

BYLAWS OF  
SAPONAS POINT HOA, INC.

ARTICLE 1. INTRODUCTION

These are the Bylaws of Saponas Point HOA, Inc. Capitalized terms used herein shall have the meaning set out in the Declaration of Covenants, Conditions and Restrictions for Saponas Point HOA, Inc. (the "Declaration") unless otherwise defined in these Bylaws.

ARTICLE 2. BOARD OF DIRECTORS

Section 2.1. Number and Qualification

a. The administration of the Property and the Association shall be governed by a Board of Directors, consisting of not less than three nor more than seven persons, each of whom shall be Members of the Association, except those Directors appointed by the Declarant; the Declarant may appoint individuals as Directors who are not Members of the Association. If any Membership is owned by a partnership or corporation, any officer, partner or employee of that Member shall be eligible to serve as a Director and shall be deemed to be a Member for the purposes of the preceding sentence. Directors, except those appointed by the Declarant, shall be elected by the Members. At any meeting at which Directors are to be elected, the Members may, by resolution, adopt specific procedures for conducting the elections not inconsistent with these Bylaws.

b. The Declarant shall have exclusive control of the Board of Directors, and the sole right to name those directors so long as the Declarant owns any lot in Saponas Point or any lot in any subdivision developed out of the property owned by the Declarant adjacent to or within one mile of Saponas Point. After the Declarant has sold all of the lots in those subdivisions, and the Declarant Control Period, if any, has terminated, the terms of at least one-third of the Directors not appointed by the Declarant shall expire annually as established in resolution of the Members setting terms.

c. At any time after Members, other than the Declarant, are entitled to elect a Director, the Association shall call and give not less than 10 nor more than 50 days' notice of a meeting of the Members for this purpose. Such meeting may be called and the notice given by any Member if the Association fails to do so.

Section 2.2. Powers and Duties.

The Board of Directors may act in all instances on behalf of the Association, except as provided in the Declaration, its charter, these Bylaws or the laws of North Carolina. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association in accordance with its Charter, the Declaration and these Bylaws, which shall include, but not be limited to, the powers and duties to:

- a. Adopt, amend and enforce Bylaws and Rules and Regulations;
- b. Adopt and amend budgets for revenues, expenditures and reserves;
- c. Establish and collect Assessments from Members and perform all other acts and duties to be performed by the Association under the terms of the Declaration;
- d. Hire and discharge managing agents, employees and independent contractors;
- e. Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Declaration, Bylaws or Rules and Regulations in the Association's name on behalf of the Association or two or more Members on matters affecting the Property;
- f. Make contracts and incur liabilities, including borrowing money;
- g. Maintain, operate, repair, replace, improve and protect the Common Areas and any Limited Common Areas which are made the responsibility of the Association by the Declaration;
- h. Acquire, hold, encumber and convey in the Association's name any right, title or interest to real estate or personal property (the Declaration may require that the conveyance or encumbrance of Common Area be approved by the Members);
- i. Impose a reasonable charge for late payment of Assessments and, after Notice and Hearing, levy a reasonable fine for a violation of the Declaration, Bylaws or Rules and Regulations of the Association;
- j. Suspend voting and use privileges for late payment of assessments and other violations of the Declaration, Bylaws or Rules and Regulations of the Association;
- k. Provide for the indemnification of the Association's officers and Board of Directors and maintain directors and officers' liability insurance;
- l. Assign the Association's right to future income, including the right to receive Assessments;
- m. Purchase liability insurance;
- n. Purchase hazard insurance;
- o. Exercise any other power that may be exercised in the state by a legal entity of the

same type as the Association;

p. Exercise any other power necessary and proper for the convenience and operation of the Association;

q. By resolution, establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and provide to the Board of Directors and Members records and written notice of their actions. Actions taken by a committee may be appealed to the Board of Directors by a Member within forty-five (45) days of publication of such notice, and such committee action must be ratified, modified or rejected by the Board of Directors at its next regular meeting.

Section 2.3. Standard of Care. In the performance of their duties, the officers and members of the Board of Directors shall be deemed to stand in a fiduciary relationship to the Association and the Members and shall discharge their duties in good faith, and with that diligence and care which ordinarily prudent men would exercise under similar circumstances in like positions.

Section 2.4. Removal of Directors. The Members, by a two-thirds vote of all votes represented by those Members present and entitled to vote at any meeting of the Members at which a quorum is present, may remove any Director of the Board of Directors with or without cause (taking into account that the Declarant as a Member has three votes for each Lot owned in either Saponas Point or Captains Walk at Saponas Point).

Section 2.5. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Members, may be filled at a special meeting of the Board of Directors held for that purpose at any time after the occurrence of any such vacancy, even though the Directors present at such meeting may constitute less than a quorum, in the following manner:

a. As to vacancies of Directors whom Members other than the Declarant elected, by a majority of the remaining such Directors constituting the Board of Directors;

b. As to vacancies of Directors whom the Declarant has the right to appoint, by the Declarant.

Section 2.6. Regular Meetings. The first regular meeting of the Board of Directors following each annual meeting of the Members shall be held within 10 days thereafter at such time and place as shall be fixed by the Members at the meeting at which such Board of Directors shall have been elected. No notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, provided a majority of the Directors shall be present. The Board

of Directors may set a schedule of additional regular meetings by resolution and no further notice is necessary to constitute such regular meetings, except such notice as may be required by the Declaration.

Section 2.7. Special Meetings. Special meetings of the Board of Directors may be called by the President or by a majority of the Directors on at least three business days' notice to each Director. The notice shall be hand-delivered or mailed and shall state the time, place and purpose of the meeting.

Section 2.8. Meetings to Fix Annual Assessments for Capital Improvements. Meetings to fix Assessments may, upon giving of the required notice, be held at the annual meeting or at any special meeting for the Members.

Section 2.9. Location of Meetings. All meetings of the Board of Directors shall be held within New Hanover County, North Carolina.

Section 2.10. Waiver of Notice. Any Director may waive notice of any meetings in writing. Attendance by a Director at any meeting of the Board of Directors shall constitute a waiver of notice. If all the Directors are present at any meeting, no notice shall be required, and any business may be transacted at such meeting.

Section 2.11. Quorum of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the meeting. If, at any meeting, there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any adjourned meeting at which a quorum is present any business which may have been transacted at the meeting originally called may be transacted without further notice.

Section 2.12. Compensation. Directors shall serve without compensation but may be reimbursed by the Association for necessary expenses actually incurred in connection with his or her duties.

Section 2.13. Consent to Association Action. If all of the Directors or all of the committee members of a committee established for such purposes, as the case may be, severally or collectively consent in writing to any action taken or to be taken by the Association, such action shall be a valid Association action as though it had been authorized at a meeting of the Board of Directors or the committee, as the case may be. The Secretary shall file such consents with the minutes of the meetings of the Board of Directors.

### ARTICLE 3. MEMBERS

Section 3.1. Annual Meeting. Annual meetings of the Members shall be held on the date specified in the notice of such meeting. At each meeting, the Directors shall be elected by ballot of the Members. The Members may transact other business at such meetings as may properly come before them.

Section 3.2. Special Meetings. Special meetings of the membership may be called by the President, by a majority of the members of the Board of Directors, or by Members comprising forty percent (40%) of the votes in the Association.

Section 3.3. Place of Meetings. Meetings of the Members shall be held at the Property, or may be adjourned to such suitable place in New Hanover County convenient to the Members as may be designated by the Board of Directors or the President.

Section 3.4. Notice of Meetings. Except to the extent otherwise provided in the Declaration, not less than 10 nor more than 50 days in advance of a meeting, the Secretary or other officer specified in the By laws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address designated in writing by the Member. No action shall be adopted at a meeting except as stated in the notice.

Section 3.5. Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing, and such waiver shall be deemed equivalent to the receipt of such notice.

Section 3.6. Adjournment of Meeting. At any meeting of Members a majority of the Members a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to another time.

Section 3.7. Order of Business. The order of business at all meetings of the Members shall be as follows:

- a. Roll call;
- b. Proof of notice of meeting;
- c. Reading of minutes of preceding meeting;
- d. Reports;
- e. Establish number and term of members of the Board of Directors (if required and noticed);
- f. Election of Directors (when required);

- g. Ratification of budget (if required and noticed);
- h. Unfinished business; and
- i. New business.

Section 3.8. Voting Rights.

Each Lot Owner in Saponas Point and each Lot Owner lot in any subdivision developed out of the property owned by the Declarant adjacent to or within one mile of Saponas Point, except for Declarant, shall be entitled to one vote. If more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine. In no event shall more than one vote be cast with respect to any Lot, except as to Lots owned by the Declarant as provided below. Fractional voting with respect to any Lot is hereby prohibited. The Declarant shall have three votes for each Lot owned in either subdivision.

Section 3.9. Voting.

a. If only one of several Owners of a Lot is present at a meeting of the Association, the Member present is entitled to cast the vote allocated to the Lot. If more than one of the Owners is present, the vote allocated to the Lot may be cast only in accordance with the agreement of a majority in interest of the Owners of that Lot. There is majority agreement if any one of the Lot Owners cast the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by another Owner of that Lot.

b. The vote allocated to a Lot may be cast under a proxy duly executed by a Member. If a Lot is owned by more than one person, each Owner may vote or register protest to the casting of a vote by the other Owners through a duly executed proxy. A Member may revoke a proxy given under this section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.

c. The vote of a corporation or business trust may be cast by any officer of such corporation or business trust in the absence of express notice of the designation of a specific person by the board of directors or bylaws of the owning corporation or business trust. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The moderator of the meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership or business trust owner is qualified to vote.

Section 3.10. Quorum. Except as otherwise provided in these Bylaws, or in the Declaration, Members holding a majority of the votes within the Development must be present

in person or by proxy at any meeting of Members in order to constitute a quorum at such meeting. The required quorum at a subsequent meeting called for lack of a quorum at the preceding meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 3.11. Majority Vote. A majority of the votes of the Members present in person or by proxy at a meeting at which a quorum shall be present shall be binding upon all members for all purposes except where a higher percentage vote is required by the Declaration, these Bylaws, or the corporate laws of North Carolina.

#### ARTICLE 4. OFFICERS

Section 4.1. Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an Assistant Treasurer and Assistant Secretary, and such other officers as in its judgment may be necessary. The President and Vice President, but no other officers, need be Directors. Any two offices may be held by the same person except the offices of President and Secretary. The office of Vice President may be held by the Treasurer.

Section 4.2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 4.3. Removal of Officers. Upon the affirmative vote of a majority of the Directors, any officer may be removed, either with or without cause, and his or her successor may be elected at any regular meeting of the Board of directors, or at any special meeting of the Board of Directors called for that purpose.

Section 4.4. President. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Members and of the Board of Directors. He or she shall have all of the general powers and duties which are incident to the office of President of a non-profit corporation organized under the laws of the State of North Carolina, including but not limited to the power to appoint committees from among the Members from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association. He or she may fulfill the role of Treasurer in the absence of the Treasurer. The President, as attested by the Secretary, may cause to be prepared and may execute amendments to the Declaration and the Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.5. Secretary. The Secretary shall keep the minutes of all meetings of the Members and the Board of Directors. He or she shall have charge of such books and papers as

the Board of Directors may direct and he or she shall, in general, perform all the duties incident to the office of Secretary of a non-profit corporation organized under the laws of the State of North Carolina. The Secretary may cause to be prepared and may attest to execution by the President of amendments to the Declaration and the Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.6. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data. He or she shall be responsible for the deposit of all monies and other valuable effects in such depositories as may from time to time be designated by the Board of Directors, and he or she shall, in general, perform all the duties incident to the office of Treasurer of a non-profit corporation organized under the laws of the State of North Carolina. He or she may endorse on behalf of the Association for collection only, checks, notes and other obligations, and shall deposit the same and all monies in the name of and to the credit of the Association in such banks as the Board of Directors may designate. He or she may have custody of and shall have the power to endorse for transfer on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others.

Section 4.7. Agreements, Contracts, Deeds, Checks, etc. All agreements, contracts, deeds, leases, checks, Certificates of Membership, and other instruments of the Association shall be executed by the President or Vice President of the Association or by such other person or persons as may be designated by the Board of Directors.

Section 4.8. Compensation. No officer of the Association shall receive compensation for acting as such but may be reimbursed by the Association for necessary expenses actually incurred in connection with his or her duties.

Section 4.9. Resale Certificates and Statements of Unpaid Assessments. The Treasurer, Assistant Treasurer, or a manager employed by the Association, or, in their absence, any officer having access to the books and records of the Association, may prepare, certify and execute statements of unpaid assessments.

The Association may charge a reasonable fee for preparing and certifying statements of unpaid Assessments. The amount of this fee and the time of payment shall be established by resolution of the Board. The Association may refuse to furnish resale certificates and statements of unpaid Assessments until the fee is paid.

## ARTICLE 5. ENFORCEMENT.

Section 5.1. Attachment and Enjoining of Violations by Members. The violation of any of the Rules and Regulations adopted by the Board of Directors, or the breach of any provision



of the Declaration shall give the Board of Directors the right after Notice and Hearing, except in case of an emergency, in addition to any other rights set forth in these Bylaws:

a. To enter the Lot in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Member, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist therein) that is existing or creating a danger to the Development contrary to the intent and meaning of the provisions of the Declaration, and the Board of Directors shall not thereby be deemed liable for any manner of trespass; or

b. To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Section 5.2. Fine for Violation. By resolution, following Notice and Hearing, the Board of Directors may levy a fine in an amount as may be set by the Board of Directors and/or suspend use of the Common Areas, voting rights, and other privileges for violations of the Declaration or Rules and Regulations.

#### ARTICLE 6. INDEMNIFICATION.

The Directors and officers of the Association shall be entitled to indemnification as provided in Chapter 55A (the Non-Profit Corporation Act) of the North Carolina General Statutes, the provisions of which are incorporated herein by reference.

#### ARTICLE 7. RECORDS.

Section 7.1. Records. The Association shall keep the following records:

a. An account for each Membership which shall designate the name and address of each Member, the name and address of each mortgagee who has given notice to the Association that it holds a mortgage or other security interest on the Boat Slip or Certificate of Membership, the amount of each Assessment, the dates on which each Assessment comes due, the amounts paid on the account, and the balance due.

b. An account for each Member showing any other fees payable by the Member.

c. A record of any capital expenditures approved by the Board of Directors.

d. A record of the amount and an accurate account of the current balance of any reserves for capital expenditures, replacement and emergency repairs, together with the amount of those portions of reserves designated by the Association for a specified project.

- e. Balance sheets and income and expense statements of the Association.
- f. The current operating budget.
- g. A record of any unsatisfied judgments against the Association and the existence of any pending suits in which the Association is a defendant.
- h. A record of insurance coverage provided for the benefit of Members and the Association.
- i. Tax returns for state and federal income taxation.
- j. Minutes of proceedings of Members, Directors, committees of Directors and waivers of notice.

Section 7.2. Examination. All records maintained by the Association shall be available for examination and copying by any Member, or by any holder of a security interest in a Boat Slip or Certificate of Membership, or by any of their duly authorized agents or attorneys, at the expense of the person examining the records, during normal business hours and after reasonable notice.

## ARTICLE 8. USE RESTRICTIONS

SECTION 1. Use Restrictions. The following Use Restrictions shall apply at all times. Any violations of the following Use Restrictions may result in the loss of voting rights, the right to use the Common Area and other privileges, and/or fine at the discretion of the Board of Directors of the Association:

- (a) Alterations. No part of the Common Area may be altered by a Member in any way without the approval of the Board.
- (b) Animals. Animals shall be leashed at all times in the Common Area. The owner of an animal is responsible for cleaning up pet feces and urine.
- (c) Fish Cleaning. Fish cleaning of any kind will not be permitted in the Common Area.
- (d) Guests. Every Member shall insure that his guests abide by this Declaration and all rules and regulations and shall be responsible to the Association for any violation. The number of guests which a Member may have at any one time may be limited by the Association.
- (e) Nuisances. No noxious or offensive activity shall be carried on in the

Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of the Common Area. It shall be the responsibility of each Member to prevent the development of any unclean, unsightly or unkept condition of the Common Area.

(f) Parking. No overnight parking shall be allowed in the Common Areas. There shall be no parking of motor homes, other recreational vehicles or trailers, including boat trailers, at any time in the Common Areas.

(g) Safety and Compliance with Law. All persons using the facilities shall do so lawfully and in such fashion as to maintain and preserve those facilities and the Common Area. Each person shall be responsible for his/her own conduct and safety. All persons shall comply with all ordinances of New Hanover County.

(h) Signs. No signs (including "for sale" signs) shall be permitted in the Common Areas.

(i) Vehicular Speed Limits. No vehicle shall be operated in the common areas and pedestrian easements in excess of 8 miles per hour. **ANY VIOLATION OF THIS SPEED LIMIT SHALL RESULT IN THE LOSS OF THE RIGHT TO USE THE COMMON AREA AS PROVIDED FOR IN SECTION 1 HEREINABOVE.**

(j) Trash Disposal. Loose garbage shall not be deposited anywhere within the Common Area. No trash or empty boxes of any kind shall be left in the Common Area. No one shall throw, discharge, pump or deposit any refuse, oil, spirits, flammable liquid or polluting matter in the Common Area. All such matter shall be deposited at approved oil disposal facilities. Waste material such as paper, beer or drink cans, cigarette stubs, trash, etc., must not be thrown upon the Common Area. In other words, if you pack it in you pack it out.

(k) Vehicular Access. Vehicular access only over the maintained trails in the common areas and the pedestrian easements, except for parking areas, shall be limited to bicycles, golf carts, and off road unlicensed ATVs. **SUCH VEHICULAR ACCESS SHALL BE ONLY FOR THE PURPOSE OF TRANSITING BETWEEN THE MEMBER'S LOT AND THE WATERFRONT RECREATIONAL FACILITIES, AND VEHICULAR ACCESS IS PROHIBITED FOR ANY OTHER PURPOSE.** Automobiles, trucks, sports utility vehicles, motorcycles, motorbikes and mopeds, as well as all other licensed vehicles are prohibited in the common areas and the pedestrian easements, except for parking areas. **VIOLATORS SHALL LOSE THEIR RIGHT TO USE THE WATERFRONT RECREATIONAL FACILITIES AS PROVIDED IN SECTION 1 HEREINABOVE.**

ARTICLE 9. MISCELLANEOUS.

Section 9.1. Notices. All notices shall be in writing. All notices to the Association or the Board of Directors shall be delivered to the office of the Association, or to the residence address of any member of the Board of Directors. Except as otherwise provided, all notices to any Member shall be sent to his or her address as it appears in the records of the Association. All notices to mortgagees shall be sent by registered or certified mail to their respective addresses, as designated by them from time to time, in writing, to the Association. All notices shall be deemed to have been given when mailed except notices of changes of address which shall be deemed to have been given when received.

Section 9.2. Fiscal Year. The Board of Directors shall establish the fiscal year of the Association.

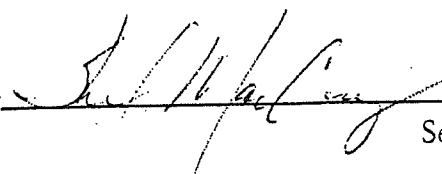
Section 9.3. Waiver. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 9.4. Office. The principal office of the Association shall be on the Property or at such other place as the board of Directors may from time to time designate.

Section 9.5. Conflict. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

The foregoing Bylaws are certified to be the Bylaws adopted by consent of the Directors of Saponas Point HOA, Inc., dated June 15, 1999.

SAPONAS POINT HOA, INC.

By  Secretary