

Colington Harbour Association
AMENDED AND RESTATED
DECLARATION OF RESTRICTIVE COVENANTS
OF COLINGTON HARBOUR

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY
OF POLITICAL SIGNS

THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS is made and entered into this the 1st day of July, 2014, with an effective date being the date it is recorded in the Office of the Register of Deeds of Dare County, North Carolina, by and between COLINGTON HARBOUR ASSOCIATION, INC. (hereinafter "Association") and LOT OWNERS representing a majority of the Owners in Colington Harbour (hereinafter collectively referred to as "Owners")

WITNESSETH:

WHEREAS, the original Developer of the Colington Harbour Subdivision was Colony Developers, Inc. which created numerous lots in a number of sections, each of which sections being subject to restrictive covenants established by the Developer in the form of original or supplemental covenants, as well as amendments thereto dated back to 1967; and

WHEREAS, the Association was formed for the purpose of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restricting and collection and disbursing assessments, Association being a non-profit corporation under North Carolina law; and

WHEREAS, common properties have been deeded to the Association for the further enjoyment of the Owners and others who come into the Colington Harbour Community; and

WHEREAS, the process by which the restrictive covenants can be amended has itself been amended to permit further amendments by majority vote of the Owners; and

WHEREAS, Colington Harbour was established before the North Carolina Planned Community Act was enacted, and is not subject to the majorities of the Act; and

WHEREAS, the Declaration, Bylaws and Articles of Incorporation form the basis for legal authority for Colington Harbour Association, Inc. to act as provided in said documents, and said documents are enforceable by their terms: and

WHEREAS, it is also the intention of this Declaration to bring into one document all the supplemental and amended provisions pertaining to the various lots in the subdivision and the changes recommended by the present Board of Directors of the Association after careful study and evaluation;

and

WHEREAS, the previous Declaration of Restrictive Covenants, supplements and amendments thereto have variously been recorded in the Dare Registry in Book 143, Page 474; Book 146, Page 169; Book 150, Page 365; Book 156, Page 631; Book 161, Page 492; Book 164, Page 395; Book 200, Page 200; Book 174, Page 249; Book 174, Page 247; Book 167, Page 461; Book 165, Page 285; Book 154, Page 31; Book 152, Page 573; Book 150, Page 365; Book 1488, Page 316; Book 1594, Page 312; and

WHEREAS, Article VIII of the Declaration as amended requires assent of a majority of at least 1,200 lots and a specific review period of time to give every Owner sufficient time to review and decide whether to accept the amendments as proposed; and

WHEREAS, this document will in all respects comply with Article VIII and shall not be recorded unless there is full and complete compliance and the Association has in its possession and open to inspection the affirmative vote and signatures of more than a majority of Owners who have assented to the amendments contained herein and the recordation of this document as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the recitals contained above, the Association and Owners hereby covenant and agree that the restrictive covenants pertaining to Colington Harbour are hereby amended and restated in their entirety, and that the following covenants and restrictions are to run with the land and lots shown on the aforementioned plats, and that said covenants and restrictions shall be binding on all parties, entities or persons now owning or purchasing real property shown on the recorded plats referenced or incorporated by reference in the Declaration and supplements and amendments thereto pertaining to Colington Harbour and as further identified in the book and page references in the Dare County Registry recited above.

ARTICLE I **DEFINITIONS**

As used herein, the following definitions shall be applicable to this Amended and Restated Declaration of Restrictive Covenants:

A. "Act" or "Planned Community Act" shall mean and refer to North Carolina Planned Community Act, currently codified as Section 47F of the North Carolina General Statutes, as same may be amended from time to time.

B. "Architectural Control Committee" hereinafter referred to as the Committee or ACC, means the committee appointed by the Board of Directors of the Association, pursuant to the Bylaws of the Association, to approve all construction, demolition, change of infrastructure, and other improvements in Colington Harbour, and insure compliance with the covenants.

C. "Architectural Guidelines" means those guidelines promulgated by the Board of Directors governing applications for the construction and improvement of lots in the Subdivision and the administration of the approval process.

D. "Articles" means the Articles of Incorporation of the Colington Harbour Association, Inc.

E. "Association" means the Colington Harbour Association, Inc., a homeowners association, which

is a North Carolina non-profit corporation.

F. "Board of Directors" or "Board" shall be the elected body governing the Association and managing the affairs of the Association pursuant to the Bylaws of the Association adopted by the incorporators of said Association and as amended and restated.

G. "Bylaws" means the Declaration of Bylaws of Colington Harbour Association, Inc. as amended.

H. "Common Expenses" means and includes actual and estimated expenses of maintaining and operating the Community and Common Properties and operating the Association for general purposes, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board of Directors pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association.

I. "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat designated thereon as Common Properties and which are intended to be devoted to the common use and enjoyment of the Owners.

J. "Community" means the Colington Harbour subdivision and all platted lots, including Common Properties.

K. "Community Ordinances" shall refer to a set of rules and regulations adopted by the Board of Directors pertaining to the day-to-day activities, operation and functioning of the community.

L. "Declaration" means this Amended and Restated Declaration of Restrictive Covenants of Colington Harbour as same may be amended from time to time.

M. "Lot" means and refers to any lot platted of record, which is not a common property.

ARTICLE II

A. The lots platted by the original developer, Colony Developers Inc., for sale have been sold, and the provisions in prior restrictive covenants allowing for the addition of lots to expand the subdivision by the Developer are no longer germane.

B. It is not anticipated that any new lots will be added to the already platted lots, but the Board has the authority to approve the addition of one or more lots as may be deemed appropriate, subject to a majority vote of the membership entitled to vote at an annual or special meeting with a quorum present. Supplemental covenants subjecting the added lot or lots to the same covenants and restrictions as the Owners must be recorded.

C. In the event of a merger or consolidation of the Association with another association, in which the properties, rights and obligations are transferred to another surviving or consolidated association in conformity with Chapter 55A of the North Carolina General Statutes (The Nonprofit Corporation Act) and in conformity with the Articles of Incorporation, such merger or consolidation shall not affect the validity or enforceability of the Declaration except to the extent of duly amended modification thereof.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership

- (a) Every person or entity who purchases an equitable interest or an undivided equitable interest in any original lot whether as land contract vendee or fee holder being subject to these Covenants and to assessment by the Association shall be a member of the Association provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.
- (b) Persons not holding an interest in any lot may become non-voting members of the Association under terms and conditions prescribed by the Board of Directors. The Association shall have one class of voting membership. Voting members shall be all those members who hold the interests required for Membership in Article III in Section I (a) above.
- (c) When more than one person holds such interest or interests in any original lot, all such persons shall be members and the vote for such lot shall be exercised as they among themselves determine. In no event shall more than one vote be cast with respect to any such original lot.
- (d) Pursuant to the Bylaws of Colington Harbour Association, Inc., in order to vote, members must be in good standing with all assessments, liens, penalties, and fees paid as well as in compliance with these Declarative Covenants.

ARTICLE IV
PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment

Subject to the provisions of Article IV in Section 3, every member shall have a right and easement of enjoyment in and to the common properties and such easement shall be appurtenant to and shall pass with the title to every original lot.

Section 2. Title to Common Properties

Title of community's common property was conveyed to the Association, by the Developer, in 1978. Properties designed as common properties are for the enjoyment of property owners of Colington Harbour and said rights are subject to the terms and conditions of this Declaration.

Section 3. Extent of Members' Easements.

The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the common properties and in aid thereof to encumber said properties. The members' rights and easements in the common properties shall be subordinate to any deed of trust given to Association as security for funds borrowed for the said improvements. Any indebtedness, which shall be created for the purpose of making improvements to the common properties, shall be an obligation of the Association. In the event of a default upon any such indebtedness, the holders of the notes or the trustee under the deed of trust shall have all the rights afforded under the deed of trust or security agreement and under the laws of the State of North Carolina, including the right after taking possession of the properties, to charge admission and other fees as a condition to continued enjoyment by the members.

- (b) The right of the Association to take such steps as are reasonable and necessary to protect the above described properties against foreclosure; and
- (c) The right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and
- (d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties, in addition to Membership Fees.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments

Each subsequent owner, as provided in Article III, Section I herein, by acceptance of a conveyance for a lot within the subdivision, whether or not it shall be expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made in accordance with NCGS § 47F-3-116 Lien for assessments.

Each such assessment, together with such interest hereon and cost of collection thereof as hereinafter provided, in Section 9 of this Article, shall also remain the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments.

The assessments levied by the Association shall be used by the Association exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the common properties and of the homes situated upon the properties, including but not limited to, the payment of taxes and insurance thereon, and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Basis and Amount of Assessments.

Except as otherwise provided in these declarations, assessments for common expenses shall be in accordance with NCGS § 47F-3-115. The Board shall prepare a proforma operating budget to be distributed to each member. The budget shall include a reasonable amount allocated to a reserve fund for the future repair and/or replacement of Association assets. The budget shall include the allocation thereof to the respective lots their proposed assessment. Upon the approval of the budget by the members at the annual meeting, the Board shall be bound by the same and shall not authorize expenditures in that fiscal year which exceed the total amount budgeted as aforesaid by more than fifteen percent (15%) per line item without having called a special meeting of the Association to approve such variation.

If at the end of the fiscal year, there is a surplus of cash in the Associations operating budget such

surplus shall be credited to the payment of an Annual Assessment for the following fiscal year, unless some other disposition of such surplus funds is determined by a vote of the members.

Section 4. Special Assessment for Capital Improvements.

In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in an assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common properties, including the necessary fixtures and personal property related thereto, provided any such assessment shall have the affirmative of a majority of the then owners of at least 1,200 lots who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum of Annual Assessments.

Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessment fixed by Section 3 hereof, prospectively for any such period provided that any such changes shall have the affirmative of a majority of the then owners of a least 1,200 lots who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance, and shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2, hereof.

Section 6. Quorum for any Action Authorized under Sections 4 and 5.

The Quorum required for any action authorized by Sections 4 and 5 shall be as follows: At the first meeting called, as provided by Sections 4 and 5 hereof, the presence at the meeting of members or of proxies, entitled to cast a majority of the then owners of at least 1,200 lots shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Date of Commencement of Annual Assessments Due Dates.

The annual assessments provided for herein shall commence on the first day of July. The assessment for each succeeding year shall become due and payable on the first day of July each year. No adjustments or pro-rations of assessments shall be made by the Association. For purposes of levying the assessment, assessments shall be considered as paid in advance and shall be levied against any property, which is subject to this Declaration or Supplementary Declarations. The due date of any special assessment under Section 4 hereof shall be fixed in the Resolution authorizing such assessment.

Section 8. Duties of the Board of Directors.

The Board of Directors of the Association shall prepare a roster of the properties and assessments applicable thereto at least thirty (30) days in advance of such assessment due date. Such assessment roster shall be kept in the Office of the Association and shall be open to inspection by any owner. Written notice of the assessment shall thereupon be sent to every owner subject thereto. Upon receiving a written and signed request therefor from a lot owner or a lot owner's authorized agent the Association shall within 10 business days from the date of the receipt of such request, furnish to any owner liable for the assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of

payment of any assessment herein stated to have been paid. **A fee not to exceed \$50 may be charged for this service.**

Section 9. Effect of Non-Payment of Assessment.

The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon becoming a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the due date, **a penalty fee of \$20.00 per month** may be added there to and from that date. Interest at a rate of one and one-half percent (1-1/2%) per month shall also be added to the delinquent balance and penalty and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property. There shall be added to such assessment, delinquent fee and interest, the cost of preparing and filing Complaint in such action, and in the event that Judgment is obtained, such Judgment shall include interest on the total amount as above provided and reasonable attorney's fee to be fixed by the court together with the costs of the action. There shall be a fee of **the current bank rate charged** for a returned check. Such fee shall be in addition to the above delineated penalty charges.

Section 10. Subordination of the Lien to Mortgages

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, not from the lien of any such subsequent assessment.

Section 11. Exempt Property

The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein:

- (a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use.
- (b) All common properties
- (c) All properties exempted from taxation by the laws of the State of North Carolina, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charge or liens.

ARTICLE VI ARCHITECTURAL CONTROL COMMITTEE

Section 1. Review by Committee.

No building, fence, wall, pool(in-ground or above-ground), underground storage vessel (e.g. propane tank), or other structure shall be commenced, erected, demolished or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. Upon receipt of a complete application in the event said Board or its designated committee fail to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article shall be deemed to have been fully complied with.

Contractors and owners are responsible for the repair, replacement, or monetary compensation for any damage to roads, curbs, utility lines, property itself (both common and privately owned), or structures thereon, caused by an act or material men during the construction or improvement of property in Colington Harbour.

See COMMUNITY STANDARDS OF ARCHITECTURAL CONTROL, ARTICLE I, DEFINITIONS for all Definitions of Community Standards.

ARTICLE VII BUILDING AND USE LIMITATIONS

Section 1.

All lots in the properties, other than those utility lots excepted from Section J, K and Q, of Colington Harbour shall be limited to residential use as zoned in Dare County. Reference Dare County Zoning Ordinance R-4, Low Density Residential District. No exception or Conditional Use will be permitted without written approval of the Association Board. No building in the R-4 Zone shall be erected, altered, placed or permitted to remain on any residential lot other than one family dwelling and private garages or outbuildings incidental hereto. All dwellings must have a minimum enclosed area of 1,200 square feet exclusive of open porches or attached garages. Sections W and X, provides for a minimum enclosed living area of 750 square feet, to allow mobile homes. Reference Dare County Zoning Ordinance, Section 22-2 R-2 Medium Density Residential District. All structures shall be completed on the exterior within six (6) months from start of construction.

No structure, construction/storage trailer, basement, tent, shack, garage, barn or other out-building shall be occupied or stored on any residential lot, either temporarily or permanently, without prior authorization of the board. No resident structure shall be located nearer than twenty-five (25) feet to the front property line, nor nearer to the roadway than the set-back line which is indicated on the recorded plat. No resident structure shall be located nearer than eight (8) feet from any side lot line.

No sign, billboard, or advertising structure of any nature shall be placed on or be exhibited from any land or structure in the subdivision except one (1) non-illuminated sign (a second sign on the canal/waterfront side of a structure or lot in the case of waterfront property) of not more than four (4) square feet (no side greater than two (2) linear feet on which the name of the occupant and/or address/phone number of the property is displayed, or (2) optional wording on such sign(s) containing the words "For Rent" or "For Sale" and information about or the logotype of the Broker, Owner or Builder of the lot or property.

A sign shall be adjacent to or attached directly to the structure, if any, or on empty lots a sign

may be attached to no more than two stakes with either bottom corner of the sign not more than eighteen (18) inches above ground level. No sign may contain moving parts. Freestanding signs shall conform to the more Restrictive Covenants or zoning building line setbacks and shall be placed parallel to the roadway and the waterfront bulkhead.

(a) Any change in the elevation, height or contour of a sand dune as defined herein is considered a sand dune alteration. No sand dune alteration shall begin until after a permit is obtained from the Architectural Control Committee (ACC). Application for a permit shall be on a form approved by the Board of Directors which shall be submitted by the Applicant to the Community Manager with a fee not to exceed fifty dollars (\$50.00) as determined from time to time by the Board to defray the cost of administration, and with drawings, site plans or plats correctly showing "before" and projected "after" elevations indicating finished slopes to a run-off receiving area contained on the lot being altered or to an abutting road or street right of way. The finished slope ratio shall be no greater than one (1) foot vertical to four (4) feet horizontal, unless the Board of Directors by majority vote of the members at a duly constituted meeting approves otherwise for septic systems, gardens and special landscaping.

Section 2.

No animals, livestock or poultry of any kind shall be raised or kept on any lot, except dogs, cats or other household pets. Define "household pets" as an animals harbored inside the residence. Snakes are not defined as household pets, and shall not be so maintained for commercial purposes. The only animals permitted to be raised and/or kept on any lot are domesticated dogs and/or cats; fish; small domesticated rodents such as hamsters; and household birds. If a breed/type of animal is not provided for, it is specifically prohibited.

Animals which are specifically excluded from being allowed to be raised and/or kept on any lot whether temporarily or permanently, are including but in no way limited to: Livestock (examples include, but are not limited to, all species of pigs, cows, horses, chickens, roosters, sheep, goats, geese, ducks, bees, etc.) and/or Exotic Animals (examples include, but are not limited to, all species of monkeys, predatory snakes/reptiles/spiders, wolves, emus, llamas, etc.)

Further, providing food and/or shelter for any form of wildlife is not permitted and Owners that encourage wildlife to congregate on their property, and/or Owners that harbor wildlife on their property, will be considered in violation of the Covenants and will be subject to fines and/or other disciplinary action.

Owners, may request a reasonable accommodation under the Americans with Disabilities Act for a "service animal;" only. Such requests should be directed to the Board, must include medical documentation of need and documentation of the training and certification of the proposed "service animal". Such requests must be approved PRIOR to acquiring the "service animal". Only one "service animal" per special need Owner will be reasonably accommodated at any one time. Comfort animals will not be considered with this provision.

Trash, garbage or any other waste material shall be kept in sanitary containers. Equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All structures intended for occupancy must be equipped with plumbing facilities.

All sanitary plumbing, and disposal of waste, shall conform to the minimum requirements and be approved by the Health Department of Dare County, North Carolina. No well water shall be connected to the in-house water system as long as the property is being supplied public water by

the Dare County Water Department. Use of well water is restricted to outdoor use only.

Section 3. Easements.

Easements are reserved unto the Association for the purpose of conveying to public utility companies the necessary easements for utilities along and within ten (10) feet of the front line, rear line and side lines of all original lots in the subdivision for the construction and perpetual maintenance of conduits, poles, wires, fixtures for electrical lights, telephones, other public and quasi-public utilities and drainage and to trim any trees which at any time may interfere or threaten to interfere with the maintenance of such lines with right of ingress to and egress from and across said premises to employees of said utilities. Said easement to also extend along any owner's side, rear and front property lines in case of fractional lots. The person owning more than one lot may build on such lot line and the easement shall be inoperative as to said line provided that such building shall be placed thereon prior to the instigation or use of this easement for one of the foregoing purposes.

It shall not be considered a violation of the provision of easement if wires or cables carried by such pole lines pass over some portion of said properties not within the ten (10) foot wide easement, as long as such lines do not hinder the construction of buildings on the property.

All buildings, trees, or other improvements now on said premises, or hereafter made or placed thereon shall be a part of the security for the performance of Declaration and may not be removed therefrom. The Association reserves the right to do grading, excavating, under brushing, tree cutting and trimming on the subject property including the right to disturb top soil where in the Association's opinion such work is advantageous for the improvement of this subdivision.

Section 4. No original lot or group of lots may be re-subdivided without the written consent of the Association.

Section 5. It is understood and agreed and represented by the Association, and the deeds issued to purchasers, take subject to this representation, that, insofar as the lots which may be included in the sections herein brought under the general Declaration of Protective Covenants and Agreements, are situated or located upon a creek, lake, canal or other waterway, and a bulkhead has been or is being constructed thereupon, that the maintenance of such bulkhead structure and the lands fronting thereon is a liability of each individual lot owner. The Association assumes no maintenance liability; therefore, bulkheads must be in a good state of repair before approval will be granted for construction of a new home, or addition to or remodeling of an existing home. Lot Owners that allow bulkheads to go unrepaired, after notification by the Association, may be billed for required corrective actions by the Association, including the removal of silt from canal bordering the property. A Lot Owner will be notified of the charge, and will be afforded a hearing before the Executive Board or adjudicatory panel finds that the Lot Owner is in violation of this provision, the Lot Owner will be given 5 days to have the repairs made. If the repairs are not made in a timely manner, the Association may charge fines of \$100 per day or such other maximum statutory amount allowed by law so long as the violation continues. Further, if not paid, after thirty days, such assessment will be secured by lien, along with an additional 1 ½% per month interest penalty and lien filing charge.

Section 6. Variance.

The purpose of the foregoing Building and Use Limitations being to insure the use of the properties for attractive residential uses, to prevent nuisances, to prevent impairment of the attractiveness of the property, to maintain the desirability of the community and thereby secure to each owner the full benefits and enjoyments to his home with no greater restriction upon the free and undisturbed use of his property than are necessary to insure the same advantages to other owners.

Any reasonable changes, modification, or addition to the foregoing shall be considered by the Association and if so approved, will then be submitted in writing to the abutting property owners and if so consented to in writing shall be recorded and when recorded, shall be as binding as the original Covenants.

The foregoing Building and Use Limitations shall not apply to the Common Properties.

ARTICLE VIII GENERAL PROVISIONS

Section 1. Duration.

Subsequent changes to the Covenants and Agreements shall not be made unless approved by an affirmative vote, either in person or by proxy, by a majority of the then owners of at least 1,200 lots. Provided, however, that no such change shall be effective unless made and recorded at the Dare County Courthouse ninety (90) days in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action. Any amendment (s) passed pursuant to the procedures noted above are presumed valid and enforceable. No action taken to challenge the validity of an amendment adopted pursuant to this section may be brought more than one year after the amendment is recorded.

Section 2. Notices.

Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as a member or owner on the records of the Association at the time of such mailing.

Section 3. Enforcement.

After all possible internal adjudicatory options have been exhausted enforcement of these Covenants and Agreements shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any Covenant or Restriction, either to restrain violations or to recover damage, and against the land to enforce any lien created by these Covenants; and failure by the Association or any owner to enforce any Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association may recover reasonable attorney's fees for any and all actions which are necessary to enforce any of the governing documents of the Association.

Section 4. Severability.

Invalidation of any one of these Covenants or Agreements by judgment or court order shall in no way affect any other -provisions which shall remain in full force and effect.

COMMUNITY ORDINANCES

PART 1 GENERAL

ARTICLE 1 DEFINITIONS

The following terms as used in these Community Ordinances are defined as follows:

- (a) "Colington Harbour Association, Inc." hereinafter referred to as the "Association" means the Association of owners of properties in the community known as Colington Harbour.
- (b) "Board" means the Board of Directors of the Association.
- (c) "By-Laws" means the By-Laws of the Association, which establish the form and methods of government of this Association.
- (d) "common property" means those areas and other parcels of property, including lakes and roads, together with any buildings or other improvements thereon or thereto owned, maintained, acquired, or brought under the jurisdiction of the Association.
- (e) "Community Ordinances" means the rules and regulations adopted by the membership of the Association to govern operation of the community.
- (f) "Declaration" means the Declaration of Restrictive Covenants and Agreements, dated 12 July 1968, amended 1976, 1980, 1985, 1988, 1992, 1999, 2001, 2003, 2004 and 2005; and duly recorded in Book 1488 at Page 316 in the Public Registry of Dare County, North Carolina.
- (g) "lot" means any original lot within the community as defined by Section letter and lot number or by metes and bounds description on the plats defining the community.
- (h) "owner" means any person or entity that purchases an equitable interest or an undivided interest in any original lot whether as land contract vendee or fee holder being subject to the assessment by the Association
- (i) Off Road Vehicle (ORV) means a motor or engine driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over sand, snow, ice, marsh or other natural terrain. ORV includes, but is not limited to, multi-track or multi-wheel drive vehicle, ATV, dirt bike or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, or other means of transportation deriving motive power from a source other than muscle or wind. ORV, however does NOT include a street legal golf-cart, or lawn mower.
- (j) "yard sale" shall mean the sale of any new or used household articles, or household goods, to the public, at large at any specific residential location, both indoors and/or outdoors.
- (k) Commercial Vehicles – trucks and buses described in Ordinance 2, Vehicles Section 7.

ARTICLE 2

PURPOSE

These Community Ordinances supplement the Declaration of Restrictive Covenants and the By- Laws of the Association, and the current law of North Carolina and Dare County. They assure to each property owner the full benefits and enjoyment, with no greater restrictions upon the free and undisturbed use of his property, that is necessary to ensure the same benefits to other owners.

ARTICLE 3

NOTICES

Any notice required to be sent to any owner or tenant shall be deemed to have been delivered when mailed, postpaid, to the last known address of the person who appears as an owner or tenant on the records of the Association at the time of such mailing. Such notice shall include any purported violations, a hearing date, possible fines/liens/etc., and any right to appeal. It is the responsibility of the owner or tenant to keep the Association informed of any changes in mailing address.

ARTICLE 4

PROCEDURES

The Board of Directors shall present recommended changes, additions, or deletions to these Ordinances including the following:

- (a) Recommendations relative to security, fire protection, traffic, boat operations and general conduct.
- (b) Recommendations relative to legal proceedings against violation of state and county laws in the name of the Association.
- (c) Recommendations for legal or restraining injunction submitted to the court in the name of the Association.
- (d) Recommendations for changes to the Declaration of Restrictive Covenants and By-Laws.

ARTICLES 5 ENFORCEMENT

Section 1. Enforcement

Enforcement of the Community Ordinances is the responsibility of the Board of Directors. This responsibility may be delegated to other officials of the Association. These officials will seek voluntary compliance. Thereafter, enforcement will be by Board action or legal means.

(a) Procedures for fines and suspensions of planned community privileges or services. Unless a specific procedure for the imposition of fines or suspension of planned community privileges or services is provided for in the declaration, a hearing shall be held before an adjudicatory panel appointed by the Board to determine if any lot owner should be fined or if planned community privileges or services should be suspended pursuant to the powers granted to the Association. If the Board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the Board. The lot owner/tenant charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, the Owner will be provided a 5-day period to cure the violation. If the violation is not remedied with that time, a fine not to exceed the greater of \$100 per day or the fine limits imposed by NCGS § 47F-3-107.1 may be imposed for the violation and without further hearing, for each day after the decision that the violation occurs. Such fines shall be assessments secured by liens. Fines shall be paid within thirty (30) days, after which will incur an additional 1 ½% per month interest, penalty, and lien filing charges. If it is decided that a suspension of planned community privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is satisfied.

(b) Establishment of fine structure. The Board will establish and approve specific fines for common violations.

(c) Recovery of legal fees. If the Board has to resort to legal action to enforce the provisions of the Association's Protective Covenants and Agreements or if they have to defend their enforcement actions in a court of law, and the Association receives a favorable ruling, the Association is entitled to recovery of all attorney fees and court costs from the property owner and/or the tenant/renter.

Section 2. Complaints.

Complaints submitted to the Board or the Association shall be in writing and signed by the complainant. The Board will meet, as required, dependent upon the nature and volume of complaints to review said complaints and decide upon corrective action(s) and/or sanctions to be imposed upon

such owners.

Section 3. Appeals.

Members and/or property owners may appeal in writing to the Board. Further appeals may be addressed to the Board for resolution at the next scheduled meeting of the Association.

Section 4. Failure to Act.

Failure by the Board or Association to act, or by any owner to comply with any Ordinance, shall not be deemed a waiver of the right to act or obligation to comply thereafter.

ARTICLE 6 EFFECTIVE DATE

Community Ordinances are effective ninety (90) days after passed by property owners and recorded with the County.

ARTICLE 7

AMENDMENT

These Community Ordinances may be amended upon approval by the Board, and adoption by the membership at an annual or special meeting or ballot mailing.

PART II ORDINANCES

ORDINANCE 1 REGISTRATION

Section 1. Owner and Tenant List.

A current listing of all owners and tenants shall be maintained and kept current by the Colington Harbour Association secretary at the Association Office and at the guard house.

Section 2. Guests.

Owners and tenants shall ensure that any guests planning an extended stay (more than one night) register with the Security Guard. Such guests will be issued a vehicle pass. At final departure from Colington Harbour, the pass is to be deposited in the box provided at the guard house.

Section 3. Notification of Guest Arrival.

Owners and tenants should provide the security guard with the name of expected guest(s) and approximate time of arrival.

Section 4. Responsibility.

Owners and tenants are responsible for the behavior of their guests and must ensure their guests

are advised of applicable Regulations and/or Restrictions.

ORDINANCE 2 VEHICLES

Section 1. Vehicle Decals.

A Colington Harbour decal will be provided to each property owner or tenant for each registered vehicle, motorcycle, moped and trailer they own. A current valid vehicle registration must be presented to the Association Office. Vehicle Decals shall be affixed to the right side of the vehicle by Association staff. Trailer decals must be displayed on the left side of the trailer frame. Display of decals is required within 30 days of a vehicle acquisition when brought into the Harbour. Any vehicle without a current decal must stop at the gate, confirm residence or reason for entry, and obtain and display a guest pass until the decal is obtained and displayed. Any vehicle or trailer not displaying authorization is trespassing and subject to fines and towing. Any vehicle attempting to use the boat launch without current decals must pay the launch fees until they obtain the current decals.

Section 2. North Carolina State and Dare County Laws.

All automobiles, trucks, motorbikes, dune buggies, trailers, mobile homes, etc. will abide by North Carolina State/County Laws and Regulations. Registration, license plates, inspections and driver's license must be valid and current.

Section 3. Speed Limit.

Maximum speed is 25 miles per hour on all roads within the Harbour.

Section 4. Unlicensed and/or Inoperative Vehicles.

Owners are required to keep such vehicles garaged or under cover on their own property.

Section 5. Parking.

Vehicles shall not be parked on the paved surface of common roads or streets. Off-road parking on common property shall be limited to short-term (24 hours) parking and in no case shall a vehicle present a visual traffic obstruction. Violators will be subject to towing at owner's expense.

Section 6. Off Road Vehicles (ORV)

The use of ORV are prohibited within the community of Colington Harbour, except vehicles used for Association maintenance, military, fire, emergency, law enforcement purposes, or a vehicle owned and operated by a utility company when performing maintenance on its facilities or on property over which it has an easement

Section 7. Parking of Commercial Vehicles.

Overnight parking of commercial vehicles is limited to vehicles under 10,000 lbs. G.V.W and/or a total length not to exceed 25 feet. Parking of more than 2 commercial vehicles on any property or lot is prohibited without prior authorization from the board.

ORDINANCE 3 BOATS AND WATERWAYS

Section 1. Definition.

Waterways covered herein consist of all canals, lakes, ponds, and lagoons located in Colington Harbour and extending to the outer limits of the breakwater at the harbor entrance.

Section 2. Wake Control.

Boats **and personal water craft** as defined by NCGS § 75A-13.3 shall be operated in a safe, seamanship manner in such a way as to avoid dangerous and destructive wake conditions. The wake shall be controlled so as not to cause damage to bulkheads, docks and other boats. "No Wake and/or 5 Miles per Hour Speed Limit" applies to all waterways inside the outer marker to the harbor entrance.

Section 3. Boat Ramp.

Boats may be docked at the ramp only for a reasonable period of time, which does not interfere with the launch and recovery of other boats. As recognition of authorized use, boat trailers must be identified by a Colington Harbour Association current **trailer** sticker.

Section 4. Boat **Slips**.

Rental slips are provided by the Association, at nominal rental fees, to members and their guests when available.

Section 5. Boat Parking and Storage.

Parking and storage for boats and Personal Watercraft (PWC) and/or their trailers is permitted on the east end of the lower parking lot, **without prior Association permission**, of **one day (24 hours)**.

Longer parking/storage times must be arranged, in advance, with the Association Office, and will be considered on a case by case basis. The maximum parking/storage time allowed, **with Association permission**, will be two weeks. **Maintenance work on boats, PWCs or their trailers** shall not be performed in the parking lot area. The Association assumes no responsibility or liability for boats, PWCs, or trailers parked/stored in the parking lot. Violators are subject to towing at owner's expense.

Section 6. Disposal of Trash and Waste.

The type of toilets aboard boats and their operation shall comply with current federal standards. No dumping is allowed in **Colington Harbour** waterways. Oily bilges shall not be cleaned or flushed into **Colington Harbour** waterways.

Section 7. Boats as Dwellings.

The Association will permit **the** use of boats as dwellings, not to exceed a total of seven (7) days, when the operator is either a resident of Colington Harbour or a guest of such resident, provided:

- (a) The boat is tied up to a **slip** at the listed residence or is legally using a rental **slip** (Section 4 above).
- (b) The boat is a registered or documented vessel.
- (c) The boat is equipped with a marine toilet that meets and is operated in accordance with current federal standards.

Section 8. Water Skiing,

Water skiing is prohibited **in all Colington Harbour waterways**.

Section 9. Fishing Nets.

Fishing nets are not permitted in any canal or waterway. Crab pots must be tied to the owner's bulkhead or pier.

Section 10. Septic/Effluent Discharge.

Discharge of septic or laundry effluent is regulated by federal, state, and county regulations and is,

therefore, not permitted by Colington Harbour Association regulations.

Section 11. Sunken Boats.

Boats which have sunk shall be re-floated or removed within seven (7) days by the owner, tenant or owner's guest at their expense. Any danger of contaminating the canals with oil or other fluids and materials shall be cared for immediately. Colington Harbour Association office shall be notified of a sunken boat and/or watercraft.

Section 12. Use of Harbour and Canals

Use of Harbour & Canals is limited to personal recreational boats and watercraft.

Section 13. Piers and Docks

All CAMA regulations, under 15A NCAC 07H.1200 will apply.

ORDINANCE 4 ANIMALS AND PETS

Section 1. Nuisance.

State and county regulations and enforcement shall apply. No animal shall be permitted to become a nuisance to other property owners. Permitted animals shall not be allowed to run free on any property except the owners. When off the owner's property (such as for exercise), the animal shall be under restraint and immediate supervision. No member, lessee of member, guests of member or contractors shall violate any Association, local, state or federal rule, law or regulation regarding animals and pets.

Section 2. License and Inoculation.

Dare County requirements apply.

Section 3. Dare Ordinances.

A complete copy of the Dare County Ordinance, Chapter 91 (Animals) is on file in the Colington Harbour Association Office for examination.

Section 4. Responsibility of Owner.

The owner is responsible for the care, actions, and behavior of his animal. A summary of the principal content of Dare County Ordinance 91 (Animals) related to dogs follows:

(a) Vicious Animals. It shall be unlawful for any owner to keep any vicious, fierce or dangerous animal within the county unless it is confined within a secured building or enclosure.

(b) Inoculation Required. It shall be unlawful for an owner to fail to provide current inoculations against rabies for his dog.

(c) Collar and Tags Required. It shall be unlawful for any dog owner to fail to provide his dog with a collar or harness to which current vaccination and identification tags are securely attached.

(d) Stray Dogs. It shall be unlawful for any person in the county knowingly and intentionally to harbor, feed, or keep in possession by confinement any dog which doesn't belong to him..

(e) Behavior of Dogs Constituting Public Nuisances. It shall be unlawful for any dog owner to allow his dog to habitually or repeatedly chase, snap at, attack or bark at pedestrians, bicyclists, or vehicles, turn over garbage pails, damage gardens, flowers or vegetables, or to permit a female dog to run at-large while in heat.

(f) Barking Dogs. It shall be unlawful for any dog owner to keep or have within a densely

populated area a dog that habitually or repeatedly barks.

(g) Running at Large Prohibited within Colington Harbour .Within the area described herein, no owner or keeper of any dog shall permit such animal to run at large.

Section 5. Soiling

It shall be a violation for any pet owners to allow their pet to soil with excrement roadways, common areas, right-of-ways, or property other than that owned by the pet owners. It is expected that pet owners have appropriate materials with them while walking their pets to remove and contain any soiling by the pet.

Section 6.

It shall be a violation for any pet owner to allow their pets in the sound front park, at any time.

ORDINANCE 5 HOUSEKEEPING

Section 1. Undeveloped and Common Property.

The Association shall perform periodic grass cutting only on property (private and common) on which houses have not been erected or started (i.e., no material on property). The grass will not be cut once building is in progress or obstructions are placed on the property. Grass or weeds allowed to grow taller than 10 inches shall be cut by the Association at the owner's expense at the current commercial rate per square foot. The Association shall not be held responsible for any damage to property caused by mowing on undeveloped property in violation.

Section 2. Developed Property.

Owners of property on which a house is under construction or has been erected are required to keep said property and house in a neat, presentable appearance, i.e., periodic lawn mowing, removal of undergrowth and removal of junk or debris, including building materials. It shall be a violation for developed property owners to allow grass or weeds to grow taller than 10 inches. Planted beds and shrubs are exempt. Grass or weeds allowed to grow taller than 10 inches shall be cut by the Association at the owner's expense at the current commercial rate per square foot. The Association shall not be held responsible for any damage to property caused by mowing on developed property in violation.

Section 3. Drying of Laundry.

Use of decks and railings for drying is discouraged. Outside drying should be accomplished in as concealed a location as possible at ground level.

Section 4. Antennas, Satellite Dishes, Solar Collectors. Wind Generators

Antenna masts will be secured in such a way as to preclude damage to adjoining houses in event of collapse due to high winds. TV dishes, over 48 inches, and all solar collector or wind generation system installations must be approved by the Architectural Control Committee.

Section 5. Garbage and Trash.

(a) Garbage and trash shall be placed in containers as stated in county ordinances. Plastic bags and other debris outside containers are not allowed.

(b) Trash containers must be removed from the edge of the road by the end of collection day. Failure to do so will require the Maintenance personnel to move the container at the owner's expense (\$25 minimum per visit).

(c) It is the responsibility of the owner to clean up trash outside the container or it will be disposed

of by the Maintenance personnel, at owner's expense (\$25.00 minimum per visit).

Section 6. Building Materials and Other Refuse.

Building materials and their wastes, grass clippings, brush, mounds of dirt, sand, gravel, household furnishings, appliances, etc., shall not be placed at roadside. They should be removed from owner's property as soon as possible. If the owner does not comply after written notification by the Association, an outside contractor will be hired, at owner's expense, to remove said materials.

Section 7. On-site Temporary Storage.

The use of temporary storage units must be approved by the ACC.

ORDINANCE 6 TRESPASSING

Section 1. Trespassing.

All property, except that designated as common property, is privately held and reserved exclusively for the owner **and/or tenant's** use. Fishing from **private** bulkheads is considered trespassing unless permission has been granted by the owner.

Section 2. Soliciting.

Soliciting is prohibited unless written approval is obtained from the President of the Colington Harbour Association or his/her designee.

ORDINANCE 7 HUNTING AND FIREARMS

Section 1. Hunting.

Hunting is prohibited.

Section 2. Firearms.

Use of firearms will not be **permitted**. **Organized activities** involving the use of firearms (such as a turkey shoot) must be approved by the President of the Colington Harbour Association or his/her designee.

Section 3. Fireworks, Firecrackers, Etc.

Fireworks, firecrackers or similar devices, which create explosive sounds, explosions, fire hazards or noise disturbance across a property boundary or public space, are strictly prohibited.

ORDINANCES 8 RENTAL PROPERTY

Section 1. Notification

Owners shall inform the Association **of the** name of their agent or tenant, the duration of the lease and shall post a copy of these Community Ordinances in a prominent location within the rental property.

Section 2. Obligation of Owner.

Owners are responsible for notifying their tenants, whether directly or through their agent that they

must comply with these Ordinances and other applicable regulations. When notified of a violation, property owners are also responsible for taking immediate corrective action, which includes removal of the tenants from the property, if necessary.

Section 3. Obligation of Colington Harbour Association.

The obligation of the Association is limited to enforcement of existing Ordinances with property owners and not **by** notification **to** short or long-term tenants.

Section 4. Newsletter.

The "Newsletter" or other appropriate correspondence should be furnished by the owner or agent to the tenant.

Section 5. Regulation Availability.

Owners and tenants may request copies of appropriate regulations from the Association Office.

ORDINANCES 9 ZONING

Section 1. In 1985, Colington Harbour was zoned single family residential (R-4) and (R-2) in sections W and X by Dare County, and is subject to that designation under the Zoning Ordinances of Dare County. Any business or construction that does not conform to this designation is prohibited without prior authorization by the Colington Harbour Association Board.

ORDINANCE 10 STORMWATER MANAGEMENT

Section 1. General.

Storm water generated from improvements made by lot owners shall be retained as much as possible on the same property as the improvements. Allowing run-off from individual properties to flow to adjacent property or onto common property shall be kept to a minimum.

Section 2. Fill and Excavation

Fill material placed on a lot, other than that required by Dare County Department of Environmental Health for a septic system shall be limited to a maximum of 18 inches before the concrete is poured. The side slope of fill or excavation shall be a maximum of 4:1 and shall not extend beyond the property line. Retaining structures may be permitted on a case by case basis but shall not be closer than 5 feet to any property line. No site work shall begin without the permit approval of the ACC.

Section 3. Driveways

Paving in the right-of-way by owners shall be limited to the Dare County required driveway width. A swale shall be installed with a minimum depth of 8 inches and a maximum slope of 3:1 beginning 2 feet from the edge of pavement running the length of the front property adjacent to the road.

A swale shall be installed along common property lines with a minimum depth of 8 inches and a maximum slope of 3:1.

Section 4. Easement

The Association claims a drainage and utility easement within the right of way and 10 feet along all property lines. Fences shall not be constructed in drainage easement if the fence interferes with the function of the drainage pipes, swales or ditches in the easement. If the Association removes fences in drainage easements in order to maintain drainage facilities, the Association shall not be required to replace or pay for said fences.

Section 5. Roads.

The minimum allowable cross-slope for all streets shall be ¼ inch per foot. Roadside swales shall have a maximum slope of 3:1.

ORDINANCE 11 **OUTDOOR LIGHTING**

Section 1. Intent.

Outdoor lighting standards are hereby established to provide safe lighting levels at proper intensities so as to adequately serve their intended uses and not unreasonably interfere with the use and enjoyment of neighboring properties. These standards are not intended to regulate Association security lighting, provided that such lighting does not create a nuisance to neighboring properties. Regulations are intended to preserve the visual integrity of the nighttime environment by reducing glare, discouraging unnecessary illumination, and prohibiting the use of structure highlighting without decreasing safety, utility and security. All outdoor lighting shall be erected, altered and maintained in accordance with the provisions of this article. Streetlights erected by the Association are exempt from this article.

Section 2. Prohibited lighting

- 1) Light fixtures in the direct line of vision with traffic on land or on water are prohibited.
- 2) Light fixtures that have a flashing or intermittent patterns of illumination are prohibited.
- 3) Privately owned light fixtures located in the right-of-way are prohibited.
- 4) Light fixtures that are a source of glare by their design, orientation or intensity are prohibited.
- 5) Searchlights are prohibited except when used by the Association, federal, state or local authorities.
- 6) Light fixtures that violate any law of the state relative to outdoor lighting are prohibited.
- 7) Up lighting of windsocks, fountains or flags is prohibited, except for the United States flag, state flag or official flag of the Association.
- 8) Structure highlighting is prohibited.

- 9) Unshielded open vertical light fixtures are prohibited.
- 10) Seasonal holiday lighting (Halloween, Christmas, etc.) will be limited to 60 days (e.g. 30 days before, 30 days after the holiday).

Section 3. Lighting Regulations

- a) Light fixtures shall be located on owners lots and designed, shielded or oriented in such a manner as to minimize light spill across property lines and prevent glare at any location on or off the property.
- b) All wiring to light fixtures not located on a building shall be placed underground in accordance with N.C. / National Electrical code.
- c) Light fixtures and supporting structures shall be designed and constructed to comply with state building code requirements.
- d) No light fixture shall exceed 35 feet in height above ground level.
- e) The illumination level from any light source or combination of light sources shall not exceed 1.5 foot-candles at any point on a common property line.

ORDINANCE 12

YARD SALES

Section 1. Intent.

Colington Harbour is a private community whose owners elect to restrict entry to the community to members and their guests. For this reason, open ended invitations to guests are not allowed. Owners may be held liable for the actions of their guests.

Section 2. Permit required.

It shall be a violation for any such person to conduct a yard sale within the community without first obtaining a permit from the Association. Any such permits and any such yard sales shall be subject to the following limitations.

- a) No permit shall be issued for an owner who advertises the yard sale to those other than members of the Association (e.g. In newspaper, radio, online, etc.)
- b) Signs shall be placed in accordance with the stipulation of the permit.
- c) No more than two (2) yard sale permits per year per residential dwelling unit at a specific numbered legal address.
- d) The Association may issue yard sale permits only to the owner of record of the residential property or residential unit upon which yard sale is to take place.

e) A permit issued shall authorize a yard sale to take place for no more than two (2) consecutive Saturday's and Sunday's and only during the hours of 8:00 am through 4:00 pm.

f) No person shall offer for sale at any yard sale any articles, merchandise or goods which have been purchased for resale or articles for which such person is acting as a selling agent.

g) During such hours of such yard sale, a permit issued as required hereunder shall be made available for inspection upon request by any board member or any representative of the Board.

h) The conduct of the yard sale shall not interfere with the orderly flow of pedestrian or vehicular traffic

i) Community yard sales can be permitted on common property with a permit from the Association.

ORDINANCE 13 SIGNS

All violations of signs posted in Colington Harbour will be subject to enforcement by Article 5 of the community ordinances

Pursuant to NCGS § 47F-3-121. No signs may be placed in common areas, easements, rights-of-way, or other areas owned by others. This document regulates and prohibits the display of political signs.

COMMUNITY STANDARDS OF ARCHITECTURAL CONTROL

ARTICLE I DEFINITIONS

The following definitions apply to these Community Standards of Architectural Control:

(a) "Colington Harbour Association, Inc.", hereinafter referred to as "Association" means the Association of the owners of properties in the community established as Colington Harbour.

(b) "Board" means the Board of Directors of the Association.

(c) "Declaration" means the Declaration of Protective Covenants and Agreements, dated 12 July 1968 (latest amendment 2005) and duly recorded in the Public Registry of Dare County, North Carolina.

(d) "By-Laws" means the By-Laws of the Association, which establish the form and method of government of the Association.

(e) "common property" means those areas and other parcels of property, including lakes, canals and roads, together with any buildings or other improvements thereon, or thereto owned, maintained, acquired or bought, otherwise, under the jurisdiction of the Association.

(f) "lot" means any original lot within the community as defined by section letter and lot number, or by metes and bounds description on the plats defining the community.

(g) "sand dune" means a rounded hill or ridge of loose, gritty grains of disintegrated rock heaped up

by the wind. A sand dune may not be covered by vegetation or trees.

(h) "owner" means any person or entity who purchases an equitable interest or an undivided interest in any original lot, whether as land contract vendee or fee holder, being subject to the assessments of the Association.

(i) "Architectural Control Committee", hereinafter referred to as the ACC, means the Committee appointed by the Board to approve all construction in Colington Harbour.

(j) "Community Standards of Architectural Control" means the rules adopted by the Board **and approved by the owners** governing construction or other improvements on any lot, lake or waterway in the community, except the common property.

(k) "Construction approval" and "building permit" are used interchangeably, as are "request" and "application".

ARTICLE II PURPOSE, AUTHORITY AND SCOPE

Section 1. Purpose.

(a) To establish uniform standards and procedures for control and regulation of construction in Colington Harbour, other than on the common properties.

(b) To specify procedures for obtaining Architectural Control Committee approval.

(c) In addition to the Community Standards herein established, it is the Committee's prerogative to disapprove construction requests if the proposed construction is not in keeping with its criteria of external design and location in relation to surrounding structures and topography.

Section 2. Authority.

(a) The ACC has absolute approval authority over all construction in Colington Harbour, subject only to review by the Board.

Section 3. Scope.

(a) ACC approval is required for all construction which includes, but is not limited to, homes, decks, porches, garages, sheds, other out-buildings, docks, piers, swim platforms, walls, fences, bulkheads, pilings (moorings), groins, jetties or modifications, additions or major repairs thereto.

ARTICLE III CONSTRUCTION REGULATIONS

Section 1. Building Set Back Lines.

The setback lines are applicable to all buildings; including stairs, decks and porches, as well as docks, piers, swim platforms and moorings. In the event of conflict with Dare County Regulations, whichever is more restrictive shall prevail.

(a) Front Line (Road side of property). This set-back is designated on Colington Harbour Association, Inc. recorded master plat sheets.

(b) Rear Line. Restricted to 20% of the depth of the lot **or as per CAMA regulations whichever is more restrictive.**

(c) Side Line. Minimum of eight (8) feet to adjoining lot. Roof may not overhang this set-back by more than two (2) feet (see Section 4).

Section 2. Residential Structure (Limitations).

(a) The minimum allowable heated living space dimensions (width or length) for a residential structure, excluding extensions, porches, docks and stairs is twenty-four (24) feet. This does not

apply to Sections Wand Y where mobile homes are specifically permitted.

(b) Houses on nearby lots shall be of distinctive design so as to be individual and avoid appearance of row houses.

(c) Maximum allowable height is 35 ft. above ground level.

Section 3. Construction (General).

(a) Open Space. Open space, if any, below residential structures (mobile homes excluded) will be enclosed with lattice, slating, or skirting, except for vehicle openings. Space between lattice strips or slating shall be no greater than the width of the material used (maximum 4").

(b) Public Utility and Quasi-Public Lines. Electric, telephone, cable TV, etc., must be underground from the utility pole.

(c) Temporary Structures. Motor homes, vans, campers, tents, trailers, other temporary structures and boats may not be used for living purposes. Contractors and Homeowners may not use similar vehicles or structures for office or storage space. One advertising sign may be posted by the prime contractor during construction, but must be removed upon completion. Such sign to be set back so as not to be on community property. Sanitary devices (porta-potty) must be removed promptly upon completion by the contractor. Builders shall remove temporary service within ten (10) days after completion of the home.

(d) Unattached Buildings. No unattached garage, shed, or other structure may be erected on any lot until a residential home (including mobile home) has been placed on the lot.

(e) Lot Preparation and Final Grading. These actions must be approved by ACC and Dare County. Preliminary grading, excavating, and removal of vegetation must be held to a minimum in order to preserve the natural beauty of Colington Harbour. The lot must be properly graded immediately after construction is completed. Preparation that adversely affects, or may affect, adjacent property owners, shall be the liability of the contractor and owner.

(f) Trash Control. Contractors are responsible for containing trash, excess material and scraps, and its removal, on a regular basis, as well as upon completion of construction. Neither the Association dumpsters nor eroded areas behind bulk heads may be used for this purpose. Burning of trash is prohibited. Failure of contractors to observe this regulation will, after due notice, result in the Association removing the offending trash from the areas affected, at the contractor's and/or owner's expense.

(g) Parking. A concrete or asphalt paved driveway or a parking pad for a minimum of two cars must be included for all residential structures and its location indicated on the site plan submitted. Paving must be contiguous with the roadway.

(h) Dogs/Pets. Dogs or other pets may NOT be brought into Colington Harbour by contractors or their sub-contractors.

Section 4. Lots Bordering on Water.

Lots bordering on water in Colington Harbor are subject to special rules and regulations administered by the Office of Coastal Management (CAMA), which must be followed when building any structure thereon. These rules and regulations apply to docks, piers, and bulkheads. In addition, the following Community Standards also apply:

(a) Bulkheads must meet professionally established Association Standards. Copies of standards are available at the Office.

(b) No dock, pier or swim platform shall be closer than eight (8) feet to the extended side lot lines, and must not interfere with water approach to the other docking areas.

(c) None of the structures in (b) above (including exterior pilings) shall extend further into any waterway than forty (40) feet. CAMA regulations 15A NCAC 07H.1200 will apply.

(d) Owners of adjoining lots wishing to build a common dock must apply jointly in writing for approval.

(e) Every pier, dock and swim platform must include a "water exit" ladder. Exterior pilings must be marked with a red or yellow reflector of no less than 2-1/2 inches in diameter at least twenty- four (24) inches above the high water line. Davits for small boats are permitted, but boat slips and ramps that cut through a bulkhead are not.

(f) No dock or pier, or any portion thereof, shall be enclosed with side-walls, roof, or screening on any lots located on bulk headed canals.

(g) Plans and specifications for construction or repair of bulkheads, groins, and jetties are available in the Colington Harbour Association Office for those who wish to use them. Although they are not the only solution to bulkhead repair or construction, they will be used as minimums of the Architectural Control Committee when reviewing permit applications.

Section 5. Fences.

No fence shall be erected taller than 6 feet without a variance.

ARTICLE IV REQUEST FOR PERMIT

Section 1. Submission.

All requests for approval of construction must be submitted on ACC Form Number 1 (available at the Association Office], signed by the property owner and his contractor. Requests must contain the following minimum information and technical data.

(a) Name, address, and phone number of owner and contractor.

(b) Identification of Section and Lot number(s).

(c) One copy of a certified survey site plan prepared by a Registered Surveyor or Registered Engineer. It must be to scale and must show location of the proposed structure, all existing structures (if any), distance from the set-back lines, dimensions of structures, location of driveway, parking pad, and drain field (new or existing). Plats for groins, jetties, docks, piers and swim platforms must show location of construction and dimensions, and location of existing similar structures on the property, on adjacent properties, on property on the opposite side of the canals which are ninety (90) feet in width or less, and the approximate width of the canal. Plats for bulkhead repair or replacement must show location of construction and dimensions to scale.

(d) One copy of drawing to scale for all new home construction showing dimensions, floor plans and front, side and rear elevations. Construction drawings which include dimensions and elevations (if applicable) are sufficient for all other types of structures. Photos and dimensions are acceptable for mobile homes.

(e) No metal structures other than mobile homes in Sections W and X are permitted. All construction materials must conform to the North Carolina Building Code.

ARTICLE V VARIANCE

Section 1. These uniform standards are considered the minimum restrictions necessary to ensure an attractive, desirable community, which can be enjoyed by all property owners equally. Reasonable requests for variance will be considered by the Association on an individual basis and when approved and recorded by the Register of Deeds of Dare County, shall be binding. In such an event, the following procedure will be followed:

(a) Property owners must obtain specific written approvals from adjacent property owners, and must

submit them to the ACC, along with their request for variance approval.

(b) After review, the ACC will forward the request, along with its recommendation to the Board for its consideration. Pending the Board's decision, any related request for construction approval will be held on file.

(c) No variance will be approved without written approval of the Association Board.

ARTICLE VI VIOLATIONS

Section 1. It is the responsibility of the property owner and his contractor to ensure that no site preparation or construction is started prior to receipt of construction approval from the ACC, and that no changes are made to approved requests without submitting the change for approval. In the event of a violation, the Association will immediately notify the violating property owner in writing of the nature of the violation and direct that construction cease (if already started), and that immediate corrective action be taken. If the violation(s) persist, the Board will determine the appropriate course of action in accordance with the Declaration and By-Laws of the Association.

Section 2. Violations of Community Standards of Architectural Control by a property owner, or contractor, will result in denial of any present or future application for construction until such time as the violation in question shall be resolved.

ARTICLE VII APPEALS

Section 1. Appeals resulting from ACC actions will be made to the Board, which will make a decision within thirty (30) days and notify all parties concerned. Its decision does not negate the rights of property owners to remedies under law. Failure to correct violations will be subject to a fine as determined by the board.

ARTICLE VIII ADMINISTRATIVE PROCEDURES

Section 1. Meetings.

Currently the ACC meets on the first and third Tuesday of each month. It reserves the right to change the meeting dates after due notice is given. Submission of requests for approval by property owners, or their contractor, should be planned accordingly.

Section 2. Procedures for Disposition.

(a) Applications which are in compliance with these regulations in all respects will be approved. (b) Applications received which are not on ACC Form Number 1 or which do not contain all the information and technical data required by Article IV, will not be considered and will be held pending receipt of the missing data.

(c) Applications submitted by property owners not in good standing, as defined by the Declaration and the By-Laws will be rejected without review.

(d) Applications received from other than the legal property owner(s), or his or her contractor, will be reviewed only if, in addition to the normal documentation required for construction approval, it is accompanied by a valid sales contract, along with an indication as to when closing will take place. If the

submission is otherwise acceptable, approval will be granted effective on the date written notification of transfer of title to the new property owner is received by the ACC. Prior to that time, no construction may be started.

(e) Request for approval of a house design and plans prior to purchase of property, or an indication of intent to do so as defined in Section (d) above, will be reviewed only as to acceptability of that particular house on a specific lot. Such approvals do not constitute ACC construction approval. A complete request for construction approval must be submitted after the property is acquired, or the conditions set forth in Section (d) above are met.

Section 3. Inspection.

Designated officials of the Association have the right to enter upon a residential property at any reasonable time to ensure compliance with these Community Standards of Architectural Control, and the Protective Covenants. Such entry will not be considered trespassing.

Section 4. Permits.

Construction permits issued by the ACC must be posted on the construction site, along with Dare County permits. They are valid for one (1) year; however, all exterior construction must be completed within six (6) months after work has been started, unless there are justifiable extenuating circumstances. In such an event, an extension of the six-month completion period must be requested from the ACC in writing.

Section 5. Accountability.

Contractors and owners are responsible for the repair, replacement or monetary compensation for any damage to roads, curbs, or property (both common and privately owned) or structures thereon, caused by the act or commission of employees, subcontractors or material men during the construction or improvement of property in Colington Harbour.