

**BK 591 PG 449 - 468**

**STATE OF NORTH CAROLINA  
PAMLICO COUNTY**

**DECLARATION OF COVENANTS, RESERVATIONS AND RESTRICTIONS  
Of**

**Mariner's Landing**

This Declaration of Covenants, Reservations and Restrictions ("the Declaration") made this the 29th day of April, 2014, by WATERFRONT GROUP INVESTMENTS, LLC a North Carolina limited liability company, hereinafter called "Declarant";

WHEREAS, the Declarant is the owner of the real property shown as Lots numbered 1 through 25 on a Plat of Survey by New River Surveying, entitled "Mariner's Landing" recorded in Plat Cabinet A-192 at Slide 14 of the Pamlico County Registry, and:

WHEREAS, by Declaration recorded in Book 501 at Page 840 of the Pamlico County Registry, the previous owner and Declarant established Lee Landing Subdivision through a regime of Covenants, Conditions and Restrictions set forth therein. Upon the undersigned obtaining title to all of the real property described in and encumbered by such Declaration, and having received assignment of all Declarant rights, the undersigned has revoked, and by these presents does withdraw, revoke, and make void and of no effect such Declaration in its entirety, and does replace such Declaration with this Declaration of Covenants Reservations and Restrictions, retaining and restating essential parts of the prior Declaration, and superseding the prior Declaration in all respects.

WHEREAS, Declarant establishes hereby a regime of Declarations intended to provide for a general plan for improvement of the property and of the lots, and to maintain and improve the

value of such property for the benefit of the Declarant and each future owner of any portion thereof, and to apply to and bind the said real estate and any owner thereof, their successors and assigns.

NOW, THEREFORE, the Declarant hereby declares that the real property described in and referred to in Article I hereof is and shall be held, transferred, sold and conveyed subject to this Declaration. Every purchaser of any lot, as a condition of such purchase, agrees and covenants to abide by and conform to such restrictive and protective covenants and conditions and to be bound by the terms hereof.

## **ARTICLE I**

### **Mariner's Landing Subdivision**

The real property which is and shall be, held, transferred, sold and conveyed subject to this Declaration is located in Pamlico County, North Carolina, and is more particularly described as Being the same and identical property conveyed to Declarant herein by deed recorded in Deed Book 591 at Pages 170 – 182 of the Pamlico County Registry and being more particularly shown and described as Lots numbered 1 through 25 on a Plat of Survey by New River Surveying, entitled "Mariner's Landing" recorded in Plat Cabinet A at Slide 192-14 of the Pamlico County Registry.

Such property described above is sometimes referred to herein as the "Subdivision" or "Development." Each individual numbered lot as shown on the above described plat is referred to herein as a "Lot."

## **ARTICLE II**

### **Definitions**

1. "Association" or "Property Owners Association" means the Mariner's Landing Property Owners Association, Inc. a North Carolina Non-Profit Corporation organized originally as the Lee Landing Property Owners Association, Inc. and by change of name now known as Mariner's Landing Property Owners Association, Inc. The membership of the Association shall consist exclusively of all the lot owners and the Declarant.
2. "Declarant" is Waterfront Group Investments, LLC, a North Carolina Limited Liability Company, their successors and assigns. All special Declarant rights as herein defined and the obligations of Declarant as set out herein may be transferred only by written instrument recorded in Pamlico County, North Carolina, executed by both transferor and transferee.
3. "North Carolina Planned Community Act" or the "Act" is Chapter 47F of the North Carolina General Statutes. Declarant hereby incorporates the provisions of the North Carolina Planned Community Act, and declares the same to be applicable to this subdivision in all respects except as specifically modified herein.
4. "Common Area" or "Common Element" means any real estate within Mariner's Landing Subdivision, other than a lot, owned by the association, and specifically includes rights of

- way held for, and roadways constructed for the general use of lot owners. Common area does not include the 50 foot roadway and right of way running from the Lee Landing Road, SR 1003 in a northerly direction between lots 18 and 19 and along the northeastern boundary of Lot 13. No lot owner in Mariner's Landing subdivision has any right of way or easement whatsoever over such roadway, the same being reserved for the exclusive use of Weyerhaeuser Real Estate Development Co.
5. "Limited Common Element" means North Berne Landing Drive, and it's associated right of way, which shall be held by the Association as a Limited Common Element for the exclusive use and benefit of Lots 1 through 14.
  6. "Common Expense" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.
  7. "Common Expense Liability" means the liability for common expenses allocated to each lot as permitted by this declaration, by the Act, or otherwise by law. There shall initially be no general expense assessment other than a special assessment allocated to the owners of Lots 1 through 14 for the sole and exclusive use in maintaining North Berne Landing Drive and it's associated right of way.
  8. "Lot Owner" means the Declarant or other person who owns a lot, but does not include a person having an interest in a lot solely as security for an obligation.
  9. "Improvements" means any fence, driveway, decking, shed, gazebo, outbuilding, garage, sign, or structure or construction of any kind, whether above or below the land surface, such as, but not limited to, buildings, outbuildings, water lines, sewers, electric and gas distribution facilities. Improvements specifically include any disturbance of the ground in preparation for or in the process of improving any lot.
  10. "Special Declarant Rights" means rights reserved for the benefit of Declarant including, without limitation, the right (i) to complete improvements indicated on plats and plans filed with the declaration; (ii) to exercise any development right; (iii) to maintain sales offices, management offices, signs advertising the planned community, and models; (iv) to use easements through the common elements for the purpose of making improvements within the planned community or within real estate which may be added to the planned community; (v) to re plat any lots owned by developer to make fewer or additional lots in the subdivision; (vi) to amend the plat or these covenants during the period of Declarant control, including the right to grant easements over or across the common areas for access to adjoining property; or (vii) to appoint or remove any officer or executive board member of the Association during the period of Declarant control. The period of Declarant control shall terminate when Declarant has conveyed all of the lots to individual lot owners other than an owner affiliated with Declarant to which Declarant Rights are explicitly conveyed in such conveyance.

### **ARTICLE III**

#### **Owners Easement of Enjoyment**

Every owner of any lot shall have a right and easement of enjoyment in and to the common areas, including roads, or any other present or future common area which shall be appurtenant to and shall pass with the title to every lot, subject to the following reservations:

1. Easements, restrictions, reservations and rights of way as may actually exist, or as shown on the recorded plats, or as set out herein, including but not limited to utility easements, setbacks and roadways, and the rights of others in and to the use of North Berne Landing Drive.
2. Rights reserved herein to the Property Owners Association, including but not limited to the right to impose reasonable regulations on the use and enjoyment of the lots and of the common areas, the right to dedicate or transfer North Berne Landing Drive to the North Carolina Department of Transportation as a publically maintained roadway, the right to suspend an owner's voting rights and rights to use the common areas for non-payment of any assessment or for infraction of the published rules and regulations of the Association.
3. Rights reserved to the Declarant as set forth herein.
4. No portion of any of the subdivision, including any lot or common area, shall be used as a road right of way or easement for the purpose of connecting or accessing any adjoining property which is not part of the subdivision, or which is being developed as part of the subdivision absent a specific conveyance of the same by Declarant or by the Association.
5. The Association shall have an easement for maintenance, installation and repair of utilities along a 15 foot easement running along all side lot lines, and along both sides of North Berne Landing Drive.

#### **ARTICLE IV**

##### **Protective Covenants**

1. Attached hereto as Exhibit A, and incorporated herein by reference is a set of stormwater management use restrictions, including a table of maximum allowable impervious areas for each lot designated thereon. Such regulations are required by the terms of a Stormwater Permit issued to Declarant by the North Carolina Division of Water Quality. By acceptance of a deed conveying any lot to any owner, such owner shall be deemed to consent to and to accept the affirmative duty of continuing compliance with such Stormwater Regulations set out herein and referenced on the recorded plats of the real estate comprising Mariner's Landing Subdivision. The Declarant shall have the right of injunctive relief to enforce and prevent violation of such regulations. Upon the termination of the Declarant Control Period, the Stormwater Permit shall be transferred to the Association, and thereafter the Association shall have the affirmative duty of enforcing the continuing observance of such regulations.
2. No Lot shall be used except for residential and recreational purposes. No swine, livestock or poultry shall be raised or bred on any lot. Each Lot owner shall maintain any improvements placed upon any Lot, and no unsightly or dilapidated buildings or other structures shall be permitted on any Lot. No parking or storing of any junked, inoperable or unlicensed automobiles, watercraft, trucks or heavy equipment is permitted on any Lot or road in the Development. Subject to reasonable regulations enacted by the Association from time to time, a limited number of boats, trailers and vehicles may be parked on the lots and maintained for the use and benefit of persons occupying the lots, however no lot in Mariner's Landing shall be used for the purpose of storing, maintaining, collecting or repairing inoperative boats, trailers or vehicles.

3. No residence shall be erected, constructed, maintained, used or permitted to remain on any Lot other than one single-family dwelling. Any residence must be approved by the Architectural Control Committee (hereinafter "ACC") and follow the guidelines set forth in this declaration. Each residence to be constructed on a Lot shall have a minimum finished heated and cooled area of 1,400 square feet for a single level residence and 1,800 square feet for a two level residence, with a minimum of 1400 square feet on the first floor or level of the home built above the basement of the house. Once construction has begun on said dwelling, all exterior construction must be completed within one (1) year of the commencement of construction.
4. Either before or after construction of a residence on any lot, and after approval of the plans, siting and specifications for such structure by the ACC, a garage or similar storage building may be constructed, which is or shall be complimentary to the primary building and constructed of the same materials. Any such structure cannot exceed the primary building either in height or square footage. A garage or storage building may only be constructed after approval from the ACC for a complete plan of development which includes the primary residence. Once construction has begun on the building, all exterior construction must be completed within one (1) year. No such outbuilding shall be occupied as either an occasional, a temporary or a permanent residence, and the Association is authorized to obtain immediate injunctive relief, including costs and attorney's fees, against any lot owner or person violating this paragraph.
5. Any grading or other land use which creates erosion runoff into streams or other Lots is prohibited. Any grading performed in violation of any county, state or federal ordinance, statute or regulation shall be deemed to be a noxious or offensive activity and may result in fines by the Association or by the ACC, or in a civil action to enjoin such activity.
6. There shall be no single-wide mobile homes/manufactured homes, no double-wide mobile homes/manufactured homes, no previously constructed homes, buses or the like shall be installed on any lot or permitted to remain thereon as a residence, either temporarily or permanently. Modular, or systems built homes may be permitted to be built within Mariner's Landing Subdivision so long as the same are designed with roof pitch of no less than 6/12. Any improvement must be approved by the ACC before any site work has been started.
7. No commercial cutting of timber shall be permitted on any Lot. However, the clearing of home sites, or clearing to establish views from the home site is permitted provided that no more than twenty-five percent (25%) of trees that measure ten (10) inches or greater in diameter at the base of the trunk of the tree on any Lot may be cleared without the prior approval of the Architectural Control Committee. The removal of any dead or leaning trees is not prohibited in any circumstance. Cutting of smaller trees/bush hogging is permitted and will not be considered part of the twenty-five percent (25%) allowed clearing so long as trees that are cut are less than ten (10) inches in diameter at the base of the trunk of the tree. Existing open land or pasture will not be considered part of the twenty-five percent (25%) allowed clearing.

8. No structure, other than a fence, may be built within the setback distances set forth on the recorded plat. An easement for installation and maintenance of utilities, and for construction and maintenance of drainage facilities is hereby reserved in favor of the Association, located fifteen (15) feet in width along all side Lot lines and along all Lot lines fronting on any road in the Subdivision.
9. No well for the production of, or from which there may be produced, oil, gas or minerals shall be dug or operated upon any Lot not owned by Declarant, nor shall any machinery, appliance or structure ever be placed, operated or maintained thereon in connection therewith, nor shall there be any subsurface mining or drilling activity thereon; provided further that the prohibition against drilling activity shall not include any drilling or excavation activity associated with the installation of utilities and communication facilities and any activities associated with soil testing, construction of building foundations or master drainage control.
10. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure.
11. All clotheslines, garbage cans, above-ground tanks, woodpiles, and other similar items shall be located or screened so as to be concealed from view of the other Lots, streets and areas in the Development outside the Lot on which such items are located. Each Lot owner shall provide closed sanitary receptacles for garbage and all rubbish, trash, and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. Furthermore, no bedding or clothing of any type, nor any towels, clothes or other items of wearing or cleaning apparel, or any mops, brushes, brooms or other types of cleaning apparatus shall be hung or placed outside of any structure located on any Lot in the Development in such a manner as to be visible from any street or other Lot-.
12. After any improvements are made to any lot, the owner shall keep and maintain such lot in a neat and well-maintained condition, free of unsightly undergrowth, brush piles, felled trees and the like, and shall keep yards and other open areas of the lot neatly trimmed and either mowed or landscaped.
13. This development is not to be used as a campground. Lot owners are not, however, prohibited from overnight stays in professionally manufactured equipment, provided the camping equipment is not left on any Lot for more than seven (7) out of any thirty (30) day period and is not in violation of any local ordinance. Tent camping is allowed on any lot only until a residence is constructed on any adjoining lot, and not thereafter. Permanent residence in any type of camping equipment is strictly forbidden.
14. Hunting is not allowed at any time or on any part of the subdivision, and no firearm shall be discharged within the Development.

15. No trade, commerce or other activity which may be considered a nuisance to the neighborhood may be carried on upon any Lot. It is permissible to operate a home-based business, provided that deliveries to the home do not exceed two (2) UPS, Federal Express or similar express carrier per day. No trade materials or inventories may be stored upon any Lot and no tractor trailer type trucks, house trailers or mobile homes may be stored or regularly parked on any Lot. No junk or unsightly vehicles of any type or description or unsightly buildings may be placed upon any Lot. Home-based businesses shall be allowed to store small inventories within the residence or enclosed outbuilding situated on the Lot. No advertisements or signage of any kind will be permitted on any Lot for home-based businesses.
  
16. The Declarant reserves the right to erect any signs in the Subdivision. Signs may be erected by individual Lot owners but must meet the following criteria and must be approved by the ACC:
  - Signs must be neat, clean and made of metal or wood material only.
  - Signs must measure one (1) foot by one (1) foot in size.
  - Signs must be of tan or beige color for the background of the sign with the border of the sign in black.
  - Lettering for the sign must be black in color and said lettering must be professional in appearance.
  - Signs must be mounted on a four (4) inch by four (4) inch pressure treated timber. Sign cannot be mounted on any tree.
  - Only one (1) "For Sale" or "For Rent" or similar sign for the sale or rent of a property may be placed on a lot at any given time.
  - Builders may erect a sign only during construction of the home and said sign must follow the above criteria.
  - Name and address signs do not have to abide by these criteria, but must be neat, clean and made of metal or wood material. Name and address signs must also be of earth-tone colors and/or white and red.
  - Declarant is not required to follow the above criteria when placing signage within the Subdivision.
  - Signs can be placed only on individual Lots. Directional signs or any signs for advertisement at the entrance and road intersections are prohibited. Any exceptions of this covenant must be approved by a majority vote of the officers of the Property Owners Association.
  - No "For Sale" signs may be erected on any Lot until Declarant has conveyed all lots within the Subdivision unless written approval has been given by the Declarant. Any "For Sale" signs erected on any lot within the Subdivision before conveyance of all lots and without written approval by the Declarant may be removed by the Declarant.

## ARTICLE V

### Architectural Control and Standards

There is hereby established an Architectural Control Committee (hereinafter "ACC"), which shall be appointed by the Executive Board.

1. No Improvements of any kind shall be erected, placed, altered, maintained or permitted to remain on any Lot, nor shall any construction be commenced thereon until plans for such Improvements have been approved by action of the ACC in accordance with the provisions herein; provided however, that improvements and alterations completely within the interior of a building may be completed without approval.
2. If damage and/or wear and tear attributed to construction of any Improvement is determined by the ACC to exist, then said property owner will be liable for any costs to repair such roadway damage.
3. Any Lot owner who commences an Improvement without written permission and stamped plan approval from the ACC is subject to a fine of \$100.00 per day for every calendar day from date of starting construction (i.e. digging footings, clearing Lot to build) until receipt of approval letter from the ACC. The ACC reserves the right to bring legal action against Lot owners who start building without approved plans.
4. Any land disturbance must be stabilized within twenty-four (24) hours, failure of Lot owner or owner's agent to stabilize disturbed area shall result in a fine of \$100.00 per day levied by the ACC or the Association.
5. The ACC has created "Building Standards" which describe construction standards to be used as the criterion for the approval of proposed improvements. The ACC or the Association shall have the power to modify, alter, supplement, or amend Building Standards at any time by an affirmative vote of a 67% majority of the Board or the ACC, but such change shall not be effective as to improvements which have previously been approved. Declarant will have the power to modify, alter, supplement or amend Building Standards at any time until they have conveyed all lots within the Subdivision.
6. The actions of the ACC through its approval or disapproval of plans, and other information submitted pursuant hereto, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.
7. All communications and submittals shall be addressed to Waterfront Group Investments, LLC, Attention Mark Adkins, 19421 Liverpool Parkway, Cornelius, NC 28031 or to any such address as the ACC shall hereinafter designate in writing. The ACC shall reply in writing to all plan submittals within thirty (30) days of receipt hereof. The ACC shall have 30 days to approve complete plans that have been submitted by Lot owner(s) or builder.

The following are "Building Standards" as created by the Mariner's Landing Subdivision ACC:

**Building Type:**

- Stick built construction or approved modular construction only. No mobile, doublewide, temporary or other non-conventional homes are allowed.

**Exterior:**

- Block, brick, rock/stone foundation. Exposed concrete or block must have stucco applied on or before completion of home.



- Wood, log, rock/stone, stucco, brick and fiber cement, or any combination is permitted. Vinyl and aluminum siding is not permitted absent a specific variance considered and granted by the ACC.
- Any new materials that are approved by the North Carolina Homebuilders Association may be considered for approval by the ACC.
- Exterior of homes must be of earth tone colors.
- Windows/doors must be of sound quality and workmanship and installed properly.
- No satellite dishes over 18 inches in diameter shall be permitted.
- No pre-fabricated, metal or plastic outbuilding will be permitted. Outbuildings must be constructed of similar materials and colors as the home. Exceptions for materials and colors of buildings constructed on properties will be at the discretion of the ACC.
- Detached garages are permitted, but must be constructed of the same exterior material as the home.
- Roof-pitch must be a minimum of 6/12. This also applies to outbuildings and detached garages. Except on modular homes, the ACC may consider different roof pitches in conjunction with a stick built house design.
- Fences must be approved in advance by the ACC as to style, location, materials and height. No chain-link, barbed wire or other similar wire fencing is allowed. Approval of fencing shall be in the discretion of the ACC and may be disallowed on purely aesthetic considerations. In general fences will not be approved to be erected closer to the front Lot line than the rear face of the dwelling. Fences will not be allowed which impede the reasonable view of any adjoining lot, whether or not improved.

#### Contractor Responsibilities:

- Contractor must have proof of insurance; to include but not limited to transportation, workman's compensation, and liability insurance of no less than one million dollars.
- Contractor may be required to provide references to ACC prior to plan approval. The ACC is authorized to issue regulations requiring all contractors to provide a reasonable bond against damage to the common areas or other lots.
- Contractor must provide one (1) portable toilet for each job site within the development. The contractor must present a maintenance agreement which provides for at least weekly dumping/cleaning of all portable toilets.
- Contractors must have a dumpster on site for each job site. Trash and excess/waste building materials shall be placed in dumpster at the end of each working day.
- The ACC reserves the right to levy fines of \$100 per day against contractors who do not adequately clean the building site or do not have a functioning portable toilet.
- Building materials shall not be placed within road rights of way or utility easements.
- The Contractor must assume liability for all construction vehicles that enter Mariner's Landing Subdivision en route to their job site, including damages caused by overweight vehicles and/or other negligence of operators.
- The Contractor shall be responsible to the Lot owner and the Association for their actions and for the actions of any and all subcontractors, and the lot owner is separately responsible to the Association for all such activity.
- Contractors/subcontractors are responsible for any cut, break or damage to underground utility.

#### Lot Owner Responsibilities:

- Present 2 copies of blue line schematic drawings of the home or other Improvement to ACC, including a site plan detailing the location of any such Improvement and a landscape plan. Colors used on exterior of home must be included and color samples may be required.
- Present all materials requested on attached Architectural Control Checklist to the ACC.
- Have permission of ACC before commencement of construction.
- Lot owner is responsible for agents, employees, contractors, subcontractors and assigns.
- If the lot has been improved (built upon), then the owners of the improved lot shall maintain their lot (s) to neatly kept and mowed condition. All stumps, brush piles and debris shall be removed from lot (s) or hidden from sight from the roadways.

#### Architectural Control Checklist:

Below is a checklist of items needed for house plan approval from the Architectural Control Committee (ACC).

#### Preliminary Approval:

- 2 copies of preliminary site plan disclosing location of all improvements to be placed on lot (one copy will be returned to you and one copy will be kept and placed in your file)

#### Final Approval:

- 2 copies of schematic drawings of home (locating improvements on lot, showing elevations on all four sides, color schemes, building materials, and all site improvements, is recommended) (one copy will be returned to you and one copy will be placed in your file).
- Contractor/Builders name
- Proof of insurance (builders risk, Auto & liability, workmen's compensation)
- List of Subcontractors to be used
- Copy of portable toilet and dumpster contract or receipt of payment
- Copy of signed disclaimer from Contractor, or bond if required.
- General description of building materials

Upon receipt of all the above items, the ACC will respond within 15 days for Preliminary Approval and 30 days after all documents have been received for Final Approval. Copies of your correspondence to the ACC will be kept and placed in your file.

Neither the ACC, the Developer, nor any member, employee or agent thereof, shall be liable to any owner of a Lot or to anyone submitting plans for approval or to any other interested party by reason of mistake in judgment, negligence, or nonfeasance in connection with the approval, disapproval or failure to approve any such plans or for any other action in connection with its or their duties hereunder. Likewise, anyone who submits plans to the ACC for approval agrees not to bring any action or suit to recover any damages against the Declarant, the ACC, or any partner, member, employee or agent of the Declarant or the ACC.

The ACC may in its sole discretion make exceptions to the provisions herein when the general character of the requested exceptions, as fully developed and occupied in accordance with the owner's plans would not be in conflict with the intended character of the property subject to this

Declaration, or when changes are reasonably necessary to conform to the topography of a particular lot.

## **ARTICLE VI**

### **Powers and Duties of the Owners Association**

Mariner's Landing Property Owners Association, Inc. a North Carolina non-profit corporation, (the "Association"), shall have and exercise all of the following rights, powers and authority:

1. Adopt and amend bylaws and rules and regulations applicable to the subdivision.
2. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from lot owners;
3. Hire and discharge managing agents and other employees, agents, and independent contractors;
4. Institute, defend or intervene in litigation or administrative proceedings on matters affecting the planned community;
5. Make contracts and incur liabilities;
6. Regulate the use, maintenance, repair, replacement and modification of the common elements;
7. Cause additional improvements to be made part of the common elements;
8. Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to N.C.G.S. 47F-3-112;
9. Grant easements, leases, licenses and concession through or over the common elements.
10. Impose and receive any payments, fees, or charges for the use, or operation of the common elements, and for services provided to lot owners;
11. Impose reasonable charges for late payment of assessments, not to exceed the greater of twenty dollars(\$20.00) per month or ten percent (10%) of any assessment installment unpaid and, after notice and an opportunity to be heard, suspend privileges or services provided by the association (except rights of access to lots) during any period that assessments or other amounts due and owing to the association remain unpaid for a period or 30 days or longer;
12. After notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the association (except rights of access to lots) for reasonable periods for violations of the declaration, bylaws and rules and regulations of the association;
13. Provide for the indemnification of and maintain liability insurance for its officers, executive board, directors, employees, and agents;
14. Exercise all other powers that may be exercised in this State by legal entities of the same type as the association, or as set out in the Planned Community Act, or as necessary and proper for the governance and operation of the association.

Mariner's Landing Property Owners Association shall have the following duties and obligations;

1. The Association shall cause the limited common elements, including the subdivision roadways, and the rights of ways appurtenant thereto to be maintained, repaired and replaced when necessary, to assess the lot owners whose lots are or may be accessed by such roadway for such costs, and to recover the costs of such maintenance, repair or replacement as herein provided;
2. The Association shall keep financial records sufficiently detailed to enable the association to comply with the Planned Community Act and the North Carolina Non-Profit Corporation Act, and shall make such records reasonably available for examination by any lot owner and the authorized agents of such lot owner. Such records shall include records of meetings of the association and the executive board, cash receipts and expenditures, and all assets and liabilities. The Association shall make an annual income and expense statement and balance sheet available to all lot owners at no charge within 75 days of the close of the fiscal year. An audit of the associations books and records for the current or immediately preceding fiscal year may be required by a vote of the executive board, or of a majority of the lot owners voting at any annual meeting or special meeting duly called for that purpose.
3. In addition to the limitations of Article 8 of Chapter 55A of the General Statutes, no financial payments, including payments made in the form of goods and services, may be made to any officer or member of the executive board or to a business, business associate or relative of an officer or member of the executive board, except as expressly provided for in the bylaws or in payment for services or expenses paid on behalf of the association which are approved in advance by the executive board.
4. The Association may maintain casualty and liability insurance in such amounts and on such common elements as are insurable, in accordance with N.C.G.S. 47F-3-113.
5. The Association shall cause a meeting of the members to be duly called and held in accordance with this declaration at least once each year.

## **ARTICLE VII**

### **Executive Board Powers and Duties**

There shall be an Executive Board of Mariner's Landing Property Owners Association, which shall consist of such members and officers as determined by the By Laws, and shall have the following duties and obligations;

1. Consistent with the by-laws, this declaration, and existing law, the executive board may act unilaterally in all instances on behalf of the Association. In the performance of their duties, officers and members of the executive board shall discharge their duties in good faith. Officers shall act according to the standards for officers of a non-profit corporation set forth in N.C.G.S. 55A-8-42, and members of the board shall act according to the standards for directors of a non-profit corporation set forth in N.C.G.S. 55A-8-30.
2. The executive board may not act unilaterally on behalf of the association to amend the declaration or the by-laws, to terminate the planned community, to elect members of the executive board, or to raise annual or special assessments.

3. The lot owners, by a majority vote of all persons present and entitled to vote at any meeting of the lot owners at which a quorum is present may remove any member of the executive board with or without cause, other than a member appointed by the Declarant.
4. Meetings of the executive board shall be held as provided in the bylaws. At regular intervals, the executive board meeting shall provide lot owners an opportunity to attend a portion of an executive board meeting and to speak to the executive board about their issues or concerns. The executive board may place reasonable restrictions on the number of persons who speak on each side of an issue and may place reasonable time restrictions on persons who speak.
5. Within 30 days after adoption of any proposed budget for the Association the executive board shall provide to all the low owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The executive board shall set a date for a meeting of the lot owners to consider ratification of the budget, such meeting to be held not less than 10 nor more than 60 days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a majority of all the lot owners in the association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the lot owners shall be continued until such time as the lot owners ratify a subsequent budget proposed by the executive board in the same manner.
6. Notwithstanding any provision to the contrary, no action of the association or the executive board, including the proposal or approval of any budget, shall be effective to raise annual assessments by more than five percent (5%) unless such budget or assessment increase shall be ratified by the affirmative vote of a majority of the lot owners present in person or by proxy at an annual or special meeting called for the purpose of considering such increase, and at which a quorum is present.

## **ARTICLE VIII**

### **Association Meetings, Membership and Voting Rights**

1. In addition to the annual meeting, a meeting of the Association may be called by the president, a majority of the executive board, or by lot owners having ten percent (10%) of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting the secretary shall cause notice to be hand delivered or sent prepaid by U.S. mail to the mailing address of each lot or to any other mailing address designated in writing by the lot owner, or sent by electronic means, including by electronic mail over the Internet to an electronic mailing address designated in writing by the lot owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.
2. A quorum is present throughout any meeting of the association if persons entitled to cast ten percent (10%) of all the authorized votes are present in person or by proxy at the beginning of the meeting.
3. In the event business cannot be conducted at any meeting of the association or the executive board because a quorum is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy.

The quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

4. Meetings of the association and the executive board shall be conducted in accordance with the most recent edition of Robert's Rules of Order.
5. Except for lots owned by Declarant during the period of Declarant control, each lot in Mariner's Landing Subdivision is entitled to one vote in the Association. If only one of the multiple owners of a lot is present at a meeting of the association, the owner who is present is entitled to cast such vote. If more than one of the multiple owners is present, the vote may be cast only in accordance with the agreement of a majority in interest of the multiple owners. Such majority interest is conclusively presumed if any one of the multiple owners casts the vote without protest being made promptly to the person presiding over the meeting by any of the other owners of the lot.
6. Notwithstanding the provisions of the previous paragraph, for any issue coming before the Association or the Board having to do only with the use, maintenance or control of North Berne Landing Drive, or the amount of assessments that should or may be levied by the Association against the lot owners using or capable of using such roadway, only lot owners of lots 1 through 14 are entitled to vote.
7. Votes may be cast by written proxy executed by any lot owner. If a lot is owned by more than one person, each owner may vote, or may register protest to the casting of votes by other owners, by proxy. A lot owner may not revoke a proxy except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated. Every proxy expires 11 months after its date, unless a shorter term is specified in the proxy.
8. No votes may be cast on behalf of lots owned by the Association.
9. The Association or the Executive Board may by affirmative action, delegate to one or more committees the responsibility for any authorized actions, so as to facilitate efficient and effective management of the Association.

## **ARTICLE IX**

### **Assessments for Common Expenses**

1. Except as provided in N.C.G.S. 47F-3-115, common expenses shall be assessed against all lots equally, except that no assessment shall be made on any lot owned or beneficially controlled by the Declarant. Until the Association shall make a different common expense assessment, there shall be no annual assessment for common expense. The Lots that are accessed by use of North Berne Landing Drive, being Lots 1-12, shall be assessed a special assessment to be used specifically and only for maintenance and upkeep of such roadway, unless and until by majority vote of those owners, the same is accepted by and taken over for maintenance by the State of North Carolina. The initial assessment for such lots and such roadway is \$400.00 per year.
2. Payments of annual or special assessments shall be due 30 days after the beginning of the fiscal year, or otherwise as determined by the Association. Any assessment levied against a lot which remains unpaid for a period of 30 days or longer shall bear interest at

the rate of eighteen per cent (18%) per year from the due date thereof, and shall constitute a lien on that lot when a claim of lien is filed in the office of the Clerk of Superior Court of Pamlico County, North Carolina.

3. Service charges, late charges and other all other charges posed on a lot or lot owner by the association as fines, fees, special assessments, penalties or the like under the provisions of Article constitute a similar lien, bear the same interest, and are enforceable under this Article as annual assessments, except as limited by the provisions of N.C.G.S. 47F-3-116.
4. Under the provisions of N.C.G.S. 47F-3-116, the Association may collect and enforce any and all such assessments by civil action, by foreclosure under Article 2A of Chapter 45 of the General Statutes, by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes, or otherwise as provided by law. In any such action the Association may include and shall recover costs or expenses of collection or foreclosure, including reasonable attorney's fees. The collection of attorney's fees in any such action is limited by the requirement in such General Statute that notice of intent to seek attorney's fees must be provided to the lot owner, and that attorney's fees may not be charged unless the debt is contested.
5. The lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the claim of lien in the Office of the Clerk of Superior Court of Pamlico County.
6. The lien created by this Article is prior to all liens and encumbrances on a lot except (i) liens and encumbrances (specifically including but not limited to a deed of trust on the lot) recorded before the docketing of the claim of lien in the Office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments and charges against the lot.

## **ARTICLE X**

### **Declarant Control**

1. Until such time as Declarant has sold all of the lots in the subdivision, or until Declarant specifically relinquishes such rights in writing, Declarant shall have Special Declarant Rights, including the right to appoint each of the members of the Executive Board of the Association, and shall have three votes in the association for every lot owned by Declarant.
2. While Declarant owns any lot, Declarant shall have the right to waive, amend or modify this Declaration, to add land to or withdraw land from the subdivision, to revise the subdivision plat as to any unsold lot or the routes of any subdivision roadways, to dedicate additional common areas, to grant easements and rights of way which benefit the association or adjoining property owners, or to grant variances from the restrictions contained herein as to any lot or lots.
3. In the exercise of any of the rights set forth herein, Declarant shall have such additional rights and authority as may be necessary to the full and complete enjoyment thereof.

## **ARTICLE XI**

### **Procedures for Fines and Suspension of Community Privileges**

1. The executive board, or an adjudicatory panel appointed by the executive board may hold a hearing to determine if any lot owner should be fined, or if planned community privileges or services should be suspended for violations of the declaration, bylaws, and rules and regulations of the association.
2. Any adjudicatory panel appointed by the executive board shall be composed of members of the association who are not officers of the association or members of the executive board.
3. The lot owner charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation and without further hearing, for each day more than five days after the decision that the violation occurs.
4. The lot owner may appeal the decision of an adjudicatory panel to the full executive board by delivering written notice of appeal to the executive board within 15 days after the date of the decision. The executive board may affirm, vacate or modify the prior decision of the adjudicatory body.

### **ARTICLE XII Amendment**

1. Except in case of amendment executed by Declarant under the terms of this declaration or by special Declarant right, this declaration may be amended only by affirmative vote of or written agreement signed by at least sixty-seven percent (67%) of the Members of the Property Owners Association, who appear in person or by proxy at a meeting called wherein the notice of such meeting fairly states the proposal to amend the covenants and the substance of such proposed amendment.
2. Every amendment to this declaration shall be prepared, executed, recorded and certified in accordance with N.C.G.S. 47-41, shall be recorded in the Office of the Register of Deeds of Pamlico County, North Carolina, and shall be effective only upon such recordation.
3. No action to challenge the validity of an amendment adopted pursuant to this article may be brought more than one year after the amendment is recorded.

### **ARTICLE XIII Miscellaneous Provisions**

1. This Declaration, as may be amended from time to time, shall run with the land and shall be binding on all parties, their successors and assigns, and upon all persons claiming by or under them until January 1, 2040, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless, by majority vote of the current owners of the Lots described herein, it is agreed to terminate said covenants in whole or in part.



- 2. Invalidation of any of these covenants or any part thereof by judgments or Court order shall in no way affect any of the other provisions which shall remain in full force and effect. The failure of any person or persons to take action to restrain the violation of any of these covenants and restrictions shall not be construed as waiver of any enforcement rights and shall not prevent the enforcement of such covenant or covenants in the future.

IN WITNESS WHEREOF, WATERFRONT GROUP INVESTMENTS, LLC has caused this instrument to be executed in its name by its Member- Manager, this the day and year first above written.

(Execution on following page)

WATERFRONT GROUP INVESTMENTS, LLC.

By: Mark R. Adkins  
Mark R. Adkins, Member-Manager

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, Ann Marie Wilson, a Notary Public of the State and County aforesaid, certify that Mark R. Adkins personally appeared before me this day and acknowledged that he is a Member-Manager of WATERFRONT GROUP INVESTMENTS, LLC, a North Carolina limited liability company and by authority duly given and as the act of the LLC, he executed the foregoing instrument.

WITNESS my hand and official seal, this the 29<sup>th</sup> day of April, 2014.

My commission Expires: 7/28/17



Ann Marie Wilson  
Notary Public

Exhibit A, Page 1 of 3

1. Stormwater Restrictions and Sedimentation Erosion Control. The following provisions relate to Stormwater Management:

The covenants in this section are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW 7070304, as issued by the Division of Water Quality under NCAC 2H. 1000.

The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management permit.

These covenants, as with all the covenants herein, are to run with the land and be binding upon all persons and parties claiming under them.

The covenants pertaining to Stormwater may not be altered or rescinded without the express written consent of the State of North Carolina Division of Water Quality.

Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division of Water Quality.

The maximum built-upon area per Lot is set forth on the Table Of Impervious Areas Per Lot set out below. This allotted amount includes any built-upon area constructed within the Lot property boundaries, and that portion of the right of way between the front Lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina, driveways, and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

Exhibit A, Page 2 of 3

Filling in, piping or altering any 3:1 vegetated conveyances (ditches, swales, etc.) associated with the development except for average driveway crossings, is prohibited by any persons.

Filling in, piping or altering any vegetated area associated with the development is prohibited by any persons.

A fifty (50) foot vegetated buffer must be maintained between all built-upon area and the mean high water line of surface waters.

All roof drains shall terminate at least fifty (50) feet from the mean high water mark of surface waters.

Exhibit A, Page 3 of 3  
STORMWATER MANAGEMENT PERMIT APPLICATION  
LOW DENSITY SUPPLEMENT  
PROJECT INFORMATION  
FOR  
LEE LANDING SUBDIVISION- PHASE ONE

TABLE OF PERMITTED IMPERVIOUS AREAS PER LOT

LOT NUMBER	TOTAL LOT AREA (SQ. FT.)	TOTAL ALLOWABLE IMPERVIOUS AREA (SQ. FT.)
1	68,446	10,000
2	50,133	10,000
3	50,325	10,000
4	57,935	10,000
5	64,106	10,000
6	82,293	10,000
7	98,265	10,000
8	97,681	8,000
9	94,588	8,000
10	92,194	10,000
11	91,145	10,000
12	127,113	10,000

ANALYSIS OF LOT 8 AND LOT 9

LOT NO.	TOTAL AREA	WETLAND AREA	25% WETLAND AREA	UPLAND AREA	UPLAND R 25% WETLAND	25% IMPERVIOUS	USE
8	97,681	76,993	19,098	21,288	40,386	10,000	8,000
9	94,588	72,888	18,172	21,900	40,072	10,018	