

Prepared By & Return to: Ellen P. Wortman, Marshall, Williams & Gorham, LLP
430 Eastwood Road, Suite 200, Wilmington, NC 28403

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

**AMENDMENT TO THE MASTER DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SOUTH HARBOUR
VILLAGE**

This Amendment to the Master Declaration of Covenants, Conditions, and Restrictions for South Harbour Village ("Amendment") is made and entered into as of this 3rd day of March, 2021 by South Harbour Master POA, Inc., a North Carolina nonprofit corporation ("Association").

WITNESSETH:

A. The Association is the property owners' association charged with the responsibility for the operation of that certain real property known as South Harbour Village located in Brunswick County, North Carolina, and described in a Declaration recorded in Book 2104, Page 574 ("Master Declaration"), ratified and adopted by Westport HOA, Inc., Glen Cove HOA, Inc. and Navigation Point HOA, Inc. in that Ratification and Adoption recorded in Book 2190, Page 847, and ratified and adopted by Cambridge Crossing Owners Association, Inc. and South Harbour Station UOA, Inc. in that Ratification and Adoption recorded in Book 2190, Page 847, all in the Brunswick County Register of Deeds and as may have been previously amended from time to time, including, but not limited to, the addition of real property subject to said Master Declaration, this Amendment being effective and applicable to all such additions.

B. The Master Declaration was subsequently amended in that Amendment to the Master Declaration of Covenants, Conditions, and Restrictions for South Harbour Village recorded in Book 4006, Page 1310, in the Brunswick County Register of Deeds ("2018 Amendment").

C. Pursuant to Article 1, Section 1.3(3)(b), the Association has three classes of members which consist of the following entities and voting rights:

1. Class A which includes the following entities entitled to one (1) vote each:
 - a. Barnes Bluff HOA, Inc.
 - b. Marina Club at South Harbour Village UOA, Inc.
 - c. Village Green Property Owners Association, Inc.
 - d. Navigation Point at South Harbour Village Condominiums Unitowners Association, Inc. (a/k/a Navigation Point HOA, Inc.)
 - e. South Harbour Golf Villas POA, Inc. (a/k/a South Harbour Golf Villas HOA, Inc.)
 - f. Glen Cove HOA, Inc.
 - g. Westport HOA, Inc.
 - h. Cambridge Crossings Homeowner Association (a/k/a/ Cambridge Crossing Owners Association, Inc.)
 - i. South Harbour Station UOA, Inc.
 - j. South Harbour Mixed Use COA, Inc.
 - k. South Harbour Marina SOA, Inc.
2. Class B which includes the following entities entitled to the following votes:
 - a. SHM SHV, LLC – 20 votes as owner of “Marina Transient Docks”
 - b. Dorothy Cruse Memorial Chapel – 10 votes as owner of the “Chapel”
 - c. James Capps and wife, Cynthia Capps – 10 votes total as owners of the “Restaurant Tract”
3. Class C which includes the following entities entitled to four (4) votes for each Lot, Unit, or Slip that it owns and four (4) votes for each vote that it would have if it were a Class “A” Member with respect to each Unimproved Tract that it owns:
 - a. Point Associates, LLC
 - b. SHM SHV, LLC, as successor in title and declarant rights to Point Associates, LLC
 - c. Barnes Bluff Associates, LLC

D. The Master Declaration provides in Article 9, Section 9.2 that the Master Declaration can be amended by an affirmative vote of not less than sixty-seven percent (67%) vote of the members who are voting in person or by proxy at a meeting duly called for its purpose.

E. The Master Declaration further provides in Article 9, Section 9.3 that:

1. “Written notice of any proposed amendment, modification or restatement of the Declaration under Section 8.2 above shall be sent to every member at least thirty (30) days before any action is taken.” It appears the reference to “Section 8.2 above” was a scrivener’s error and intended to reference “Section 9.2 above.”

2. "No amendment shall increase the financial obligations of any Member or Owner in a discriminatory manner, diminish or impair the rights of the Declaration Point Associates, LLC, or create an obligation upon the Declarant Point Associates, LLC for the payment of Common Expenses." SHM SHV, LLC, as the successor of the Declarant rights of Point Associates, LLC, joins in and signs this Amendment and consents to any change in the method of determining assessments and the rights of SHM SHV, LLC.

F. The amendment set forth below has been adopted by affirmative vote of not less than 67% of the Members, voting in person, by proxy, or by ballot, and has otherwise been properly adopted and approved as required by the Declaration, Bylaws and Articles of Incorporation, as applicable.

G. That the President or Vice President of the Association has been duly authorized and empowered to execute this Amendment and to cause the same to be recorded in the Brunswick County Register of Deeds as the binding act of the Association, its Members, and Board of Directors.

Now therefore, in consideration of the recitals set forth above, and as the act and deed of the Association, its Members, and Board of Directors, the Declaration is hereby amended and modified as set forth below:

AMENDMENTS

Article 1, Section 1.1 of the Master Declaration shall be amended by adding the following:

- (22) "Recreational Facilities" shall mean the following properties and the improvements located thereon:
 - a. the Swimming Pool, Clubhouse, and Tennis Court shown on that plat recorded in Map Cabinet 26, Page 392
 - b. the 0.56 acre Park shown on that plat recorded in Map Cabinet 24, Page 272
 - c. the 0.41 acre Amenities Area shown on that plat recorded in Map Cabinet 24, Page 273
 - d. the entrances located adjacent to 5092 Minnesota Drive, 4016 Old Bridge Rd., and 3990 Old Bridge Rd.

Article 1, Section 1.3(2) of the Master Declaration shall be amended by inserting the following:

Membership in the Association shall not be separated from ownership of or control as a nonprofit owners' association entity of a parcel in South Harbour Village. Upon the sale or transfer of a parcel or control as a nonprofit owners' association entity of a parcel in South Harbour Village the membership in the Association shall transfer to the new owner or entity.

Article 1, Section 1.3(3) of the Master Declaration shall be deleted in its entirety and the following is inserted in lieu thereof:

(3) Members and Voting Rights

- a. **Membership.** As provided in the Articles of Incorporation, every Member shall be a voting Member of the Association.
- b. **Voting Rights of Members.** The Association shall have two (2) classes of Members with voting rights as follows:
 - i. **Class A:** Class A Members shall be entitled to one (1) vote. Class A Members shall include the following nonprofit owners' association entities of those various parcels located in South Harbor Village:
 - a. Barnes Bluff HOA, Inc.
 - b. Marina Club at South Harbour Village UOA, Inc.
 - c. Village Green Property Owners Association, Inc.
 - d. Navigation Point at South Harbour Village Condominiums Unitowners Association, Inc.
 - e. South Harbour Golf Villas POA, Inc.
 - f. Glen Cove HOA, Inc.
 - g. Westport HOA, Inc.
 - h. Cambridge Crossings Homeowner Association, Inc.
 - i. South Harbour Station UOA, Inc.
 - ii. **Class B:** Class B Members shall be entitled to one (1) vote. Class B Members shall include the following entities which own or control as a nonprofit owners' association those various parcels located in South Harbor Village:
 - a. South Harbour Mixed Use COA, Inc.
 - b. South Harbour Marina SOA, Inc.
 - c. SHM SHV, LLC as the owner of the "Marina Transient Docks" which are identified as the "Fueling Dock" on that Map recorded in Condo Book 11, page 477, of the Brunswick County Registry and their successors in title to said docks. This Class B Membership is appurtenant to and shall not be separated from ownership of the Fueling Dock.
 - d. Dorothy Cruse Memorial Chapel, a North Carolina Corporation as the owner of the "Chapel" tract and its successors in title. The "Chapel Tract" being more fully defined in that Deed recorded in Book 3665, Page 829, of the Brunswick County Registry. This Class B Membership is appurtenant to and shall not be separated from ownership of the Chapel Tract.

- e. James Capps and wife, Cynthia Capps, collectively, as the owners of the "Restaurant Tract" and their successors in title. The "Restaurant Tract" being more fully defined in that Deed recorded in Book 4164, Page 1335, of the Brunswick County Registry. This Class B Membership is appurtenant to and shall not be separated from ownership of the Restaurant Tract.

The previous Class C Members or their successors in interest described in the Master Declaration hereby join in this Amendment to acknowledge the termination of Class C Membership.

Article 5, Section 5.1 of the Master Declaration is amended by inserting the following:

The use of and access to the Recreational Facilities, as defined by Article 1, Section 1.1(22) shall be limited to Class A Members only.

Article 3 of the Master Declaration shall be amended by deleting it in its entirety and the following is inserted in lieu thereof:

Article 3
COMMON EXPENSES AND ASSESSMENTS

Section 3.1 Determination of Common Expenses and Assessments

(1) Preparation and Approval of Budget.

- (a) At least sixty (60) days before the beginning of each fiscal year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary for the ensuing fiscal year to pay the cost of management of the Association and management and Upkeep of the Properties and Common Areas and the cost of other expenses as set forth in the Association Documents and as may, by a resolution of the Board of Directors, be declared to be Common Expenses. Such budget shall constitute the basis for determining the assessment to be paid by each Member.
- (b) At least thirty (30) days before the beginning of each fiscal year, the Board of Directors shall provide to the Members a copy of the budget in a reasonably itemized form which sets forth the amount of the Common Expenses, any assessment or special assessment to each member and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum.
- (c) The Board shall set a date for a meeting of the Members to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a majority of all the Members in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Members

shall be continued until such time as the Members ratify a subsequent budget proposed by the Board.

(d) Such budget shall itemize separate categories of Common Expenses, including overhead and administration and allowances for reserves, as follows:

- i General Expenses – General Expenses, which benefit all Members, shall be assessed to both Class A and Class B members. General Expenses include General Liability Insurance, Fidelity Insurance, and D&O Insurance.
- ii Recreational Expenses – Recreational Expenses shall be assessed to Class A members only and include the expenses associated with Upkeep of the Recreational Facilities, as defined in Article 5, Section 5.1, which are accessible by Class A Members only.
- iii Benefited Expenses: Benefited Expenses include those costs which are not otherwise the responsibility of a Member pursuant to the Member's governing documents and are or may become the responsibility of the Association, which provide benefits, items, or services to some but not all Members. Benefited Expenses may be assessed to the benefiting Members. Benefited Expenses include, but are not limited to, the following:
 - a. Upkeep of stormwater facilities as required by stormwater permits,
 - b. Upkeep of roads (including, but not limited to, street signs and street lighting),
 - c. Improvements to roads (including, but not limited to, the addition of street signs and street lighting) approved by the benefitted Member(s),
 - d. Upkeep of other Common Area infrastructure (including, but not limited to, parking facilities),
 - e. Improvements of other Common Area approved by the benefitted Member(s),
 - f. Any management or professional fees or other expenses associated with maintenance of the stormwater facilities, roads, and/or Common Area,
 - g. Any management or professional fees or other expenses associated with improvements of the stormwater facilities, roads, and/or Common Area approved by the benefitted Member(s) or as required by the Stormwater Permit or governmental agency with jurisdiction over the stormwater facilities, roads, or Common Area

(e) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Member's obligation to pay the allocable share of the Common Expenses as herein provided whenever the same shall be determined. In the absence of any annual budget or adjusted budget, each Member shall continue

to pay assessments at the rate established for the previous fiscal year until notified of the new payment which is due on the first day of the next payment period which begins more than ten (10) days after such new annual or adjusted budget is adopted and the Member receives notice of its adoption.

Section 3.2 Assessments and Common Expenses

(1) Rate of Assessment

- (a) General Expenses - All Members shall be assessed annually in amounts as determined by the Board of Directors pursuant to the provisions of Article 3, Section 3.1(1)(d) above, which said amounts shall be determined based upon the number of Lots, Units, and/or Slips in a particular Member subdivision. For purposes of calculating General Expenses, Class B Members who own the Marina Transient Docks, the Chapel Tract, and the Restaurant Tract, as defined in Article 1, Section 1.3(3)(b)(ii) herein, (currently SHM SHV, LLC, the Dorothy Cruse Memorial Chapel, and James Capps and wife, Cynthia Capps) shall be considered to have 1 Slip/Lot each.
 - (b) Recreational Expenses – All Class A Members shall be assessed annually in amounts as determined by the Board of Directors pursuant to the provisions of Article 3, Section 3.1(1)(d) above, which said amounts shall be determined based upon the number of Lots, Units, and/or Slips in a particular Member subdivision.
 - (c) Benefited Expenses – The Benefited Expenses shall be assessed to the benefited Member(s). The liability for Benefited Expenses in the event there is more than one benefited Member shall be allocated to the benefited Members by the Board of Directors by formulation of a fraction, the numerator of which is the number of acres contained in the land controlled by the particular benefited Member and the denominator of which shall be the aggregate acreage contained in all the land controlled by the two or more benefited Members subject to the Benefited Expense. The acreage shall be determined by the Brunswick County Tax Records and the fraction shall be converted to a percentage to two decimal points. A different formula for allocation of a Benefited Expense in the event there is more than one benefited Member may be used upon the affirmative vote of a majority of those benefited Members subject to the Benefited Expense present and voting at a meeting duly called for that purpose.
- (2) Lots, Units, and/or Slips Added During the Fiscal Year. Notwithstanding any other provision of this Declaration, whenever any additional Lots, Units, or Slips become subject to this Declaration and the jurisdiction of the Association, the assessment against each Member shall be prorated based upon the number of days remaining in the payment period and shall be calculated in the same manner and due in the same number of installments as

the assessment for the remainder of the fiscal year against the existing Members.

- (3) Special Assessments. The Board of Directors may levy Special Assessments on the Members from time to time to cover unbudgeted expenses or expenses in excess of those budgeted, in the following manner:
- (a) Special Assessments shall be levied in the same manner as a General Expense, Recreational Expense, or Benefited Expense as defined herein.
 - (b) The Board shall give written notice of any proposed Special Assessment to the benefited Members subject to the proposed Special Assessment specifying the amount, the category of expense pursuant to Section (a) above, and the reasons therefore, which said notice shall provide for a special meeting of the benefited Members subject to the proposed Special Assessment to be held not less than fifteen (15) days following said notice, the sole purpose of said meeting to be to vote upon the said proposed Special Assessment. At that special meeting, said assessment must be approved by a simple majority of the votes of the benefited Members subject to the proposed Special Assessment actually cast in person or by proxy.
 - (c) Following the approval of said Special Assessment as herein specified, the Board shall give notice to the affected Members and, unless otherwise specified in the notice, said Special Assessments shall be payable in full at the next periodic installment of regular assessments which is due not more than ten (10) days after the date of such notice or in not more than twelve equal periodic installments as the Board may determine.
- (4) Surplus. Any amount accumulated in excess of the amount required for actual expenses and reserves, at the discretion of the Board taking into account the source of the surplus with regards to the category of General Expense, Recreational Expense, or Benefited Expense, shall:
- (a) Be placed in reserve accounts
 - (b) Be placed in a special account to be expended solely for the general welfare of the Members,
 - (c) Be credited to the next periodic installment due from the Members and into the current fiscal year's budget, until exhausted, or
 - (d) Be distributed to each Member.

Section 3.3 Liability for Common Expenses

- (1) Member Liability. Each Member hereby covenants and agrees to pay to the Association all Common Expenses and other charges assessed by the Board of Directors pursuant to the provisions of this Declaration. Each Member, and its respective members, shall be jointly and severally liable for all assessments so levied, and no Member may be exempted from liability for the assessments for Common Expenses by reason of waiver of the use or enjoyment of any of the Common Area or Properties, except as provided herein.

- (2) The Board of Directors shall have the power to assess a Member for the amount of any costs incurred by the Association because of any violation of the Association Documents or negligence or intentional acts for which that Member, or any of its respective officers or members, is responsible as set forth in this Declaration and the cost and expenses including, but not limited to, all attorneys fees, as may be incurred by the Association in the collection of any assessment that has been levied against and is due from said offending party.
- (3) Collection of Assessments. Any assessment, or installment thereof, not paid within fifteen (15) days after the due date shall be delinquent and shall accrue a late charge in the amount of one and one-half percent (1.5%) of such assessment, or such greater percentage as may be established from time to time by the Board of Directors. The Board of Directors shall take prompt action to collect any assessments for Common Expenses due from any Member, or the member of any member Association, which remain unpaid for more than thirty (30) days after the due date for payment thereof.

Article 4, Section 4.1 of the Master Declaration shall be amended by deleting the first sentence in its entirety and inserting the following:

Except those areas designated as the responsibility of any member association by the terms of said member's governing documents, the Association shall be responsible for the management and Upkeep of all the Common Areas and the Properties, the cost of such Upkeep shall be assessed against such person or entity as a Common Expenses as described herein.

Article 5 shall be amended by inserting the following:

Section 5.5. Limitations. Notwithstanding the forgoing, the use of the term "Properties" in this Article 5 herein is not intended to apply to the properties owned or controlled by the Class B Members.

Article 9, Section 9.2(1) shall be amended by inserting the following:

Notwithstanding the foregoing, Article 3, Section 3.1(d) may only be amended by unanimous consent of all Members.

The 2018 Amendment shall be amended by deleting Section 1 (beginning with "Inserting the following into ARTICLE 3, Section 3.2(1)(a) ...") in its entirety.

END OF AMENDMENTS

Except as amended, the Master Declaration, as may have been previously amended, and the 2018 Amendment shall remain in full force and effect.



Vice President

The undersigned, being the ~~President~~ of the Association, does, by his/her execution hereof, certify that this Amendment was duly adopted by an affirmative vote of at least 67% of the votes of the Members of the Association in person, by proxy, or by ballot, was duly adopted by a vote of the Board of Directors (if required), and that all the procedures, steps and requirements necessary to amend said Declaration have been complied with, the day and year first above written.

SOUTH HARBOUR MASTER POA, INC.

By: Dale M. Mullarkey
~~President~~ Vice President

Attest:

Carson J. Williams
Secretary

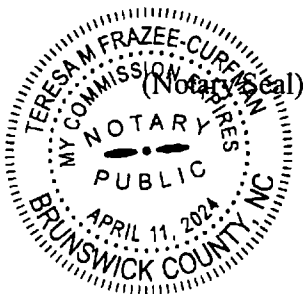
STATE OF NORTH CAROLINA
COUNTY OF Brunswick

I, TERESA M FRAZEE CUREMAN notary public, do hereby certify that DALE MULLARKEY, personally appeared before me this day and acknowledged that he/she is Vice President (title of officer) of the Association and that he/she, being authorized to do so, executed the foregoing on behalf of the Association.

Witness my hand and official seal this the 26 day of February, 2021

Teresa M Frazier-Cureman
Notary Public

My Commission Expires: April 11, 2024



[ADDITIONAL SIGNATURE PAGES FOLLOW]



SIGNED ON BEHALF OF SHM SHV, LLC FOR THE PURPOSES STATED HEREIN

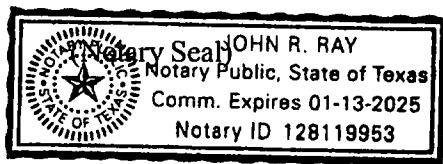
SHM SHV, LLC


By: 
~~President~~ CEO

STATE OF NORTH CAROLINA Texas
COUNTY OF Dallas

I, John R Ry, notary public, do hereby certify that Baxter Underwood, personally appeared before me this day and acknowledged that he/she is CEO (title of officer) of SHM SHV, LLC and that he/she, being authorized to do so, executed the foregoing on behalf of the company.

Witness my hand and official seal this the 12 day of February, 2021



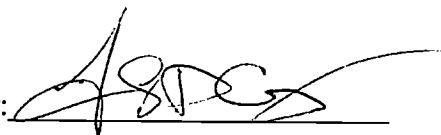

Notary Public

My Commission Expires: 1/13/2025



*SIGNED ON BEHALF OF DOROTHY CRUSE MEMORIAL CHAPEL
FOR THE PURPOSES STATED HEREIN*

DOROTHY CRUSE MEMORIAL CHAPEL

By: 

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

I, Ryan W. Johnson, notary public, do hereby certify that Travis D. Cruse, personally appeared before me this day and acknowledged that he/she is President (title of officer) of DOROTHY CRUSE MEMORIAL CHAPEL and that he/she, being authorized to do so, executed the foregoing on behalf of the company.

Witness my hand and official seal this the 27th day of January, 2021.



Notary Public

My Commission Expires: 12/11/2021

(Notary Seal)

