

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

DECLARATION OF RESTRICTIVE
COVENANTS OF ISLAND QUAY SUBDIVISION

These Restrictive Covenants made this 21st day of November, 1988, by ISLAND QUAY ASSOCIATES, INC. (hereinafter referred to as "Declarant").

THAT WHEREAS, Declarant is the owner of that certain tract or parcel of land in Morehead Township, Carteret County, State of North Carolina, designated as Island Quay Subdivision, a subdivision set out in the Map recorded in Map Book 26, at page 93, hereinafter referred to as "plat", Office of the Register of Deeds, Carteret County; and

WHEREAS, it is desired that the property constituting said subdivision be made subject to certain covenants and restrictions for the benefit of the said Declarant and successors in title to Declarant such that the subdivision will be developed in a uniform manner to the benefit of all present and future owners.

IT IS THEREFORE provided that said real property known as Island Quay Subdivision, as recorded in Map Book 26, at Page 93, Carteret County Registry, be made subject to, and the same is hereby made subject to, the following covenants, restrictions, and conditions, to wit:

1. Association.

a. A corporation (hereinafter referred to as "Association") named Island Quay Owners Association, Inc. has been or will be formed pursuant to the rules and requirements of the Nonprofit Corporation Act (Chapter 55A) of the General Statutes of North Carolina as an association of the owners of lots. Its purposes are to own, manage, maintain, and operate the common areas and to enforce the restrictions contained herein, in addition to the powers given it in the Article of Incorporation and By Laws.

b. "Lot" shall mean the separately numbered parcels depicted on the above-mentioned map. Provided, however, that the owner of all of a numbered parcel on said map may combine with such numbered parcel, parts or portions of another numbered parcel or parcels and the aggregate shall be considered as one "Lot" for the purposes of these restrictive and protective covenants and conditions.

c. Each owner of each lot within the subdivision shall be a member of the Association. The Declarant, by this Declaration, and the owners of individual lots by their

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acceptance of individual deeds thereto, covenant and agree with respect to the Association:

i) That for so long as each is an owner of a lot within the subdivision, each will perform all acts necessary to remain in good and current standing as a member of the Association;

ii) That each shall be subject to the rules and regulation of the Association with regard to ownership of a lot; and

iii) That any unpaid assessment, whether general or special, levied by Association in accordance with these restrictions, the Articles or the By-Laws shall be a lien upon the lot upon which such assessment was levied, and shall be the personal obligation of the owner of the lot at the time the assessment fell due.

d. The Association shall have one class of members who shall all be owners. Each member shall be entitled to one vote for each lot owned; provided, however, when more than one person holds an interest in any lot, all such persons shall be members and, the vote for such lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote or any fraction of a vote be cast with respect to any lot.

e. Management and Administration. The management and administration of the affairs of the common areas of the subdivision shall be the right and responsibility of the Association. The management shall be carried out in accordance with the terms and conditions of these restrictions, the Articles and By-Laws of the Association, but may be delegated or contracted to managers or management services.

f. Community Expenses. The community expenses of the subdivision include:

i) All amounts expended by the Association in operating, administering, managing, repairing, replacing and improving the common areas of the subdivision, as defined in Section 11 herein; all amounts expended by the Association in insuring the common areas in the subdivision; all amounts expended by the Association in legal, engineering, or architectural fees; all similar fees which may be incurred by the Association from time to time in performing the functions delegated to the Association by these restrictions; all amounts expended by Association pertaining to the sewage treatment plant and facilities, as provided in paragraph 17. herein; and all

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amounts expended in any form by the Association in enforcing these restrictions, the Articles or the By-Laws.

ii) All costs expended in maintaining, repairing, replacing and improving the ten (10') foot planting buffer located along the eastern boundary of the property south of Fort Macon Road and along the southern boundary of the property located north of Fort Macon Road, both as shown on Plat.

iii) All amounts expended for utilities, including subdivision lighting, for the benefit of the common areas.

iv) All taxes and special assessments which may be levied from time to time by any governmental authority upon the common areas in the subdivision.

g. Annual General Assessment. The annual general assessments levied by the Association shall be used exclusively to improve, maintain and repair the common areas, to pay the expenses of the Association, to pay the community expenses, to pay the cost of lighting the common areas, to pay the cost of any insurance the Association determines to purchase and to promote the recreation, health, safety and welfare of the members and to pay taxes levied upon the common areas.

Each lot owner of any lot by acceptance of a deed for same, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association an annual general assessment and a sewage treatment assessment as herein provided. The annual general assessment and sewage treatment assessment, together with interest, costs, and reasonable attorneys' fees, shall be a charge and lien on the land and shall be a continuing lien on the property against which each such assessment is made. Additionally, lot owners shall be personally liable for payment of the assessment, and such liability shall continue after transfer of the lot to third parties. The annual general assessment as of the date of the execution of this Declaration of Covenants, is \$216.00 per lot, as lots are shown on plat, and shall cover January 1, 1989 through December 31, 1989. THIS ASSESSMENT DOES NOT INCLUDE THE ASSESSMENT FOR SEWAGE TREATMENT AS PROVIDED IN THOSE RESTRICTIONS RECORDED IN BOOK 579 AT PAGE 352, CARTERET COUNTY REGISTRY. THE SEWAGE TREATMENT ASSESSMENT WILL BE IN ADDITION TO THE ABOVE ASSESSMENT AND MUST BE PAID WHETHER LOT HAS THE NEED FOR SEWAGE TREATMENT OR NOT.

From and after December 31, 1989, the maximum annual general assessment may be increased each year by the Board of Directors of the Association not more than twenty percent (20%) above the assessment for the previous year without any vote of the membership. Annual general assessment increases of more than

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twenty percent (20%) may be changed only by a vote of two-thirds (2/3) of the members of the individual lots of the subdivision voting in person or by proxy at a meeting called for this purpose and after thirty (30) days' notice to lot owners. For purposes of this section the presence of 51% of the lot owners at the meeting, in person or by proxy shall constitute a quorum.

The annual assessment for sewage treatment as mentioned above may be changed on an annual basis and this change shall not require the approval of the lot owners as mentioned above but shall only change as allowed in the Restrictions, Articles of Incorporation and the By-Laws of SVU. Beginning January 1, 1989, the assessment for sewage treatment will be added to the Annual General Assessment to arrive at a total Sewage and General Assessment fee which will be collected as provided in this Declaration, and the Declaration of Restrictions as recorded in Book 599 at Page 350

h. Lien for Assessments. Any general, sewage, or special assessment, if not paid within thirty (30) days after the date such assessment is due, together with interest at the rate of eighteen percent (18%) per annum, costs of collection, court costs, and reasonable attorneys' fees shall constitute a lien against the lot upon which such assessment is levied. The Association may record notice of the same in the Office of the Clerk of Superior Court of Carteret County or file a suit to collect such delinquent assessments and charges. The Association may file a Notice of Lis Pendens, bring an action at law against the owner personally obligated to pay the same and/or bring an action to foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein.

The lien, as provided for herein, shall be subordinate to the lien of any mortgages or deeds of trust. Sale or transfer of any lot shall not affect the assessment lien provided for herein. However, the sale or transfer of any lot which is subject to any mortgage or deed of trust pursuant to a foreclosure proceeding, shall extinguish the lien of such assessment as to the payment which became due prior to such sale or transfer, but shall not extinguish the personal liability of the owner at the time the assessment fell due. No such sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for shall continue to be subordinate to the liens of any mortgages or deeds of trust.

i. Compliance. In the case of failure of a lot owner to comply with the terms and provisions contained in this

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Declaration, the Articles or the By-Laws of the Association, the following relief shall be available:

1) The Association, an aggrieved lot owner or owners within the subdivision on behalf of the Association, or any lot owner on behalf of all the lot owners within the subdivision shall have the right to bring an action and recover sums due, damages, injunctive relief, and/or such other and further relief as may be just and appropriate, including recovery of reasonable attorneys fees.

2) The Association shall have the right to remedy the violation and assess the costs of remedying same against the offending lot owner as a special assessment.

3) If the violation is the non-payment of any general, sewage, or special assessment, the Association shall have the right to suspend the offending owner's voting rights and the use by such owner, his agents, employees and invitees of the common areas in the subdivision for any period during which an assessment against the lot remains unpaid.

4) The remedies provided by this paragraph 1. are cumulative, and are in addition to any other remedies provided by law.

5) The failure of the Association or any person to enforce any restriction contained in these restrictions, the Articles or By-Laws shall not be deemed to waive the right to enforce such restrictions thereafter as to the same violation or subsequent violation of similar character.

j. Declarant Control. The Declarant shall elect the Directors of the Association until such time as the Declarant owns less than five (5) lots within the subdivision or December 31, 1993, whichever event occurs first. Thereafter, all owners of lots in the subdivision shall be entitled to one (1) vote for each lot owned in the election of the new Board of Directors, as further provided in the Articles of Incorporation and the By-Laws of the Island Quay Owners Association, Inc.

2. Property Rights of Lot Owner, Cross Easements, and Exceptions and Association Rights.

a. Every owner of a lot within the subdivision, as an appurtenance to such lot, shall have a perpetual easement over and upon the common areas within the subdivision for each and every purpose or use to which such common areas are generally used. Such easement shall be appurtenant to and shall pass with the title to every lot located within the subdivision, whether or

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not specifically included in a deed thereto, subject to the following provision:

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

b. The Association hereinafter may grant easements for utility purposes for the benefit of the subdivision and the lots now or hereafter located thereon, over, under, along and through the common areas. Provided, however, that no such grant of easement shall have material adverse effect on the use, enjoyment or value of any lot.

3. Amenities and Facilities. Every park, recreation area, recreation facility, dedicated access and other amenities appurtenant to the subdivision, whether or not shown and delineated on any recorded plat of the subdivision, shall be considered private and for the sole and exclusive use of the owners of lots and their invited guests within the subdivision. Neither developer's execution nor the recording of any plat nor any other act of developer with respect to such areas is, or is intended to be, or shall be construed as a dedication to the public of any such areas, facilities or amenities.

4. Land Use and Building Type. No lot shall be used except for residential purposes. No building or structure shall be erected, altered or permitted to remain on any lot other than a detached single family dwelling, and a private garage. Said garage may be detached. Before construction, the above mentioned structures must be approved in accordance with paragraph 9., herein.

5. Dwelling Size. The enclosed floor heated area of the main structure, exclusive of porches and garages, (whether open or closed) shall not be less than 1200 square feet. The enclosed floor heated living area of the ground floor on a dwelling of more than one story shall not be less than 700 square feet. Each owner must comply with the restrictions set forth in paragraph 6., below, concerning storm water run off.

6. Storm Water Run-Off Control. In order to comply with the Coastal Storm Water Regulations of the State of North Carolina, Department of Natural Resources and Community Development and Division of Environmental Management, each lot owner will have a specific "built-upon area" on the lot which improvements can be made. "Built-upon area" means that portion of an individual development lot that is covered by impervious or partially impervious cover, including buildings, pavement, driveways, recreation facilities, etc., but not including uncovered decking. Each lot within this subdivision shall be

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limited to 1817 square feet "built-upon area": EXCEPT lots 33 and 34 shall be limited to 2000 square feet "built upon area" and lots 32 and 35 shall be limited to 2500 square feet "built upon area". Prior to building, the applicant must certify to the Architectural Control Committee, that its "built-upon area" will not exceed the square footage mentioned above. Said assurances shall be made by the submittal of appropriate plans, drawings, maps, etc. to the Architectural Control Committee. In addition to all lot owners of the subdivision being beneficiaries of this covenant, the State of North Carolina shall also be a beneficiary of this storm water run-off covenant and shall be given all rights as an individual homeowner under this covenant, to enforce the above restrictions, including the right to bring a court action at law or in equity seeking damages or an injunction to prohibit the violation hereof.

7. Building Location. No building or structure, as allowed by paragraph 4. above, shall be located on any lot nearer to the front, side or rear lot lines than the minimum building set-back areas shown or described on the recorded plat, except, the minimum set back areas for lot 11 shall be as follows: front-20 feet; side-10 feet; rear-5 feet. For the purpose of this covenant, eaves and steps shall not be considered a part of the building, provided however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

8. Easements.

a. Drainage, Utility and Other Easements: Easements for the installation and maintenance of utilities are reserved as shown on the plat of said subdivision. Declarant reserves the right to subject the real property in this subdivision to a contract with Carolina Power and Light Company for the installation of underground electric cables and street lighting which will require a continuing monthly payment for street lighting, which said payment shall be the responsibility of the Association. There is also a ten foot (10') Planting Buffer Easement reserved in favor of the Association as shown on the plat. There also exists a twenty foot (20') easement reserved along the western boundary of the property from Fort Macon Road to the ocean for access in favor of third parties. Lots 48, 49 and 50 shall be subject to a waterline easement as recorded in Book 595 at Page 313.

9. Architectural Control Committee. An Architectural Control Committee shall be formed consisting of the Board of Directors of the Association. The Board may appoint a committee to act as Architectural Control Committee if it so desires.

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a. Responsibility of the Committee. The committee shall review and approve building plans as provided herein. No building, as allowed by this document, nor fences, kennels or other structures shall be erected, placed or altered on any lot, nor shall any construction take place on any lot until the construction plans and specifications have been approved by the committee. The plans shall show the location of the building and improvements to be made and shall be prepared in a professional manner.

The committee will review and shall approve the plans and specifications if the proposed improvements meet all of the requirements of these covenants and, if in its opinion, the exterior appearance and location of the improvements will be visibly compatible with other development in the subdivision or, at a minimum, will not be detrimental to future property sales or surrounding property value. No architectural "style" or materials will be excluded; however, all materials, features, and styles must be, in the opinion of the committee, professionally and aesthetically acceptable. By acceptance of a Deed, purchasers agree that the actions of the committee are in the best interests of all owners within the subdivision and that they will abide by the decisions of the committee. Declarant, the committee, or other owners may seek injunctions to compel compliance with committee decisions, or damages resulting from failure to act in accordance with directions of the committee. The committee shall approve or disapprove plans within thirty (30) days of receipt thereof, and in the event the committee fails to approve or disapprove same within thirty (30) days, approval, for purposes of this paragraph, shall be deemed to have been given. It shall be each individual lot owner's responsibility to provide the committee with the above mentioned plans prior to commencement of any construction.

10. Subdivision or Dividing of Lots. An owner of two (2) or more adjoining lots may construct a dwelling and/or other structures permitted hereunder upon and across the original dividing line of such adjoining and continuous lots, all such structures to comply with the minimum building set-back lines from the new outside boundary lines of the subject owner's property. No lot, as shown on the subdivision plat, shall be subdivided unless the segments of the subdivided lot shall be recombined with another lot so as to create larger lots and also, such that the aggregate number of lots in the subdivision is not increased. The buildable area of combined lots shall then be equal to the sum of the buildable area of the lots before they were combined, but in no event shall the total "built-upon area" of the subdivision exceed the total "built-upon area" that exists as provided in Paragraph 6. of this Declaration.

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11. Common Areas. The common areas of the subdivision shall be defined as follows:

a. Entrance signs, security gates and the property upon which they are located as shown on plat unless it is street right of way. Except that the entrance walls located on Lots 16 and 50 shall be common property, however, the land they are located upon shall be owned by the lot owner upon which they are located. The owner grants an easement to the Association for repair and maintenance of said walls and lot owner shall take title subject to the structures and easements upon the property.

b. Common area lighting and subdivision street lighting.

c. Pool, associated building, equipment and the land upon which they are located as shown on plat.

d. Walkways and beach access areas as constructed by Declarant and as shown on plat.

e. Irrigation system as installed by Declarant for watering of planting buffer and the common areas of the subdivision.

f. Streets and rights of way, as shown on plat.

g. That property located east of Lot 35 and shown on plat, as common area.

h. That property shown as "access to common area" (which is the driveway and entrance to the pool) on plat.

i. All other property shown as "common area" or "walkway" on the plat.

j. Any areas the Association determines to be common area in the future.

12. No animals shall be kept on the property save and except normal house pets. No pets may be kept, bred or maintained for any commercial purposes. Such pets shall be kept confined at all times in the rear yard within an approved enclosure if not inside the residence, and at no time shall said pets be allowed to roam free. Pets must be on a leash when not confined in an approved enclosure.

13. Driveways. All lot driveways must be concrete. A lot owner may use other material only upon first obtaining the written approval of the Architectural Control Committee.

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14. Prohibition of Nuisance. No noxious or offensive activities shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

All recreational equipment and vehicles, including boats, trailers, campers, and other personal property other than operational automobiles must be parked in the side or rear yard of the property and behind the front wall of the residence. No parking shall be allowed along any street in the subdivision.

Clotheslines shall be limited to the rear yard area. Satellite dishes must be approved by the Architectural Control Committee to ensure that they are suitably screened from view. Unlicensed recreational vehicles shall not be allowed to operate on the streets of the subdivision.

14. Outbuildings and Mobile Homes. No "non-house" of any character, including, but not limited to, trailers, recreational vehicles, tents, shacks, garages, barns, and the like shall be used on any lot as a residence either temporarily or permanently. For purposes of this paragraph the term "trailers" shall include trailers, mobile homes, and what is commonly known as "double-wide" trailers or mobile homes. No outbuilding of any character shall be constructed or placed on any lot without the approval of the Architectural Control Committee.

15. Term. These covenants are to run with the land and shall be binding on all parties and all persons, including Declarant and all persons claiming under them for a period of twenty-five (25) years from the date of recording of these covenants, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change those covenants in whole or in part.

16. Lot Appearance. Each lot owner shall keep the lot mowed and weeds cut regularly. Grass shall not be allowed to be more than four (4") above ground level. Lots shall be kept clear of all unsightly objects and debris. All lot owners shall be required to dispose of waste as provided by the Town of Atlantic Beach and pay for such services if there is a fee. All exterior garbage cans shall be screened in such a manner so as not to be visible from adjacent lots.

17. Sewage Treatment Plant Master Association. All lot owners, upon acquiring title, shall become members through the owner's association of that master association known as "Sands Villa Utilities, Inc." and shall be bound by the terms and conditions of that certain Declaration of Restrictions as

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recorded in Book 599 at Page 350, Carteret County Registry, concerning the provision and payment for sewage treatment to the lots in the subdivision.

18. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which provisions shall remain in full force and effect.

19. Amendment to Declaration. Except for an increase in the Annual General Assessment by more than 20%, this Declaration may be amended by an instrument executed by not less than fifty-one percent (51%) of the lot owners in the subdivision the amendment must be recorded in the Carteret County Registry to become effective. For purposes of this paragraph the term "lot owner" shall mean and refer to an entity which owns one or more lots in the subdivision. For purposes of this section, each lot owner shall receive one (1) vote for each lot owned.

IN TESTIMONY WHEREOF, the parties hereto have hereunto set their hands and seals, this 21st day of November, 1988.



ISLAND QUAY ASSOCIATES, INC.

BY: [Signature]

[Signature]

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

I, a Notary Public of the aforesaid County and State, do hereby certify that Troy D. Henry, Jr. personally appeared before me this day and acknowledged that he/she is Secretary of ISLAND QUAY ASSOCIATES, 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

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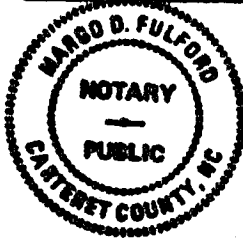
by its _____ President, sealed with its corporate seal and
attested by himself/herself as its _____ Secretary.

WITNESS my hand and official stamp or seal, this the 21st
day of November, 1988.

Margo D. Fulford
NOTARY PUBLIC

My Commission Expires:

09-17-90



R/4: Island. Dec

4:30 PM

NORTH CAROLINA, CARTERET COUNTY

The foregoing certificate(s) of Margo D. Fulford
is (are) certified to be correct. This instrument was pre-
sented for registration and recorded in this office in
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This 21 day of Nov., 1988 at 4:25 O'clock P.M.

Sharon Finer

Register of Deeds

By Sharon Finer
Assistant, Deputy

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