WILMINGTON, INC.

BY JAMES KENNY PRESIDENT

(SEAL)

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Mands 5. How Public in and for the State and County aforesaid, certify that JAMES KENNY personally came before me this day and acknowledged that he is the President of HAGOOD HOMES OF WILMINGTON, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President.

Witness my hand and official stamp or seal, this 13 day of ______

Notary Public

My Commission Expires: 8-29-69

(Notarial Seal)











All of that certain parcel of land known as Navigation Point at South Harbour Village as shown on the map recorded in Map Book 1 at Page **84-85** of the Brunswick County Registry, reference to which is hereby made for a more particular description, comprising approximately 6.76 acres, more or less.

UNOIFIFICIAL





























13.00%

<u>Unit</u> **Allocated Interests** 5000-A 13.00% 5000-B 13.00% 5002-A 13.00% 5002-B 13.00% 5004-A 13.00% 5004-B 13.00% UNOFFICIAL 5006-A 13.00%

5006-B













EXHIBIT "D"

ARTICLES OF INCORPORATION

NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS UNITOWNERS ASSOCIATION, INC.

The undersigned, being of the age of eighteen years or more, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a non-profit corporation under and by virtue of Chapter 55A of the General Statutes of North Carolina and the laws of the State of North Carolina.

ARTICLE DE NAME UMOFFETICIAL

The name of the corporation is NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS UNITOWNERS ASSOCIATION, INC.

ARTICLE II DURATION

The period of duration of the corporation is perpetual.

1

ARTICLE IICZAZ PURPOSES AND POWERS

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

- (1) To operate and manage a planned unit subdivision development known as NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS located in SOUTHPORT, BRUNSWICK COUNTY, NORTH CAROLINA.
- (2) To undertake the performance of, and carry out the acts and duties incident to the administration of the operation and management of, NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS UNITOWNERS ASSOCIATION, INC. in accordance with the terms, provisions, conditions and authorization contained in both these Articles and in the Declaration of Covenants, Conditions and Restrictions which shall be recorded in the Public Records of New Hanover County, North Carolina, at such time as the real property and the

UNOFFICIAL







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 unit owners; to provide the funds to pay for common expenses of the Association as provided in the Declaration of Covenants, Conditions, and Restrictions 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 Covenants, Conditions and Restrictions, 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 Declaration of Covenants. Conditions and Restrictions of NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS and all powers reasonably necessary to implement the purposes of the Association.
- (9) Upon dissolution, the assets of the Corporation shall be distributed as set forth in G.S. Section 55A-14-03.







MEMBERSHIP

- A. The membership of NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS UNITOWNERS ASSOCIATION INC. shall consist of the owners of units in NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS, 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 unit in NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS UNITOWNERS ASSOCIATION, INC. whether by conveyance, devise, descent, or judicial decree. A new owner designated in such deed or other instrument shall thereupon become a member of the Association, and the membership of the prior owner as to a unit 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 NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS.
- C. There shall be one class of members in the Association as provided for in the Declaration

ARTICLE 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 two. 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 Covenants, Conditions and Restrictions. Thereafter, the election of Directors shall take place at the annual meeting of the membership as provided in the Bylaws. After the Declarant has relinquished control, 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 VI INITIAL BOARD OF DIRECTORS

The number of Directors constituting the initial Board of Directors shall be two and the





names and address of the persons who are to serve as the first Board of Directors are as follows:

NAME

1. JAMES B. STOKLEY

ADDRESS

1908 EASTWOOD ROAD, SUITE 328

WILMINGTON, NC 28403

2. JAMES E. KENNY

1908 EASTWOOD ROAD, SUITE 328 WILMINGTON, NC 28403

CAX 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.

ARTICLE VIII REGISTERED OFFICE AND AGENT

The address of the initial registered and principal office of the corporation in the State of North Carolina is 1908 EASTWOOD ROAD, SUITE 328, WILMINGTON, NEW HANOVER COUNTY, NORTH CAROLINA 28403, and the name of its initial registered agent at such address is JAMES E. KENNY.

ARTICLE IX INCORPORATOR

The name and address of the incorporator is JAMES E. KENNY, 1908 EASTWOOD ROAD, SUITE 328, WILMINGTON, NEW HANOVER COUNTY, NORTH CAROLINA,

UNOFFICIAL

UNOFFICIAL





28403.



The Association is not organized for pecuniary gain, nor shall it have any power to issue Certificates of stock or pay dividends. No part of the net earnings or assets of the Association shall be distributed upon dissolution, or otherwise, to any member, director, or officer of the Association.

ARTICLE XI AMENDMENTS

Any amendment to these Articles of Incorporation shall require the assent of one hundred percent (100%) of the voting members of the Association o

IN WITNESS WHEREOF, the incorporator has hereunto set his hand and seal this _______, 2006.

AMES E. KENNY-INCORPORATOR

(SEAL)



UNOFFICIAL

UNOFFICIAL

5

UNOFFICIAL UNOFFICIAL





EXHIBIT "E"

BYLAWS

NAVIGATION POINT AT SOUTH HARBOUR VILLAGE

CONDOMINIUMS UNITOWNERS ASSOCIATION, INC.

ARTICLE JAL UNOFFICIAL GENERAL GIZAL

- 1. Name and Location. The name of the Association is NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS UNITOWNERS ASSOCIATION, INC.. The principal office of the Association shall be located at 1908 EASTWOOD ROAD, SUITE 328, WILMINGTON, NC 28403 or at such other place as may be subsequently designated by the Board of Directors of the Association.
- 2. <u>Applicability</u>. The provisions of these Bylaws are binding on all owners of units in NAVIGATION POINT AT SOUTH HARBOUR VIII AGE CONDOMINIUMS (herein called "condominium project"), their tenants, guests, invitees, agents, employees, grantees, successors and assigns.
 - 3. <u>Fiscal Year</u>. The fiscal year of the Association shall be the calendar year.
- 4. <u>Definitions</u>. The definitions of the terms used herein shall be the same as the definitions set forth in the Declaration, to which these Bylaws are attached.

ARTICLE II

MEMBERSHIP

Every owner of a unit shall be a member of the Association and membership in the Association shall be limited to unit owners.

ARTICLE IMNOFFICIAL

MEETINGS OF MEMBERSHIP

1. <u>Place</u>. All meetings of members shall be held at such place as may be designated in

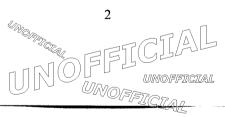






the notice of the meeting.

- 2. Annual Meeting. The first annual meeting of the members of the Association shall be held within thirty (30) days from the date on which the management of the condominium project is turned over by the Declarant to the Association, as provided in the Declaration. Subsequent annual meetings shall be held at a date and time to be determined by the Board of Directors of the Association. At the annual meeting, the members shall elect the new members of the Board of Directors and transact such other business as may properly come before the meeting.
- 3. <u>Special Meetings</u>. Special meetings of the members may be called at any time by the President of the Association or by the Board of Directors or at the written request of the members entitled to vote one-half (1/2) of all of the votes of the Association. Business transacted at all special meetings shall be confined to the objects stated in the notice of the meeting.
- 4. Notice of Meetings. Written notice of each annual and special meeting of the members shall be served upon or mailed to each member entitled to vote thereat, at such address as appears on the books of the Association, at least ten (10) days, but no more than fifty (50) days, before the meeting. The notice shall specify the place, day, time and purpose of the meeting. Waiver in writing of the notice required herein, signed by the member before, at, or after such meeting, shall be equivalent to the giving of such notice. Each member shall notify the Secretary of the Association of any address change, and the giving of notice shall be in all respects sufficient if sent to the address of the member which is then on file with the Secretary.
- 5. <u>Membership List</u>. At least ten (10) days before every election of directors, a complete list of members entitled to vote at the election, showing the unit owned by the member and the residence address of each, shall be prepared by the Secretary. Such list shall be open to examination by any member throughout the ten (10) day period preceding the election, until the election is completed.
- 6. <u>Voting Rights</u>. Each owner shall be entitled to vote in accordance with the owner's percentage interest in the common areas and facilities, as that percentage interest is reflected in the Declaration of Unit Ownership and Covenants, Conditions and Restrictions of NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS (herein called "Declaration"). If more than one person or entity owns a unit, they shall file a certificate with the Secretary naming the person authorized to cast the vote for the unit. If no certificate is filed, the co-owners must designate, at the time of the meeting, the person authorized to cast such vote.
- 7. Proxies. At all meetings of the members, every member shall have the right to vote in person or by proxy. All proxies shall be executed in writing by the member or by his duly authorized attorney-in-fact and shall be filed with the Secretary. No proxy shall be valid after eleven (11) month from the date of its execution, unless otherwise provided in the proxy.
- 8. Quorum. The presence at a meeting of members entitled to cast, or of proxies entitled to cast, fifty-one percent (51%) of the votes of the Association on the basis of common area





ownership shall constitute a quorum for any action, except as otherwise provided in the Declaration or these Bylaws. If, however, such quorum is not present or represented at any meeting, the members present and entitled to vote shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. If adjournment extends thirty (30) days past the originally scheduled meeting date, notice of the date on which the adjourned meeting is to be reconvened shall be given as herein provided.

- 9. <u>Voting Required to Transact Business</u>. When a quorum is present at any meeting, a majority of the votes entitled to be cast by the members present or represented by proxy shall decide any question brought before the meeting unless the question is one upon which, by express provision of the Declaration or these Bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question.
- 10. Order of Business. The order of business at annual members' meetings and as far as practical at other members' meetings, will be:

IIIMO/F/FT/CT/A/I

- A. Roll call and certification of proxies;
- B. Proof of notice of meeting or waiver of notice;
- C. Reading of minutes of prior meeting
- D. Officers' reports;
- E. Committee reports;
- F. Appointment by Chairman of Inspectors of Election;
- G. Approval of budget, if required;
- H. Elections of directors and officers
- I. Unfinished business;
- J. New business;
- K. Adjournment.

ARTICLE IVING

BOARD OF DIRECTORS

1. <u>Number</u>. The affairs of the Association shall be managed by a Board of Directors







consisting of eight (8) directors. The two directors shall each be unit owners of the condominium. Until fifty per cent (50%) of the units are sold, the Developer shall have the right to select the Directors.

- 2. <u>Term.</u> The term of office of a director selected by the Developer shall be one year. The term of office of a director selected by unit owners shall be two years.
- 3. <u>Nomination and Election</u>. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members only. Election to the Board of Directors shall be by voice vote unless secret written ballot is demanded by the owners of at least 50% of the votes of all Association members. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.
- 4. <u>Vacancy</u>. Any vacancy occurring in the Board of Directors by reason of transfer of ownership, death, resignation, retirement, disqualification, removal from office or other reason, may be filled by the remaining Board of Directors. A director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office.
- 5. <u>Removal</u>. Any director may be removed from the Board of Directors, with or without cause, by a majority vote of the total membership of the Association.
- 6. <u>First Board of Directors</u>. The first Board of Directors shall consist of those named in the Articles of Incorporation of the Association. The first Board of Directors shall serve until the first annual meeting.
- 7. <u>Compensation</u>. No director shall receive compensation for any service he may render to the Association in his capacity as a director. However, each director shall be reimbursed for actual expenses incurred in the performance of his duties.
- 8. <u>Powers</u>. The Board of Directors may exercise all corporate powers not specifically prohibited by statute, the Articles of Incorporation or the Declaration to which these Bylaws are attached. The powers of the Board shall specifically include, but not be limited to, the following:
- a. To make and collect regular and special assessments and establish the time within which payment of such assessments are due IFICTIAN
- b. To use and expend the assessments collected to maintain, care for, manage and preserve the units and condominium property, except those portions thereof which are required to







be maintained, cared for and preserved by the owners.

- c. To insure the common areas and facilities of the condominium project in the manner set forth in the Declaration against loss from fire and other casualty, and to insure the unit owners against public liability, and to purchase such other insurance as the Board may deem advisable.
- d. To employ and compensate such personnel as may be required for the maintenance and preservation of the property.
- e. To make and amend rules and regulations governing the use of the common areas and facilities and the conduct of the unit owners, their tenants and guests.
- f. To acquire, rent or lease a condominium unit in the name of the Association or its designee.
- g. To contract for management of the condominium project and to delegate to such manager, employee or contractor all powers and duties of the Association except those specifically required by the Declaration to have specific approval of the Board of Directors or the membership of the Association.
- h. To enforce the provisions of these Bylaws, the Declaration and the rules and regulations promulgated thereunder by any legal means, including the denial of a unit owner's right to use the common areas and facilities and assessment of penalties as defined in the Declaration.
- i. To designate, as the Board deems appropriate, assigned parking spaces for each unit, visitors, service vehicles, and other vehicles.
 - j. To propose and adopt an annual budget for the property.

ARTICLE VINOFFICIAL

MEETINGS OF DIRECTORS

- 1. <u>Regular Meetings</u>. The first regular meeting of each newly elected Board of Directors shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum is present, or as soon thereafter as maybe practicable. Subsequent regular meetings of the Board of Directors shall be held, at such place and hour as may be fixed from time to time by resolution of the Board, after not less than three (3) days notice to each director.
- 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any one (1) director, after not less than three (3) days notice to each director.





- 3. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business. The act of the majority of the Directors present at a meeting at which a quorum is present shall be regarded as the act of the Board
- 4. <u>Waiver of Notice</u>. Attendance of a director at any meeting shall constitute waiver of notice of the meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If a meeting of directors otherwise valid is held without proper call or notice, action taken at such a meeting is deemed ratified by a director who did not attend unless promptly, after having knowledge of the action taken and of the impropriety in question, he files with the Secretary of the Association his written objection to the holding of the meeting or to any specific action so taken.
- 5. Action Without a Meeting. Any action taken by a majority of directors without a meeting is nevertheless effective if written consent to the action is obtained from all the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.
- 6. <u>Attendance by Telephone</u>. Any director may participate in a meeting of the Board, by means of a conference telephone or similar communications device which allows all persons participating in the meeting to hear each other. Such participation by a director in a meeting shall be deemed presence in person by the director at such meeting.

ARTICLE WINOFFICIAL

OFFICERS AND THEIR DUTIES

- 1. <u>Executive Officers</u>. The executive officers of the Association shall be a President, Vice-President, Secretary and Treasurer, all of whom shall be elected annually by the Board of Directors from the membership. Any two offices may be held by the same person, except the offices of the President and Secretary.
- 2. Special Officers. The Board of Directors may from time to time elect such other officers as the affairs of the Association require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may prescribe.
- 3. <u>Term.</u> The executive officers shall hold office for one year, unless they resign or are replaced.
- 4. Removal or Resignation. Any officer may be removed from office with or without cause, at any time, by action of the Board. 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 receipt of the notice, unless a later time is specified therein. The acceptance of the resignation shall not be required to make it effective.







- 5. <u>Vacancy</u>. A vacancy in any office may be filled by the Board of Directors. An officer appointed to fill a vacancy shall serve for the unexpired term of the officer he replaces.
 - 6. <u>Duties</u>. The duties of the officers are as follows:
- a. <u>President</u>. The President shall preside at all meetings of the members and board of Directors; shall have general and active management of the business of the Association; shall see that all orders and resolutions of the Board are carried into effect; shall have general superintendence and direction of all the other officers of the Association and shall see that their duties are performed properly; shall be an ex-officio member of all committees, and shall have the general powers and duties of supervision and management usually vested in the office of the president of a corporation.
- b. <u>Vice-President</u>. The Vice President shall act in the place and stead of the President in the event of his absence inability or refusal to act, and shall exercise and discharge such other duties as may be prescribed by the Board process.
- c. <u>Secretary</u>. The Secretary shall record the notes and keep the minutes of all meetings of the members and of the Board of Directors in one or more books provided for that purpose; shall see that all notices are fully given in accordance with the provisions of these Bylaws or as required by law; shall be custodian of the Association's records and of the seal of the Association and shall see that the seal of the Association is affixed to all documents requiring said seal; shall keep the records of the Association, except those of the Treasurer, and in general, shall perform all duties as from time to time may be assigned to him by the President or by the Board of Directors.
- d. Treasurer. The Treasurer shall receive and deposit all monies and other property of the Association in such depositories as may be designated by the Board; shall keep proper books of account; shall disburse the funds of the Association as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and Board of Directors, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association, which records shall be open to inspection by members at reasonable times; shall, if required, give the Association at the Association's cost, a bond satisfactory to the Board, for the faithful performance of the duties of his office, and the restoration to the Association, in case of his death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the Association; shall prepare an annual budget and statement of income and expenditures to be presented to the members at their regular annual meeting; shall with the approval of the Board, be authorized to delegate all or part of his responsibilities to competent accounting, collection or management personnel, but in such event, the Treasurer shall retain supervisory responsibilities, and, in general, shall perform all duties incident to the office of Treasurer and assigned to him by the President or the Board.
- 7. <u>Indemnification</u>. Any person other than one with whom the corporation has contracted for the management of the condominium project or any portion thereof, who at any time serves or has served as a director, officer, employee or agent of the corporation, or in such capacity





at the request of the corporation for any other corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the corporation to the fullest extent permitted by law against (a) reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with any threatened or pending or completed action, suit or proceeding, whether criminal, administrative or investigative, and whether or not brought by or on behalf of the corporation, seeking to hold him liable by reason of the fact that he is or was acting in such capacity, and (b) reasonable payments made by him in satisfaction of any judgment, money decree, fine, penalty, or settlement for which he may become liable in any such action, suit or proceeding.

The Board of Directors of the corporation shall take all such action as may be necessary and appropriate to authorize the corporation to pay the indemnification required by this Bylaw, including without limitation, to the extent needed, making a good faith evaluation of the manner, in which the claimant for indemnity acted and of the reasonable amount of indemnity due him and giving notice to, and obtaining approval by the members of the corporation.

Any person who at any time after the adoption of this Bylaw serves or has served in any of the aforesaid capacities for or on behalf of the corporation shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provision of this Bylaw.

8. Fidelity Bond. The Association may provide blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. A management agent that handles funds for the Association should also be covered by its own fidelity bond. Except for fidelity bonds that a management agent obtains for its personnel, all other such bonds shall name the Association as and obligee and their premiums shall be a common expense and paid by the owners' Association. The fidelity bond shall cover the maximum funds that will be in the custody of the owners' Association or its management agent at any time while the bond is in force. In addition, the fidelity bond coverage must at least equal the sum of 3 months' assessment on all units in the project, plus the Association's reserve funds. The bonds must include a provision that calls for 10 days' written notice to the Association, any insurance trustee, or any servicer that services a FNMA-owned mortgage in the condominium project, before the bond can be canceled or substantially modified for any reason.

ARTICLE VII

COMMITTEES

The Board of Directors shall appoint a Normating Committee and such other committees as they may from time to time deem appropriate.







ARTICLE VIII

MAINTENANCE

1. Association's Maintenance Responsibility. The Association, as a common expense, shall be responsible for the maintenance, repair and replacement of the common areas, limited common areas and facilities, and for any incidental damage caused to any unit by virtue of such maintenance, repair and replacement. The Association shall have the right to make alterations or improvements to the common areas and facilities and to assess unit owners for the same, provided these alterations are without prejudice to any unit owner and are approved by the Board of Directors; provided, further, that if any alterations or improvements are exclusively or substantially for the benefit of a small fraction of the unit owners who request the same, then the cost of such alterations or improvements shall be assessed against the unit owners benefited in such proportion as the Board of Directors determine. Any unit owner, or their guest or assigns, who damages the common areas or limited common areas, the unit owner will be responsible for the cost of the repair of said damage.

In addition to maintenance of the common area, the Association shall provide maintenance of each boat slip in the properties, and shall have the right of ingress and egress to maintain, repair or replace all or any portion of such slip or common docks at the discretion of the Board or designee of the Board. The cost of such maintenance, repair or replacement shall be added to and become a part of the total annual assessment for which all memberships are proportionately liable. The maintenance for any boatlifts installed by a member will be the members responsibility.

2. <u>Unit Owners' Maintenance Responsibility</u>. Each unit owner shall be responsible for all maintenance and repair work within his unit, including, but not limited to, wiring, plumbing, air conditioning and heating equipment, appliances, interior wall and ceilings, surfaces, floors, exterior doors, and windows. Each unit owner is also responsible for keeping all parts of the unit in good, clean and safe condition, free of nuisance and for promptly complying with any requirements of the insurers of the common areas and facilities when so requested by the Board or the manager. Each unit owner is further responsible for any loss or damage to the common areas and facilities occasioned by his acts or by the acts of his family, guests, employees or agents, provided, that is such loss or damage is covered by any insurance maintained by the Association, the proceeds of the insurance shall be used for such maintenance, repair, or replacement and the unit owner shall only be required to pay the amount by which the costs of maintenance, repair, or replacement exceed the insurance proceeds, including any deductible. The unit owner's maintenance responsibility must be exercised promptly if failure to undertake such maintenance and repair would endanger or impair the value of the common areas and facilities or the other units.

Due to the nature of the sewer engineering, each unit will have its own pump station in the form of a E-One pressure sewer pump (Model GP2010), which shall be sufficient to handle the sewer needs for each unit. It is not the policy of Southeast Brunswick Sanitary District to take over and maintain these individual pump stations and the corresponding two (2) inch pressure line. Each individual unit owner will be responsible for their own pump station and the Association will be







responsible for any future maintenance and/or repairs to the two (2) inch pressure sewer line.

The maintenance for any boatlifts installed by a member will be the member's responsibility.

- 3. Association's Right to Repair Should a unit owner fail to comply with the maintenance and repair responsibilities, the Association, upon written notice to the unit owner, may make the required repair and assess the unit owner for the expense.
- 4. <u>Approval of Payment for Repairs</u>. The Board of Directors or the manager shall establish a mechanism for approving payment for the expenses of maintaining, repairing and replacing the common areas and facilities.

ARTICLE IX

ASSESSMENTS

- Annual Assessments. The Board of Directors of the Association shall establish a proposed annual budget for each fiscal year in advance of the annual meeting. This budget shall project all common expenses for the forthcoming year required for the proper operation, management, and maintenance of the condominium project including the boat slips, including a reasonable allowance for contingencies and reserves. At least ten days prior to the annual meeting, copies of the proposed budget shall be delivered to each member of the Association, together with the proposed assessments against each unit. At the annual meeting, the budget shall be submitted to the membership for approval. As approved, the budget shall constitute the basis for all regular assessments for common expenses against unit owners. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are, or may prove to be, insufficient to pay the costs of operation and management of the condominium project including the boat slips, the Board of Directors shall have the authority to levy such additional assessments as may be necessary, not to exceed a fifteen percent (15%) increase over the previous year's assessment, without approval of the membership. Any increase in the annual assessments of greater than fifteen percent (15%) UNOFFICIAL shall require approval of the membership.
- 2. <u>Capital Improvements</u>. The Board of Directors of the Association, in establishing the annual budget for operation, management, and maintenance of the condominium, may designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the common areas and facilities, which capital improvement and replacement fund (capital improvement fund) shall be subject to the approval of the membership at the annual meeting. The amount collected for the capital improvement fund shall be maintained in a separate account by the Association and shall be used only to make capital improvements to common areas and facilities. Any interest earned on monies in the capital improvement fund may, in the discretion of the Board of Directors, be expended for current operation and maintenance. Each initial purchaser of a unit will pay a working capital contribution equal to two (2) months unitowners association dues, at closing.







- 3. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property relating thereto, or defraying in whole or in part the cost of any dredging; provided that any such assessment shall have the approval of one hundred percent (100%) of the members who were voting in person or by proxy at a meeting duly called for this purpose.
- 4. Quorum for Action Authorized Under Article IX, Paragraph 3. At the first meeting called as provided in Article IX, Paragraph 3 hereof, presence of members or proxies entitled to cast the votes of one hundred percent (100%) of all memberships shall constitute a quorum. If the required quorum is not present another meeting may be called subject to fifteen (15) days written notice, and the required quorum for such subsequent meeting shall be the presence of members or proxies representing seventy-five percent (75%) of the memberships entitled to vote.
- 5. <u>Assessment for Repairs of Damage Caused by Fault</u>. If a member, assignee or lessee, or one of their guests, damages or destroys by his or her fault any of the property in the common area including docks, boat slips and other facilities, the Board shall levy a special assessment upon the owner of that membership for the full cost of repair or replacement of such damage or destruction.
- 6. <u>Apportionment of Assessments</u>. Assessments shall be apportioned among the unit owners on the basis of their proportionate undivided interests in the common areas and facilities, as set forth in the Declaration.
- 7. <u>Unit Owner's Interest in Assessments</u>. All assessments collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the condominium project. As monies for any assessment are paid unto the Association by any owner of a unit, the same may be co-mingled with monies paid to the Association by the other owners of units. No member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest in the monies collected by the Association, except as an appurtenance to his unit. When the owner of a unit ceases to be a member of the Association by reason of transfer of ownership of the unit, the Association shall not be required to account to the owner for any share of the funds or assets of the Association which may have been paid to the Association by such owner.
- 8. <u>Time of Payment</u>. Assessments shall be payable in annual, monthly or other installments, as determined by the Board of Directors.
- 9. <u>Default</u>. Assessments shall be in default if not paid within thirty (30) days of the due date. Delinquent assessments shall bear interest at the maximum permissible legal rate until paid and late fees assessed by the Association. Any unit owner in default shall be obligated to pay







such interest and late fees, together with all costs of collecting such assessments, including reasonable attorney's fees.

- 10. Remedies for Default. If an assessment against a unit owner is not paid when due, the unpaid assessment shall constitute a lien against the unit and its appurtenant undivided interest in the common areas and facilities, which lien shall secure the unpaid assessment, and interest thereon, any expenses incurred in collecting the assessment, and any advances for taxes, and payments on account of superior mortgages, liens or encumbrances required to be advanced by the Association in order to preserve and protect its lien. This lien shall be enforceable from the time it is filed in the public records of New Hanover County, North Carolina in the manner provided by Article 8 of Chapter 44 of the North Carolina General Statutes. The lien may be foreclosed in the manner provided by North Carolina General Statutes. 47A-22 and, in any such foreclosure proceeding, the Association shall be entitled to collect a reasonable rental for the unit from the unit owner and to appoint a receiver to collect the same. In addition, and without waiving its right to foreclosure, the Association shall have the right to maintain a suit to recover unpaid assessment or to exercise any other remedies provided in these Bylaws and the Declaration.
- 11. Foreclosure. The Association shall have the power to bid on the unit at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. If the Association becomes the owner of a unit by reason of foreclosure, it shall offer said unit for sale. At such time as a sale is consummated, the Association shall deduct from the proceeds of said sale all sums of money due it for assessments and charges; the costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees; funds necessary to discharge any liens or mortgages of record, and any and all expenses incurred in the resale of the unit, which shall include, but not be limited to, advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurnishing of the unit in question. All surplus monies remaining after deducting the foregoing items of expenses, costs and other deductions shall be returned to the former owner of the subject unit, or paid to the Clerk of Superior Court in accordance with the general mortgage foreclosure laws of North Carolina.
- 12. <u>Liability of Purchaser at Foreclosure Sale</u>. When the mortgage of a first mortgage of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage, such purchaser, his successors and assigns, shall not be liable for the share of common expenses or assessments chargeable to such unit which became due prior to the acquisition of title to the unit by such purchaser. The unpaid share of the common expenses or assessments shall be absorbed and paid by the owners of all the units, including the purchaser, his successors and assigns, as common expenses, on the basis of their proportionate interest in the common areas and facilities.
- 13. <u>Liability of Grantee in Voluntary Conveyance.</u> In any voluntary conveyance of a unit, the purchaser shall be jointly and severally diable with the seller for all unpaid assessments against the seller up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amounts paid by the purchaser therefor.







- Notice of Unpaid Assessments to Prospective Purchaser, Tenant or Mortgagee. Whenever any unit is leased, sold, or mortgaged by the owner thereof, the Board of Directors or the manager, upon written request of the unit owner, shall furnish to the proposed purchaser, tenant or mortgagee, a statement verifying the amount of unpaid assessments chargeable to the unit. The purchaser, tenant or mortgagee may rely upon such statement in concluding the proposed purchase, lease or mortgage transaction, and the Association shall be bound by such statement.
- Common Profits. If, in any year, there is an excess of assessments and other income over common expenses, the excess (common profits) shall, unless otherwise determined by the Board of Directors, be applied to payment of the next year's assessments.

- Checks. All checks and notes of the Association shall be signed by the President, Vice-President, Secretary or Treasurer or by such other persons as the Board of Directors designate.
- Depository. The Association shall deposit its monies in such bank or banks as the Board of Directors designate.

RECORDS CIZAVI

ARTICLE

- Receipts and Expenditures. The Board of Directors or the manager shall keep detailed accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities and any other expenses incurred. Both said book and the vouchers accrediting the entries thereupon shall be available for examination by all unit owners, their duly authorized agents and attorneys, at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good and accepted accounting practices. U
- Other Records. The Board of Directors or the manager shall keep correct and complete books of records of account, minutes of the proceedings, and a record of the names and addresses of the members entitled to vote, which latter records must be kept at the Association's principal office. Any member, his agent or attorney may examine these books and records for any proper purpose at any reasonable time.
- Inspection of Records The Association shall make available to unit owners, lenders, holders, insurers or guarantors of any first mortgage, current copies of the Declarations, Bylaws or other rules concerning the project and the books, records and financial statements of the Association. Available means available for inspection upon request during normal business hours and under reasonable circumstances. Furthermore, upon written notice, any holder of a first







mortgage on any unit of the condominium project shall be entitled to a copy of the Association's financial statement for the immediately preceding fiscal year.

4. Request for Notice. Upon written request to the Association, any mortgage holder, insurer or guarantor will be entitled to timely written notice of (a) any condemnation or casualty loss that affects either a material portion of the project to the unit securing its mortgage, (b) any sixty (60) day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds the mortgage, (c) a lapse, cancellation or material modification of any insurance policies or fidelity bond maintained by the Association, (d) any proposed action that requires the consent of a specified percentage of mortgage holders.

RULES AND REGULATIONS

The Board of Directors shall have the right to enact administrative rules and regulations regarding the use of the common areas and facilities and conduct of the members and assess fines for infractions.

No building, fence, wall, sign or other structure shall be commenced, stored, erected, or maintained upon the common area or other property of the Association, nor shall any addition to or change or alteration be made to any portion of the common area or to any boat slip or floating dock or other property of the Association, until the plans and specifications showing the nature, kind, height, materials, and location of said change shall have been submitted to and approved in writing as to the surrounding area by the Board of Directors of the Association.

ARTICLE XIII

AMENDMENT

These Bylaws may be amended at a duly called meeting of the members, following an affirmative vote on the amendment by a majority of the Board of Directors. The notice of the members' meeting shall contain a full statement of the proposed amendment. Amendments must be approved by an affirmative vote of a majority of the votes of all Association Members, voting in person or by proxy. No amendment shall become operative until its has been set forth in an amended declaration and duly recorded in the office of the Register of Deeds of New Hanover County, North Carolina. All unit owners shall be bound to abide by any amendment upon the same being passed and duly set forth in an amended declaration, duly recorded.

The foregoing were adopted as the Bylaws of the 5002 NAVIGATION POINT AT SOUTH HARBOUR VILLAGE CONDOMINIUMS UNITOWNERS ASSOCIATION, INC., a non-profit corporation under the laws of the State of North Carolina, at the first meeting of the Board of Directors.





Certified to be correct, this the 13 day of 10/5, 2005.

Who was a secretary of the secreta











