

Tax Map No. 1-34-6.66-157.00

Prepared By:

Seawinds Property Owners Association

Covenant Revision Committee

January 30, 2018

**DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS,
EASEMENTS AND REMEDIAL CLAUSES FOR SEAWINDS, A SUBDIVISION
LOCATED IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE**

This revision of the Declaration of Restrictive Covenants, Conditions, Easements, and Remedial Clauses is made this 30th day of January, 2018 by Seawinds Property Owners Association, also known as Seawinds Home Owners Association, henceforth, referred to as “**Seawinds HOA**” in this document.

This Declaration is for the purposes of maintaining property values, presiding over and maintaining utilities and common areas, and insuring the quiet and peaceful enjoyment of all residential lots and community properties located in the subdivision known or to be known as “**Seawinds**” is hereby adopted and replaces all previous documentation on file.

The subdivision is described in Exhibit “A” and is shown in a plot prepared by Hillcrest Associates, Inc. and recorded with the Recorder of Deeds in Georgetown, Delaware in Plot Book 43, Page 16; a revised plot recorded in Plot Book 45, Page 88; a second revised plot recorded in Plot Book 47, Page 305; and a third revised plot recorded in Plot Book 50, Page 300. All notes, easements and restrictions shown on the plots, as they presently exist and as they are amended in the future, are incorporated herein by reference and bind and are hereby imposed on the land described in Exhibit “A”.

Seawinds HOA hereby covenants and declares that henceforth it stands seized of all the land described in Exhibit “A” under and subject to the following restrictive covenants, conditions, easements, and remedial clauses, all of which (a) shall run with each lot and all land in the subdivision and (b) shall be binding.

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1.0 Dedication and Application:

- 1.1. These Restrictive Covenants, Conditions, Easements, and Remedial Clauses (collectively to be referred to as “**Restrictions**” or “**Declarations**”) are for the mutual and reciprocal benefit of each and every lot and lot owner in the subdivision of Seawinds and are intended to create mutual, equitable servitudes upon each lot and lot owner in favor of all other lots and lot owners; to create reciprocal rights between the owners of all lots; and to create a privity of contract and estate between the grantees of the lots and their heirs, executors, administrators, successors and assigns. The Restrictions shall run with the land for the benefit of each and all lots and their respective owners.
- 1.2. The invalidating of any one of these Restrictions by a court of competent jurisdiction shall not affect or impair the full force and effect of the other Restrictions and all Restrictions not expressly invalidated shall remain in full force and effect.

2.0 Home Owners Association:

- 2.1 The general purpose of this document is to organize and maintain a voluntary non-profit corporation composed of property owners in the Delaware community known as, ‘Seawinds’, in order to further and promote the community welfare of all property owners in Seawinds.
- 2.2 Each person or entity who acquires legal or equitable title to any lot in Seawinds shall automatically become a “**Member**” of the Seawinds HOA. This membership does not apply to those persons who hold an interest in any lot merely as security for the performance of any obligation to pay money, i.e. mortgages or deeds of trust. However, if a secured party seizes the collateral and becomes the owner of a lot, such person or entity will then be subject to all the requirements and limitations imposed by these Restrictions on all lot owners and all members of the Seawinds HOA.
- 2.3 Membership is terminated upon sale of the property in Seawinds.
- 2.4 Membership shall be maintained upon payment of the annual HOA Dues as described in Section 15.0 of this document.
- 2.5 Board of Directors:
 - (a) The Seawinds HOA shall be governed by a Board of Directors of five (5) Members, hereafter known as the “**Board**”, consisting of a President, Vice-President, Secretary, Treasurer, and Chairperson of the Architectural Review Committee. The Seawinds HOA agrees to delegate authority to the Board to

promulgate, administer and enforce these Covenant Restrictions and Declarations of the Seawinds HOA as necessary to govern the Seawinds HOA.

- (b) It shall be the responsibility of the Board to establish and maintain the Seawinds HOA but the legal and other costs incurred to establish the Seawinds HOA shall be paid by the Seawinds HOA from the annual HOA Dues. This paragraph may not be amended without the written approval of the Seawinds HOA.
- (c) The Officers of the Board will consist of Members elected at the Annual General Election by majority vote of attendees, for a term of three (3) years from the day of their election. Those elected shall take office immediately following their election.
- (d) When a position on the Board is vacated, the Board may by majority vote replace that position with a new Member from the Seawinds HOA. The exception to this is the President, who will be replaced by the sitting Vice-President.
- (e) The Board will meet at least once during the year between Annual Meetings to conduct the business of the Seawinds HOA. Members of the Seawinds HOA are entitled to attend in order to address the Board.
- (f) Any Board member that misses two (2) consecutive meetings without reasonable excuse may be requested to resign (at the discretion of the President).
- (g) The President shall be the Chief Executive Officer of the Seawinds HOA and shall preside over all meetings of the Board and the Seawinds HOA. The President shall be the Ex-Officio of all committees except the Auditing and the Nomination/Election Committees. The President shall be responsible for the preparation and presentation of committee reports at the annual meeting, including the annual audit, and shall file the reports with the Secretary where they shall be available for inspection by the membership.

The President shall conduct the affairs of the Seawinds HOA in accordance with these Covenants and the policies of the Board.

The President shall create ad-hoc committees as needed and appoint the chairpersons; and may replace a chairperson with cause. The committees shall have three (3) Members, and the President shall be a member and advisor on all committees. Detailed records shall be kept and made available of all committee activity.

The President shall appoint a Pier Chairman who is charged with oversight over all aspects of the Marina and Pier's use and maintenance, and will work closely with the Board. The Pier Chairman may select a committee of Members to assist as needed.

- (h) The Vice-President shall assist the President as needed, and in the absence of the President, shall perform all the duties of the office, including any unexpired term left by a departed President.
- (i) The Secretary shall keep a record of the names, addresses and contact information of all Members, record the minutes of all Board, Special and General Meetings, including Election results, keep all essential records of the Seawinds HOA, and send out communications to all Members as needed.
- (j) The Treasurer shall collect, deposit, and have custody of all funds paid to the Seawinds HOA. The Treasurer shall promptly pay all bills and disburse funds as required to satisfy its creditors. The Treasurer will file the required reports with the Internal Revenue Service, the State of Delaware and other reports as may be legally required.

The Treasurer shall keep a record of all financial transactions of the Seawinds HOA. All records shall be available for inspection at a reasonable time by the President, the Board or an auditor authorized by the Board. Treasury accounts shall be audited prior to the Annual General Meeting.

The Treasurer shall make a true and full report of the financial condition of the Seawinds HOA at the Annual General Meeting, and as requested by the President or the Board.

- (k) The Architectural Chairman shall review applications for approval of construction of new dwellings, additions or changes to the exterior of an existing dwelling or out-building (to also include garages, sheds and pools), as well as tree removal or lot clearing within Seawinds. The Chairman shall represent the Board in decisions regarding adherence to design, applications and construction standards within Seawinds, as found elsewhere in these Restrictions.
- (l) Meetings of the Board have the parliamentary authority paralleling the rules specified in Roberts Rules of Order.
- (m) A quorum of three (3) Board Members is required at any Board meeting, Annual General Meeting or Special General Meeting of the Seawinds HOA.
- (n) The Board shall routinely assess the general operating expenses of the Seawinds HOA, and the Long-Term Capital Reserves required for major

replacement or repair of common area components at the estimated time needed, to include the Entrance, Roads, and the Pier.

2.6 Annual General Meeting:

- (a) An Annual General Meeting of all Members of the Seawinds HOA and the Board will be held on the 3rd Saturday in June. A reminder of the date, with details of the time, place and a brief description of the agenda matter will be sent by the Secretary through email, at least fourteen (14) days in advance.
- (b) The Annual General Meeting will follow the rules specified in Roberts Rules of Order:
 - (1) Call to order
 - (2) Reading of the previous meeting minutes
 - (3) Treasurer's Report
 - (4) Report of standing and special committees
 - (5) Old Business
 - (6) Election of Officers of the Board
 - (7) New Business
 - (8) Adjournment
- (c) For any business action of the Seawinds HOA requiring approval of property owners, each lot shall cast one (1) vote. (If two or more people own a lot, they must decide how their one vote will be cast.)

2.7 Special General Meetings:

- (a) A Special General Meeting is a meeting of the Seawinds HOA Members and the Board for the purpose of discussing one or more specific items of such urgency that cannot wait for the Annual General Meeting.
- (b) May be called by the Board at their discretion.
- (c) The Board may be petitioned for such a meeting by a Member within the Seawinds HOA. The petition will be evaluated by the Board for its merits. If the merits of the petition do not warrant a Special General Meeting, that meeting will not commence.
- (d) Members shall be notified by email fourteen (14) days in advance of a Special General Meeting, to include details of the time, place, and a brief description of the agenda matter.

2.8 Insurance: The Seawinds HOA shall purchase insurance to insure the Seawinds HOA, the Board, its successors or assigns, and the individual lot

owners, from liability arising from fraud, design, construction, use, maintenance, or ownership of the roads, rights of way, easements and the common areas (including piers and docks). The amount of insurance shall be determined by the Board. The Seawinds HOA shall pay for the insurance with the annual HOA Dues.

3.0 Amendment of Covenant Restrictions and Declarations:

These Restrictions may be amended, subject to the rights retained herein by Seawinds HOA, by the written consent of not less than 60% of votes received from property owners. Any amendment shall take effect when a copy thereof, which has been executed and acknowledged by each of the consenting lot owners, is recorded with the Recorder of Deeds in Georgetown, Delaware, and the amendment shall remain in effect unless further amended.

4.0 Use:

- 4.1 Each lot located in Seawinds shall be used solely and exclusively for single-family residential purposes.
- 4.2 No commercial or business enterprise, as defined by the Sussex County zoning ordinances, may be conducted on any lot. This residential-use restriction shall not be construed to prohibit the care of five (5) or less children for pay.
- 4.3 No sign shall be displayed on any property, communal ground or easement with the exception of 'For Sale' signs.
- 4.4 No dwelling or other structure shall be built or placed on any lot without prior written consent of the Board after review by the Architectural Chairman.
- 4.5 All dwellings and other structures built or placed on any lot must be of new construction.
- 4.6 No mobile home or trailer shall be erected or placed on any lot. For purposes of these Restrictions, a mobile home or trailer shall include, but not be limited to, any structure which has a metal superstructure, which is designed to be transported on roads either on its own wheels or supported by other vehicles, and which is supported in location by wheels, blocking, skids, jacks, or skirting. Two such structures placed side by side to form a "double wide" are also prohibited if structural members (e.g., sills, studs, plates, joists, or rafters) are similar in design and arrangement to that commonly used in "single wide" trailers and mobile homes.

- 4.7 One accessory building may also be built or placed on each lot. The accessory building shall comply with the following requirements:
- (a) It shall not be made of metal.
 - (b) It shall be of the same general construction type and be compatible in appearance with the dwelling.
 - (c) It shall not exceed one (1) story in height.
 - (d) It shall be used solely in connection with a single-family dwelling.
 - (e) It shall be placed on the rear portion of the lot, behind the back line of the dwelling.
- 4.8 An attached or detached garage shall be permitted in addition to an accessory building. The garage must conform in appearance to the style of the dwelling and it must have the same exterior and roof colors as the dwelling.

5.0 Drainage and Utility Easements:

- 5.1 Drainage and utility easement areas have been reserved by the Seawinds HOA as set forth in the recorded plots of Seawinds and these easements shall be maintained continuously by the lot owner.
- 5.2 All interior side and rear lot lines are reserved for the centerline of a 20-foot wide drainage and/or utility easement; perimeter side and rear lot lines shall have the entire 20-foot easement within the lot.
- 5.3 Where a lot line is extinguished (i.e., one owner buys two adjacent lots and uses them as one), the easement along that line shall be extinguished except as to utilities already existing in that easement.
- 5.4 A 20-foot wide easement, 10 feet on each side of the centerline of the pipe, shall be created, wherever possible, where a storm sewer exists outside of the limits of the dedicated highway right-of-way. Where pipes are installed in privately maintained paved areas such as parking lots or driveways, this easement shall be 10 feet wide, 5 feet on each side of the centerline of the pipe.
- 5.5 In addition to the easement referred to above, Seawinds HOA has or will convey an easement to a water supply company for installation and maintenance of the water supply. All lots shall be subject to that easement.

5.6 No building or other permanent structure shall be placed or permitted to remain in any easement area. No activity, which may damage or interfere with the installation or maintenance of utilities and drainage, for which the easements are reserved, may be conducted. Fences, shrubs and other plantings placed in any easement area are placed there at the lot owner's risk.

5.7 The Seawinds HOA and its agents and assigns shall have the right of ingress and egress over all lots for the purposes of installing or servicing drainage and utility ditches or pipes, provided the lots are restored to their original surface condition.

6.0 Construction Standards:

The following general prohibitions and requirements shall prevail as to the construction of improvements or activities conducted on any lot in Seawinds:

6.1 One (1) detached single-family dwelling may be built or placed on any lot. No dwelling shall be higher than 35 feet. The minimum roof pitch shall be 8/12 unless otherwise approved pursuant to Section 7.0. Windows facing the roads must be trimmed with material that is a minimum of 3.5" nominal wide (lineal trim), or have shutters. Both fascia boards and overhangs must be a minimum of 8" wide, unless otherwise approved pursuant to Section 7.0. All dwellings shall conform to the requirements of the Southern Building Code.

6.2 A non-refundable \$500.00 security bond is required for all new construction.

6.3 Each lot with a dwelling shall have a driveway. Each driveway shall have a drainage pipe, which meets all governmental requirements. This pipe shall be located in the swale of the street and shall not interfere with storm water runoff. The lot owner shall be responsible for the cost of installing the pipe. The driveway must be constructed of tar and chip, stone, hot mix, or concrete. Driveway construction must be completed within 30 days after the Certificate of Occupancy is issued for the dwelling.

6.4 Unless the recorded plot requires greater setbacks, all front, rear and side setbacks shall be as specified in the zoning ordinances for Sussex County or the appropriate governmental authority. If two or more adjoining lots are acquired by the same owner for use as one building lot, it shall be considered as a single lot for the purposes of setting boundaries, and the applicable boundary lines shall be those between the lots owned by the same owner and the adjoining lots owned by others.

6.5 For lots that contain wetlands, governmental regulations regarding construction near wetlands must be obeyed.

- 6.6 Fuel tanks, gas tanks, or similar storage receptacles shall either be buried underground or be in the backyard and screened by shrubbery or a fence.
- 6.7 In-ground and above-ground pools shall be permitted if the plans are approved by the Architectural Chairman and as provided in this Declaration. All in-ground pools must comply with Sussex County DE regulations. Above-ground pools must be surrounded by a 4-foot wide wooden deck.
- 6.8 Boundary fences, walls or hedges require the prior written consent of the Board before being constructed or allowed to grow. No fence or wall shall be constructed or any hedge allowed to grow to a height of more than six (6) feet without the written consent of the Board. If a fence or wall has a finished side and an unfinished side, the finished side must face away from the lot on which it is constructed.
- 6.9 Septic systems shall be constructed and maintained according to the rules and regulations established by those governmental authorities having jurisdiction over septic systems in Seawinds. All septic systems must be a minimum of 100 feet from the State wetlands line as shown on the recorded plots for Seawinds subdivision. All septic systems must be at least 150 feet from the community wells that are maintained by the water utility company in the common area near Lot 38 and Falling Point Road at the entrance to the Seawinds subdivision.
- Septic systems for lots 1 thru 23 inclusive shall be located in the front yard area of the lots. Lot owners shall be responsible for the cost of installing and maintaining their systems.
- Whenever a public or private sewer main is available to any lot in Seawinds subdivision, all lots adjacent to the sewer main shall be connected to the main at the sole expense of the respective lot owners. The owners shall then be responsible for their share of the prorated cost for use and maintenance of the sewer system.
- 6.10 Water shall be supplied to each lot by the water utility company, which is regulated by the Delaware Public Service Commission. No lot owner may install or use a separate well unless the Board and the water company serving the subdivision give their written approval. Water fees and charges shall be as established by the tariff of the water company as approved by the Public Service Commission.
- 6.11 Temporary structures, tents, trailers, travel trailers, or shacks shall not be built or placed on any lot in Seawinds without approval of the Board. A construction type trailer or building not larger than 400 square feet may be used for storage of material during periods of construction and it shall be removed from the lot within

15 days after construction is completed. No temporary structure shall be used as living quarters.

- 6.12 If a lot owner wishes to construct, and the Board approves, a dwelling which is brought to the lot either partially or totally completed, the lot owner shall be held liable for any damage caused to any area in Seawinds, including roads, during the placement of the dwelling on the lot. Ingress and egress to and from a lot must be by the main road only. Placement of the dwelling must be accomplished without using adjoining lots for access, unless those lots are also owned by the lot owner placing the dwelling.

A lot owner shall give the Board at least five (5) days' advance written notice as to the time and date of the anticipated placement.

- 6.13 Building Permits and Licenses must be acquired before clearing a lot or initiating construction. In addition to obtaining a building permit in Sussex County and prior to initiating any site disturbance, the Delaware Sediment and Storm water Regulations require a Sediment and Erosion Control Plan be obtained from the Sussex Conservation District Office located in Georgetown, Delaware.

This includes but is not limited to the installation of silt fencing, stabilized construction entrance, implementation of best management practices during construction and stabilization of the lot upon completion of site grading, i.e. vegetation must be planted to control run-off.

- 6.14 Once construction of any structure (including dwelling) has begun, the construction shall proceed without delay until completed, unless the delay is attributable to a cause beyond the control of the lot owner or the contractor.

If construction of a structure has begun and then no work is done on the structure for a continuous period of three (3) months, this shall be prima facie evidence of an attempt to abandon the structure in its partially completed state and the structure shall be deemed to be a public nuisance. In any event, construction of all structures must be completed within one (1) year from the date construction begins.

- 6.15 No dwelling shall be occupied until it has been substantially completed in accordance with the plans and specifications and until a Certificate of Occupancy has been obtained from the Sussex County Planning and Zoning Office and/or other appropriate authorities.

- 6.16 No tree, which has a trunk diameter of eight (8) inches or more, shall be removed from any lot without the prior written consent of the Board unless the tree directly interferes with construction of the dwelling, driveway, garage,

accessory building, or septic system. All tree removal must also meet any Sussex County DE requirements and regulations.

7.0 Plan Review and Approval:

7.1 No dwelling, addition, detached garage, pool, bulkhead, accessory building, or other structure shall be built or placed on any lot in Seawinds subdivision until the lot owner has (a) given the detailed plans and specifications to the Board, and (b) has received written approval from the Board, and (c) has obtained a building permit from the Sussex County Planning and Zoning Office and/or other appropriate authorities.

7.2 In order to insure the development of Seawinds as a residential area of high standards, the Board reserves the power to control and approve all dwellings and other structures, which may be built or placed on each lot. By accepting a deed to a lot or by taking possession of a lot, each owner and/or occupier of a lot covenants and agrees that no dwelling, fence or other structure shall be built or placed on any lot until the plans and specifications have been approved in writing by the Board. Each dwelling, fence or other structure shall be placed on the lot only in accordance with the approved plans and specifications.

7.3 The front of any dwelling shall face toward the road. Owners of corner lots may decide which road their dwelling will face. All dwellings shall be oriented either square to the front road or parallel to either property side line. Dwellings on lots with curved front lines may also be oriented square to the chord of the arc.

7.4 Refusal by the Board to approve any plans and specifications may be based on any grounds, including purely aesthetic grounds, which in its sole discretion are deemed sufficient to refuse approval.

If the Board fails to approve or disapprove plans and specifications within 30 days after the plans and specifications have been delivered to them, then prior written approval shall not be required. However, in no event shall any dwelling, addition, fence, or other structure be built or placed on any lot that violates any of the other Restrictions set forth herein.

7.5 If in the event of a casualty (whether by wind, flood, fire, act of God or man) a dwelling becomes substantially damaged, the owner shall repair or replace the dwelling as soon as practicable, but in any event within one (1) year of the date of the casualty.

8.0 Re-Subdivision Prohibited:

Existing lots in Seawinds may not be re-subdivided, sold, or otherwise alienated into a lesser or smaller parcel without the written approval of the Board and not until a plot of the revision has been approved by the Sussex County Planning and Zoning Office and/or other governmental authorities and recorded with the Recorder of Deeds, Georgetown, Delaware.

9.0 Grading:

The elevation of any lot or land area shall not be changed so as to materially affect its surface grade or to materially affect the surrounding lots or land area without first obtaining the written approval of the Board.

10.0 Utilities:

10.1 All costs of installation, hook-up, and maintenance of any and all utility systems shall be the responsibility of the individual lot owners or the respective utility companies, to include but not limited to: electric, TV and internet cable, telephone, propane, septic and water.

10.2 No outside television antenna shall be permitted on any lot. A radio antenna may be placed on a lot only with the written approval of the Board.

10.3 Water for Seawinds will be supplied by a water supply company that is regulated by the State of Delaware and/or other governmental authorities. Seawinds HOA makes no representations or warranties and assumes no responsibility for the quantity or quality of the water. The water company shall be responsible for the maintenance of the water system within Seawinds. Lot owners shall be responsible for the cost of hooking up their lot to the system and for the water charge as billed by the water company.

10.4 Until a central sewage disposal system is available, each lot shall have its own septic system. Seawinds HOA makes no representations or warranties and assumes no responsibility for the quality, type, or cost of the septic system available to or installed on any lot.

11.0 Nuisances:

11.1 Nothing shall be done or maintained on any lot, land area, or street, which may be or may become a nuisance to the other Members of Seawinds.

11.2 Posted speed limits within Seawinds shall be obeyed, not to exceed 15 mph.

- 11.3 No cattle, horses, swine, sheep, poultry, or goats shall be kept or maintained on any lot in Seawinds. All dogs and cats shall be kept inside; when outside they must be under the control of a custodian or be on a leash. A doghouse or run shall be permitted if it is in the rear of the property behind the dwelling and if it is properly maintained.
- 11.4 No untagged, expired tagged, stripped down, or junk motor vehicle or sizable part thereof shall be permitted to be parked on any lot or any street within Seawinds. In addition, no major motor vehicle repair may be done on any lot or any street within Seawinds.
- 11.5 No outside toilet shall be constructed or maintained on any lot. This shall not prohibit placement a self-contained toilet, of the Johnny-on-the-spot type, provided that is maintained in an odor-free condition and that it remains on the lot only during periods of active construction or social event, and with the Board's permission.
- 11.6 No gun of any type or description may be used or discharged within Seawinds. No gun shall be carried into Seawinds except to and from hunting or target areas outside the confines of the subdivision.
- 11.7 No self-propelled motorized vehicle of any kind, including but not limited to motorbikes, mopeds, or go-carts, shall be driven on any street in Seawinds unless that 'vehicle' is duly licensed to operate on the streets of the State of Delaware, and only if it is driven by a person duly authorized to operate it.

No self-propelled motorized vehicle or motor vehicle shall be driven on the common areas of Seawinds at any time.

12.0 Trash & Recyclables - Storage & Pick-up:

- 12.1 No trash, ashes, garbage, or other refuse shall be dumped, stored or accumulated on any lot in Seawinds. Trash may not be burned on any lot. However, subject to governmental safety regulations and codes, leaves and brush may be burned.
- 12.2 All trash & recycling receptacles must be stored out of common view and may only be placed outside on the designated pick-up day or the evening prior to the day of pick-up service in appropriate containers provided by the Refuse Collection company.
- 12.3 To reduce potential road damage and noise nuisance within the community, and to reduce cost to residents, the Seawinds HOA will limit the trash and recycle pickup and removal service to a single vendor. It is hereby stipulated that a single

Refuse Collection company will be selected by the Board to provide this service to all Seawinds HOA Property Owners that choose to retain this service. Trash and recycle service will be in compliance with State Law or Local Code requirements. This Covenant is applied as follows:

- (a) The Board will select a Refuse Collection company that will ensure quality service for the Seawinds HOA.
- (b) All property owners desiring to use a Refuse Collection company are required to use the company selected by the Board.
- (c) New property owners are to contact a Board member for the point of contract for the selected company.
- (d) This is applicable only to property owners desiring to use a Refuse Collection service.
- (e) All property owners using the selected Refuse Collection service are individually responsible for their financial obligation for the service. Also, any issues should be addressed directly with the Refuse Collection company.

13.0 Vehicles and Parking:

13.1 No vehicle shall be habitually parked on any street, but shall be parked in the driveway of the lot.

13.2 No commercial-type vehicles, trucks, trailers or vehicular equipment shall be habitually or regularly parked on any street or any lots within Seawinds, unless parked in a garage. (For the purposes of this restriction, a ¾ ton van or small vehicle commonly known as a pick-up truck shall not be deemed to be a commercial vehicle or truck.)

13.3 Boats, motor homes, and campers shall be stored either in a garage or behind the front building line of the dwelling.

13.4 The regular or habitual violation of these parking regulations shall be deemed a violation of the use and nuisance Restrictions of this Declaration.

14.0 Maintenance:

14.1 Roads: The Seawinds HOA shall maintain the roads within Seawinds. Neither the State of Delaware nor Sussex County shall at any time have any

responsibility for the maintenance of the roads. Funds for maintenance will come from a portion of the HOA Dues, set aside into a reserve fund for this purpose.

14.2 Grass: Individual owners of lots in Seawinds do hereby covenant and agree to be responsible for the appearance of their lots by cutting grass and brush to the adjacent paved roads and by removing trash and rubbish at all reasonable times. Grass shall not be allowed to reach a height in excess of 6 inches.

14.3 Lot maintenance: If a lot owner fails to maintain the appearance of a lot, the Board reserves the right and privilege to enter onto any improved or unimproved lot for the purpose of maintaining the appearance of the lot. The cost of the maintenance shall be borne by the owner(s) of that lot. The obligation of a lot owner to maintain their lot extends to all aspects of appearance of the lot, including the appearance of all improvements thereon.

14.4 Common Areas: The Seawinds HOA shall maintain all common areas other than the common areas maintained by the water supply company.

14.5 Boat Docking Structures: The Seawinds HOA shall maintain the community boat docking structure of the Marina and Pier. Individual boat slips (finger piers and pilings) are privately owned by individual Members. Maintenance and the cost thereof for these private slips is the responsibility of the individual owners.

15.0 Assessments and Costs:

15.1 New Owner Fee: Each New Owner of a property within Seawinds is to pay to the Seawinds HOA an assessment equal to that year's annual HOA Dues. This amount shall be shown on the settlement sheet as an expense to the buyer and shall be paid at settlement to the Seawinds HOA.

15.2 HOA Dues: In addition to the New Owner assessment referred to above, there will be an annual assessment, known as the "**HOA Dues**", collected from each property owner of the Seawinds HOA each calendar year.

15.3 This annual assessment is for the purpose of doing business and meeting all financial obligations of the Seawinds HOA as a legal entity, and to maintain and improve the common areas within Seawinds, to include but not limited to the common areas of the Entrance, the Roads and the Pier.

15.4 The amount of the HOA Dues is set by the Board annually and may be adjusted as both current and future expenses dictate. The amount of the annual assessment is available from any member of the Board.

15.5 A Lien will be filed with Sussex County recording a Statement of Assessments Due with the Recorder of Deeds in Georgetown, Delaware. In addition to the HOA Dues and the monthly Late Fees, the cost of both filing the Lien with Sussex County will be billed and payable to the Seawinds HOA.

15.6 If additional legal action is necessary to collect a delinquent assessment, court costs and reasonable legal fees shall be added to and become a part of any court award or judgment rendered to the Seawinds HOA.

15.7 Dissolution: If for any reason it becomes necessary for the Seawinds HOA to dissolve, all monies in the treasury will be refunded equally to each Member of Seawinds by the Treasurer after payments of all outstanding debts are paid. The profits from the sale of any assets are to be included in the distribution.

16.0 Vehicular Access:

Vehicular access to all lots shall be from interior roads only.

17.0 Common Areas:

17.1 The record plots of the subdivision contain:

(a) Community Wells in a parcel of land along Falling Point Road: For safety reasons, lot owners shall not have access to or use of this common area. The company supplying the water to Seawinds must be consulted regarding use of this area by the Seawinds HOA or its Members.

(b) Access to the Pier and Indian River Inlet: A strip of land 30 feet wide running from Baywinds Court to Stump Creek and then along Lot 17 to the boundaries of the subdivision shall serve as community access to the pier and water for use by the Seawinds HOA and their Guests.

17.2 The Seawinds HOA may, at its expense, expand or modify the boat dock structure to include additional slips for the use of individual lot owners or the Seawinds HOA, but not for the general public. The Seawinds HOA Marina and Pier will be governed by rules set by the Board and Pier Chairman, found in the Attachments at the end of this document.

17.3 No boats or boat trailers shall be parked or stored on any of the common areas.

18.0 Wetlands:

Wetlands on individual lots shall not be removed, destroyed, or altered in any way without legal authority. No temporary or permanent walkways, piers, boat ramps or other structures (including duck blinds) shall be placed, installed, or constructed over any wetlands. This restriction has been adopted in accordance with the requirements of the DNREC as a condition of Wetlands Permit Application WL 3103-03. This restriction may not be amended without the consent of the DNREC.

19.0 Boat Docking Structures:

Access to navigable waters is limited to the Seawinds HOA community Marina and Pier. Lot owners shall not be permitted to place, install or construct any walkway, pier, dock, boat ramp or other boat docking structure on or from their lot without legal authority. This restriction has been adopted in accordance with the requirements of the DNREC as a condition of Subaqueous Lands Permit Application SL 3203-93. This restriction may not be amended without the consent of the DNRC.

20.0 Golf Carts:

The use of Golf Carts within Seawinds is subject to the following rules and regulations for the purpose of maintaining a safe environment within the Seawinds community. Always keep in mind that the Seawinds roads are shared by all, including motorized vehicles, golf carts, motorized bikes, bicycles, skate boarders and pedestrians, including children and pets.

- 20.1 Only Electric Golf Carts approved by local, State or Federal regulations or competent recognized authority may be operated within Seawinds.
- 20.2 Seawinds Property Owners are allowed only one Golf Cart per Property lot.
- 20.3 The only source of power allowable for Golf Carts will be battery power.
- 20.4 Only Seawinds Property Owners who are legally licensed to drive a motorized vehicle are allowed to operate a golf cart within Seawinds. Legally licensed Guests, with the Property Owners permission, are also allowed to drive the allowed Golf Cart within Seawinds, and are expected to follow all rules & regulations governing the use thereof.
- 20.5 The posted speed limit of 15 mph will be adhered to by the Operator of the Golf Cart. Additionally, the Golf Cart must be operated in safe manner at all times.
- 20.6 Headlights must be used during hours of darkness.

- 20.7 When not in use, Golf Carts will be kept out of view from the streets within Seawinds.
- 20.8 Any non-operable Golf Cart must be kept inside a garaged area or out of sight.
- 20.9 Golf Carts will be maintained in a safe, operational and clean manner during use within Seawinds.
- 20.10 Only the manufacturer's recommended number of Golf Cart passengers are allowed to ride on the Golf Cart.
- 20.11 Anyone using a Golf Cart must sit in the designed seat for that purpose; no passenger is allowed to hang off the back, front, top or side of the Golf Cart.
- 20.12 Towing of any type of vehicle, wagon, bicycle or pedestrian by the golf cart is **not** allowed.
- 20.13 All Property Owners are responsible for any violation of the rules of operation of their Golf Cart, and for any damage or injury caused during the operation of their Golf Cart.
- 20.14 Use of a Golf Cart within Seawinds is a privilege, not a right. This privilege can be revoked or suspended with cause for non-compliance of stated rules & regulations. Additionally, all Covenants in regard to penalties will apply for misuse of a Golf Cart.
- 20.15 All Seawinds Property Owners and their Guests operating a Golf Cart within Seawinds shall hold harmless the Seawinds Home Owners Association, its Directors and all individual Property Owners for damages or injury caused by the use or misuse of their Golf Cart within Seawinds, and shall assume full responsibility for their actions.
- 21.0 Enforcement:
- 21.1 The Seawinds HOA or any lot owner to whose benefit these Restrictions inure may proceed at law or in equity to prevent the occurrence or continuation of a violation of any of these Restrictions. The court in any such action may award the successful party reasonable expenses in prosecuting the action, including witness fees, court costs, and reasonable legal fees.
- 21.2 The remedies specified in this Declaration are cumulative and the delineation of them shall not be taken to preclude any aggrieved party from resorting to any other remedy at law or in equity or under any other statute. The delay or failure on the part of an aggrieved party to invoke any available remedy in respect to a

violation of any of these Restrictions shall not be held to be a waiver against that party or an estoppel of that party to assert any available right upon the reoccurrence or continuation of the violation or the occurrence of a different violation.

22.0 Covenant Violation – Notification, Penalty and Appeal Procedures:

22.1 Any member of the Seawinds HOA may submit to the Board a written ‘notice of violation’ citing non-compliance of the Seawinds Covenants by any other member of the Seawinds HOA or by the Board of Directors itself.

22.2 The Board will investigate all written complaint notices within five (5) business days of receipt to determine the merits of the complaint.

22.3 If a majority of the Board finds there has been a violation of the Covenants, the following steps will be enacted:

(a) First Offense: A Written Warning sent to the violator by Certified mail outlining the offense and the timeframe allowed for compliance.

(b) Second Offense or non-compliance following the Written Warning: A fine of \$50 to \$200

(c) Third & subsequent Offenses or continued non-compliance: A fine of \$200 to \$1000

(d) In addition to the penalties assessed for non-compliance and/or non-payment of penalties, a lien may be filed with Sussex County recording a Statement of Assessments Due with the Recorder of Deeds in Georgetown, Delaware.

22.4 The appellant may appeal the judgment of the Board by submitting a letter of appeal within five (5) business days following written receipt of the Board’s decision. Appeals will not be honored if these procedures are not followed.

22.5 The Board will meet with the appellant to discuss the appeal. Immediately following this meeting, the Board will meet with itself to determine the merits of the appeal, and will notify the appellant of its findings within five (5) days of this meeting, by Certified mail.

23.0 Disclaimers:

Nothing contained in this Declaration shall be construed so as to impose any liability on the Seawinds HOA, its successors, or its assigns for any property damage

and/or personal injury which is suffered by any person because of the construction, maintenance, or use of the roads, easements, common areas, or any land or water area in Seawinds. All people who use the roads, easements, common areas, or any land or water area in the subdivision SHALL DO SO AT THEIR OWN RISK without any liability on the part of the Seawinds HOA, the Board, its successors, or its assigns.

24.0 **Seawinds Marina and Pier - Rules and Regulations**

24.1 **Purpose:**

Guidelines for the use of the Seawinds HOA Marina & Pier (Marina/Pier) are described below for the purpose of defining its safe use, maintenance, and longevity for the enjoyment of all Members of the Seawinds HOA and their Guests.

24.1 - 1.0 **Authority / Responsibility:**

1.1 A **Pier Chairman**, appointed by the President, is charged with oversight over all aspects of the Marina/Pier's use and maintenance, and will work closely with the Board on all issues.

1.2 A **Pier Committee** may be established by the Pier Chairman, selected from Members of the Seawinds HOA to assist as needed.

- (a) The Pier Committee is responsible for ruling on all matters that exclusively pertain to the Marina/Pier, including these Rules and Regulations.
- (b) The Pier Committee is responsible for managing the safe operation of the Marina/Pier and the presence of operable safety equipment and lighting, and the availability of water and electricity, as well as its maintenance and repair.
- (c) The Pier Committee will submit to the Treasurer and the Board an annual assessment of the expected repairs and maintenance for the upcoming year. This should be completed by the end of the fiscal year.
- (d) The Pier Committee will coordinate the repairs to the Marina/Pier in conjunction with the Board.

1.3 **Members of the Seawinds HOA** are requested to assist the Pier Committee by identifying to them any items needing repairs, by participating in pier work parties, by making minor repairs as necessary and by assisting in the security and safety of the Marina/Pier and any watercraft on-site.

- (a) Members of the Seawinds HOA will hold harmless the Seawinds HOA and its Board from any liability for bodily harm, loss or damage to person or property while at the Marina/Pier.
- (b) Members of the Seawinds HOA and their Guests are responsible for any and all damage caused by them to the Seawinds HOA Marina/Pier and property thereon. They shall be liable for any and all bodily harm caused by their actions or inactions within the Marina/Pier.

24.1 - 2.0 **Guidelines for Use of the Marina/Pier:**

2.1 **CAUTION:** The sign posted at the entrance gate that ‘*Use of the pier is solely at your own risk*’ is satisfactory notice of potential danger inherent in the use of this Marina/Pier, thus complying with all insurance regulations.

2.2 **Structural Improvements, Modifications or Alterations** to boat slips or the finger piers are not allowed without prior consent from the Pier Chairman.

2.3 **Users of electrical and water utilities** on the Marina/Pier will ensure that hoses and electrical extension cords do not contribute to unsafe conditions. Electrical cords and Water hoses should be coiled neatly at all times. All water faucets will be turned off after use and electrical covers closed to maintain good working order.

2.4 **Littering or Damaging** of the Marina/Pier or the waters surrounding it may result in a personal penalty assessment by the Board.

2.5 **Marina/Pier Lighting** will be turned on dusk to midnight, from April 1st to November 1st. For cost savings, the lighting will be turned off during the winter months. Seawinds Property Owners wishing to extend that timeframe must have approval from a Pier Committee member.

24.1 - 3.0 **Crabbing & Fishing:**

3.1 **All Crab Traps/Pots** must be identified with the Owner’s Name and Lot Number or Address.

3.2 **DNREC Regulations on Crabbing** must be complied with in the Marina/Pier. Crab Traps/Pots must include the use of Turtle Rings. Size and maturity regulations must be complied with.

3.3 **Members and Guests** are limited to 2 Crab Traps/Pots per lot.

3.4 **Traps/Pots may NOT be used** in the Breakwater Section of the Marina/Pier.

3.5 **Empty (not in use) Traps/Pots** are NOT allowed on the pier or hanging from a piling when not in use. They are to be moved to the Storage Area designated on the west side of the Marina/Pier, or removed altogether.

3.6 **Traps/Pots may be set in public areas** within the Marina/Pier, and in one's personally owned or legally rented slip. However, they may not be set in a privately owned slip without the slip owner's permission.

3.7 **Traps/Pots NOT in Compliance** with DNREC's or Seawinds design, use or storage regulations will be removed and discarded by the Pier Committee, and owners will not be reimbursed for the loss.

24.1 - 4.0 **Boating:**

4.1 **The Breakwater Section** may be used for loading and unloading only. Boats are not allowed to be left unattended at this location, unless approved by a Pier Committee member.

4.2 **Use of the Community Slip** is for temporary docking on a first-come first-served basis. Seawinds Property Owners desiring use of the Community slip overnight, or for extended stays must contact a Pier Committee member for approval.

4.3 **Only Members of the Seawinds HOA** or their Guests are permitted to moor boats at this Marina/Pier.

4.4 **Installation of Electrical Services** at an owner's slip shall require approval of the Pier Chairman and the Board, and the slip owner shall first pay to the Seawinds HOA, a one-time electrical impact fee of \$585.00 to tie in to the Seawinds HOA electrical panel box.

4.5 **Registration, Numbering and Marking** of undocumented vessels equipped with any type of motor must be registered in Delaware. The registration card or valid temporary registration card must be made available to the Pier Committee.

4.6 **The Insurance Certificate** for any boat/s utilizing the Marina/Pier will be supplied to the Pier Committee each year prior to use.

24.1 - 5.0 **Marina/Pier Rules and Regulations - Compliance and Changes:**

5.1 **These Marina/Pier Rules and Regulations** will be adhered to by all boat owners and enforced by the Pier Chairman and the Board of Directors.

5.2 **The Marina/Pier Rules and Regulations** outlined herein are subject to change at the recommendation of the Pier Chairman, and upon approval by the Seawinds Board of Directors.

24.1 - 6.0 **Emergency Contact Numbers:**

USCG National Response Center, EPA	800-424-8802
DNREC Emergency Response Team	800-662-8802 302-739-9404 302.739.5072
Millville DE VFD	302-539-7557
DE State Fire Marshall	800-739-5665