



# Bald Head Association Policy Manual

# Bald Head Association

## Policy Manual

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State of  
North  
Carolina



Department  
of the  
Secretary of State

To all to whom these presents shall come, Greeting:

I, Thad Eure, *Secretary of State of the State of North Carolina*, do hereby certify the following and hereto attached ( 8 sheets) to be a true copy of

ARTICLES OF INCORPORATION

OF

BALD HEAD ASSOCIATION

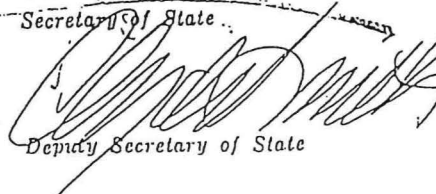
and the probates thereon, the original of which was filed in this office on the 27th day of April, 19 82, after having been found to conform to law.

In Witness Whereof, I have hereunto set my hand and affixed my official seal.

Done in Office, at Raleigh, this 27th day  
of April in the year of our Lord 1982.



  
Secretary of State

By   
Deputy Secretary of State

FILED

APR 21 11 11 AM '82

THAD EURE  
SECRETARY OF STATE  
NORTH CAROLINAARTICLES OF INCORPORATION  
OF  
BALD HEAD ASSOCIATION

In compliance with the requirements of the laws of the State of North Carolina, the undersigned, who is a resident of Wake County, North Carolina, and is of full age, has signed and acknowledged these Articles of Incorporation for the purpose of forming a non-profit corporation and does hereby certify:

## ARTICLE I

NAME

The name of the corporation is Bald Head Association, hereinafter called the "Association".

## ARTICLE II

DURATION

The Association shall exist perpetually.

## ARTICLE III

REGISTERED OFFICE AND AGENT

The principal and initial registered office of the Association is located at 704 East Moore Street, Southport, Brunswick County, North Carolina 28461; and John A. Messick is the initial registered agent of the Association at that address.

## ARTICLE IV

PURPOSE OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for beautification, maintenance, preservation, and architectural control of the exterior of the single family homes, multi-family units and non-residential areas, the residence lots, assessable properties and the common areas within those certain tracts of property described as:

- (a) Such property located on Smith (Bald Head) Island, Brunswick County, North Carolina as more fully described in Exhibit A attached hereto.
- (b) Such additional lands on Smith (Bald Head) Island or in Brunswick County as may be annexed by Bald Head Island Corporation, a North Carolina corporation, its successors and assigns (hereinafter known as the "Declarant"), without the consent of members within fifteen (15) years after the date of this instrument.
- ✓ (c) Such property as may be annexed at any time with the express consent of two-thirds (2/3) of the members of the Association;

and to promote the health, safety, and welfare of the residents within the above-described property and any additions thereto that hereafter may be brought within the jurisdiction of this Association for this purpose.

#### ARTICLE V

##### POWERS OF THE ASSOCIATION

The Association shall have the following general powers and any others impliedly arising therefrom, to be exercised in the manner provided and in conformity with applicable law, the Declaration hereinafter referred to, the Bylaws of the Association, and these Articles:

- (a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, herein called the "Declaration", applicable to the property, and recorded or to be recorded in the Office of the Register of Deeds of Brunswick County, North Carolina, and as the same may be amended from time to time as herein provided, said Declaration being specifically incorporated herein by reference as if fully herein set out;
- (b) To fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including, but specifically not limited to, licenses, taxes, and governmental charges levied or imposed against the property of the Association;
- (c) To acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association, subject always to the provisions and requirements of the Declaration;

- (d) To borrow money, mortgage, pledge, deed in trust, or hypothecate its real or personal property as security for money borrowed or debts incurred, subject always to the provisions and limitations of the Declaration;
- (e) To participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and common area subject always to the provisions and limitations set forth in the Declaration;
- (f) To have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Act of the State of North Carolina (Chapter 55A, North Carolina General Statutes) by law may now or hereafter exercise.

## ARTICLE VI

MEMBERSHIP

The Declarant, for so long as it shall be an Owner, and every person or entity who is a record owner of a fee or undivided fee interest in any assessable property, including any lot, multi-family unit or site, parcel or non-residential area which is subject by covenants of record to assessments by the Association, including contract sellers, but excluding persons who hold an interest merely as security for the performance of an obligation, shall be a member of the Association. Ownership of such interest shall be the sole, qualification for membership (other than Declarant); no owner shall have more than one membership per assessable property owned and there shall be only one vote for each assessable property, unit, lot or area. Membership shall be appurtenant to and may not be separated from ownership of any assessable property (including any lot, Unit or parcel) which is subject to assessment. The Board of Directors may make reasonable rules relating to the proof of ownership of such assessable property, lot, unit or area.

## ARTICLE VII

VOTING RIGHTS

Section 1. Classes of Membership. The Association shall have one class of voting membership:

Members shall be entitled to one vote for each assessable property, lot, unit or area in which they hold the interest required for membership by Article VI. When more than one person holds such interest in

any assessable property, lot, unit or area, all such persons shall be members. The vote for such assessable property, lot, unit or area shall be exercised as the owners thereof determine, but in no event shall more than one vote be cast with respect to such property and no fractional vote may be cast with respect to any such property.

Section 2. Suspension of Voting Rights. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and for any period during which any assessment against the lot of a member remains unpaid.

## ARTICLE VIII

### BOARD OF DIRECTORS

Section 1. Number; Initial Board. The affairs of the Association shall be managed by a Board of not fewer than three (3) nor more than six (6) Directors, who need not be members of the Association. The number of Directors required by the Bylaws of the Association may be changed by amendment thereof. The initial Board shall consist of five (5) Directors and the names and addresses of the persons who are to act in the capacity of and constitute the initial Board of Directors until the selection and qualification of their successors are:

<u>Name</u>	<u>Address</u>
James E. Harrington	114 Overview Road, Cary, NC 27511
John A. Messick	704 East Moore St., Southport NC 28461
George F. Freeman	P. O. Box 2103, High Point, NC 27261 <del>2060 Brentwood High Point NC 27261</del>
Thad B. Wester	103 West 27th St., Lumberton, NC 28358
P. A. Thomas	1206 Lancaster Place, High Point, NC 27262

Section 2. Election; Term. At or within ten (10) days after the first annual meeting, the members shall elect the number of Directors required by the Bylaws. The term of Directors thereafter elected shall be as provided in the Bylaws. All directors shall serve until their successors have been duly elected and qualified.

Section 3. The method of election of Directors after the first election held pursuant to Section 2 shall be as provided in the Bylaws.

## ARTICLE IX

MERGERS AND CONSOLIDATIONS

To the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same or similar purposes; provided, no merger or consolidation may be effectuated unless two-thirds (2/3) of all the votes entitled to be cast by each class of membership are cast in favor of merger or consolidation at an election held for such purpose.

## ARTICLE X

DISSOLUTION OR INSOLVENCY

Section 1. Voluntary Dissolution. The Association may be dissolved with the assent given in writing and signed by members having not less than two-thirds (2/3) of the votes of the membership.

Section 2. Election of Successor. Upon dissolution or insolvency of the Association, the members may elect to:

- (a) form a non-profit corporation and transfer and assign to such corporation the property of the Association for beautification, maintenance, and preservation of lots, yards, and common areas within the properties, with power to assess the owners for such purposes; or
- (b) transfer, assign, and convey the property of the Association to any non-profit corporation, association, trust, or other organization which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the common area was required to be devoted by the Association.

Section 3. Transfer of Assets. The Association shall have no capital stock, and in the event of dissolution, no member, Director, or officer of the Association, and no private individual, shall be entitled to share in the distribution of the assets of the Association. If any assets shall remain after satisfaction of its just debts, the Association shall grant, convey, and assign such assets to any entity or entities that have accepted and undertaken the care and management of the common area or portions thereof. In the event that more than one entity has undertaken such care and management, the Association may distribute the assets among such entities in a manner which the Association, in its discretion, deems fair and equitable.

## ARTICLE XI

## AMENDMENTS

Section 1. Amendment by Membership. Except as herein provided, any amendment of these Articles shall require the assent of members or proxies entitled to cast seventy-five percent (75%) of the entire vote of the membership.

Section 2. Amendment of Declaration Without Approval of Owners. The Declarant, without the consent or approval of any other owner, shall have the right to amend these Articles to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any lots and improvements thereon for mortgage or improvement loans made or insured by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale in such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of Property including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, U. S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Association, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

No amendment made pursuant to this Section shall be effective until duly recorded in the Secretary of State's Office and the Office of the Register of Deeds of Brunswick County.



ARTICLE XII  
INCORPORATOR

The name and address of the incorporator is as follows: Charles L. Hinton, III, 1155 Kildaire Farm Road, Post Office Box 550, Cary, Wake County, North Carolina 27511.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of North Carolina, the undersigned, as incorporator, has executed these Articles of Incorporation, this the 29th day of January, 1982.

 (SEAL)  
Charles L. Hinton, III

North Carolina  
Wake County

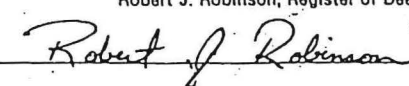
I, Elizabeth H. Machen, a Notary Public, do hereby certify that Charles L. Hinton, III, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

This the 29th day of January, 1982.

My commission expires: 7/24/85

  
Notary Public



STATE OF NORTH CAROLINA, Brunswick County  
Recorded this 10th day of May 19 82 at 3:02 o'clock P.M.  
Robert J. Robinson, Register of Deeds  
 dhp

## EXHIBIT A

Being all of the tracts or parcels located on Bald Head Island, Smithville Township, Brunswick County, North Carolina as follows:

A. Stage I, as shown on the following recorded maps:

Map Book 12, Pages 1-11, 14-17, 36, 37 and 39  
Map Cabinet J, Pages 178-184 and 319  
Map Cabinet I, Page 373  
Map Cabinet L, Page 195  
Map Cabinet M, Pages 84, 85 and 86

Bald Head Inn tract as described in Deed of Trust recorded in Book 288, Page 470, as amended by Modification Agreement recorded in Book 342, Page 129, both of Brunswick County Registry.

B. A 4.944 acre parcel conveyed to Robin Hayes by Deed dated August 12, 1977, recorded in Book 379, Page 583, Brunswick County Registry.

C. Middle Island and 2,000 feet of ocean frontage adjacent thereto conveyed to Young Realty Company by Deed recorded in Book 399, Page 448, Brunswick County Registry.

**Chapter 55A**  
**North Carolina Nonprofit Corporation Act.**

**ARTICLE 1.**

**General Provisions.**

**Part 1. Short Title and Reservation of Power.**

**§ 55A-1-01. Short title.**

This Chapter shall be known and may be cited as the "North Carolina Nonprofit Corporation Act". (1993, c. 398, s. 1.)

**§ 55A-1-02. Reservation of power to amend or repeal.**

The General Assembly has power to amend or repeal all or part of this Chapter at any time and all domestic and foreign corporations subject to this Chapter are governed by the amendment or repeal. (1993, c. 398, s. 1.)

**§§ 55A-1-03 through 55A-1-19. Reserved for future codification purposes.**

**Part 2. Filing Documents.**

**§ 55A-1-20. Filing requirements.**

(a) A document required or permitted by this Chapter to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes.

(b) A document submitted on behalf of a domestic or foreign corporation must be executed:

- (1) By the presiding officer of its board of directors, by its president, or by another of its officers;
- (2) If directors have not been selected or the corporation has not been formed, by an incorporator; or
- (3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary. (1955, c. 1230; 1967, c. 13, s. 2; c. 823, s. 21; 1985 (Reg. Sess., 1986), c. 801, s. 2; 1993, c. 398, s. 1; 1999-369, s. 2.1; 2001-358, s. 7(a); 2001-387, ss. 32, 155, 173, 175(a); 2001-413, s. 6.)

**§ 55A-1-21. Forms.**

(a) The Secretary of State may promulgate and furnish on request forms for:

- (1) An application for a certificate of existence;
- (2) A foreign corporation's application for a certificate of authority to conduct affairs in this State;
- (3) A foreign corporation's application for a certificate of withdrawal;
- (4) Designation of Principal Office Address; and
- (5) Corporation's Statement of Change of Principal Office.

If the Secretary of State so requires, use of these forms is mandatory.

(b) The Secretary of State may promulgate and furnish on request forms for other documents required or permitted to be filed by this Chapter but their use is not mandatory. (1955, c. 1230; 1993, c. 398, s. 1; 1995, c. 539, s. 9.)

**§ 55A-1-22. Filing, service, and copying fees.**

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

	Document	Fee
(1)	Articles of incorporation	\$60.00
(2)	Application for reserved name	\$10.00
(3)	Notice of transfer of reserved name	\$10.00
(4)	Application for registered name	\$10.00
(5)	Application for renewal of registered name	\$10.00
(6)	Corporation's statement of change of registered agent or registered office or both	\$ 5.00
(7)	Agent's statement of change of registered office for each affected corporation	\$ 5.00
(8)	Agent's statement of resignation	No fee
(9)	Designation of registered agent or registered office or both	\$ 5.00
(10)	Amendment of articles of incorporation	\$25.00
(11)	Restated articles of incorporation without amendment of articles	\$10.00
(12)	Restated articles of incorporation with amendment of articles	\$25.00
(13)	Articles of merger	\$25.00
(14)	Articles of dissolution	\$15.00
(15)	Articles of revocation of dissolution	\$10.00
(16)	Certificate of administrative dissolution	No fee
(17)	Application for reinstatement following administrative dissolution	\$100.00
(18)	Certificate of reinstatement	No fee
(19)	Certificate of judicial dissolution	No fee
(20)	Application for certificate of authority	\$125.00
(21)	Application for amended certificate of authority	\$25.00
(22)	Application for certificate of withdrawal	\$10.00
(23)	Certificate of revocation of authority to conduct affairs	No fee

- (24) Corporation's Statement of Change of Principal Office \$  
5.00
- (24a) Designation of Principal Office Address \$  
5.00
- (25) Articles of correction \$10.00
- (26) Application for certificate of existence or authorization (paper) \$15.00
- (26a) Application for certificate of existence or authorization (electronic) \$10.00
- (27) Any other document required or permitted to be filed by this Chapter \$10.00
- (28) Repealed by Session Laws 2001-358, s. 7(c), effective January 1, 2002.

(b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign corporation:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original.
- (2) Fifteen dollars (\$15.00) for a paper certificate.
- (3) Ten dollars (\$10.00) for an electronic certificate.

(1957, c. 1179; 1967, c. 823, s. 24; 1969, c. 875, s. 10; 1975, 2nd Sess., c. 981, s. 2; 1983, c. 713, ss. 39-42; 1991, c. 574, s. 2; 1993, c. 398, s. 1; 1995, c. 539, s. 10; 1997-456, s. 55.3; 1997-475, s. 5.2; 1997-485, s. 11; 2001-358, s. 7(c); 2001-387, ss. 173, 175(a); 2001-413, s. 6; 2002-126, ss. 29A.27, 29A.28.)

**§§ 55A-1-22.1 through 55A-1-27:** Repealed by Session Laws 2001-358, s. 7(b), effective January 1, 2002.

#### **§ 55A-1-28. Certificate of existence.**

(a) Anyone may apply to the Secretary of State to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

(b) A certificate of existence or authorization sets forth:

- (1) The domestic corporation's corporate name or the foreign corporation's name used in this State;
- (2) That the domestic corporation is duly incorporated under the law of this State, the date of its incorporation, and the period of its duration if less than perpetual; or that the foreign corporation is authorized to conduct affairs in this State;
- (3) That the articles of incorporation of a domestic corporation or the certificate of authority of a foreign corporation has not been suspended for failure to comply with the Revenue Act of this State and that the corporation has not been administratively dissolved for failure to comply with the provisions of this Chapter;
- (4) Repealed by Session Laws c. 539, s. 14.
- (5) That articles of dissolution have not been filed; and
- (6) Other facts of record in the office of the Secretary of State that may be requested by the applicant.



(c) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to conduct affairs in this State. (1955, c. 1230; 1993, c. 398, s. 1; 1995, c. 539, s. 14.)

§ 55A-1-29: Repealed by Session Laws 2001-358, s. 7(b).

### Part 3. Secretary of State.

#### § 55A-1-30. Powers.

The Secretary of State has the power reasonably necessary to perform the duties required of the Secretary of State by this Chapter. (1955, c. 1230; 1993, c. 398, s. 1.)

#### § 55A-1-31. Interrogatories by Secretary of State.

The Secretary of State may propound to any domestic or foreign corporation which the Secretary of State has reason to believe is subject to the provisions of this Chapter, and to any officer or director thereof, any written interrogatories as may be reasonably necessary and proper to enable the Secretary of State to ascertain whether the corporation is subject to the provisions of this Chapter or has complied with all the provisions of this Chapter applicable to it. The interrogatories shall be answered within 30 days after the mailing thereof, or within such additional time as shall be fixed by the Secretary of State, and the answers thereto shall be full and complete and shall be made in writing and under oath. If the interrogatories are directed to an individual, they shall be answered by the individual, and if directed to a corporation, they shall be answered by the presiding officer of the board of directors, the president, or by another officer of the corporation. The Secretary of State shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this Chapter, requiring or permitting action by the Attorney General. (1955, c. 1230; 1993, c. 398, s. 1.)

#### § 55A-1-32. Penalties imposed upon corporations, officers, and directors for failure to answer interrogatories.

(a) The knowing failure or refusal of a domestic or foreign corporation to answer truthfully and fully, within the time prescribed in this Chapter, interrogatories propounded by the Secretary of State in accordance with the provisions of this Chapter shall constitute grounds for administrative dissolution under G.S. 55A-14-20 or for revocation under G.S. 55A-15-30, as the case may be.

(b) Each officer and director of a domestic or foreign corporation who knowingly fails or refuses, within the time prescribed by this Chapter, to answer truthfully and fully interrogatories propounded to him by the Secretary of State in accordance with the provisions of this Chapter shall be guilty of a Class 1 misdemeanor. (1955, c. 1230; 1993, c. 398, s. 1; 1994, Ex. Sess., c. 14, s. 37.)

#### § 55A-1-33. Information disclosed by interrogatories.

Interrogatories propounded by the Secretary of State and the answers thereto shall not be open to public inspection nor shall the Secretary of State disclose any facts or information obtained therefrom except when the Secretary of State's official duty requires disclosure to be made public or when the interrogatories or the answers thereto are required for evidence in any criminal proceeding or in any other action or proceeding by this State. (1993, c. 398, s. 1.)

§§ 55A-1-34 through 55A-1-39. Reserved for future codification purposes.

## Part 4. Definitions.

### § 55A-1-40. Chapter definitions.

In this Chapter unless otherwise specifically provided:

- (1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.
- (2) "Board" or "board of directors" means the group of natural persons vested by the corporation with the management of its affairs whether or not the group is designated as directors in the articles of incorporation or bylaws.
- (2a) "Business corporation" or "domestic business corporation" means a corporation as defined in G.S. 55-1-40.
- (3) "Bylaws" means the rules (other than the articles) adopted pursuant to this Chapter for the regulation or management of the affairs of the corporation irrespective of the name or names by which the rules are designated.
- (4) "Charitable or religious corporation" means any corporation that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section, or that is organized exclusively for one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section and that upon dissolution shall distribute its assets to a charitable or religious corporation, the United States, a state or an entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section.
- (4a) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.
- (5) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of this Chapter, except a foreign corporation.
- (6) "Delegates" means those persons elected or appointed to vote in a representative assembly for the election of a director or directors or on other matters.
- (7) "Deliver" includes mail.
- (8) "Distribution" means a direct or indirect transfer of money or other property or inurrence of indebtedness by a corporation to or for the benefit of its members, directors, or officers, or to or for the benefit of transferees in liquidation under Article 14 of this Chapter (other than creditors).
- (8a) "Domestic limited liability company" has the same meaning as in G.S. 57C-1-03.
- (8b) "Domestic limited partnership" has the same meaning as in G.S. 59-102.
- (9) "Effective date of notice" is defined in G.S. 55A-1-41.
- (10) "Entity" includes:
  - a. Any domestic or foreign:
    1. Corporation; business corporation; professional corporation;
    2. Limited liability company;
    3. Profit and nonprofit unincorporated association, chapter or other organizational unit; and
    4. Business trust, estate, partnership, trust;
  - b. Two or more persons having a joint or common economic interest; and
  - c. The United States, and any state and foreign government.

- (10a) "Foreign business corporation" means a foreign corporation as defined in G.S. 55-1-40.
- (11) "Foreign corporation" means a corporation (with or without capital stock) organized under a law other than the law of this State for purposes for which a corporation might be organized under this Chapter.
- (11a) "Foreign limited liability company" has the same meaning as in G.S. 57C-1-03.
- (11b) "Foreign limited partnership" has the same meaning as in G.S. 59-102.
- (12) "Governmental subdivision" includes authority, county, district, and municipality.
- (13) "Includes" denotes a partial definition.
- (14) "Individual" denotes a natural person legally competent to act and also includes the estate of an incompetent or deceased individual.
- (15) "Means" denotes an exhaustive definition.
- (16) "Member" means a person who is, by the articles of incorporation or bylaws of the corporation, either (i) specifically designated as a member or (ii) included in a category of persons specifically designated as members. A person is not a member solely by reason of having voting rights or other rights associated with membership.
- (17) "Nonprofit corporation" means a corporation intended to have no income or intended to have income none of which is distributable to its members, directors, or officers, except as permitted by Article 13 of this Chapter, and includes all associations without capital stock formed under Subchapter V of Chapter 54 of the General Statutes or under any act or acts replaced thereby.
- (18) "Notice" includes demand and is defined in G.S. 55A-1-41.
- (19) "Person" includes individual and entity.
- (20) "Principal office" means the office (in or out of this State) where the principal offices of a domestic or foreign corporation are located, as most recently designated by the domestic or foreign corporation in its articles of incorporation, a Designation of Principal Office Address form, a Corporation's Statement of Change of Principal Office Address form, or in the case of a foreign corporation, its application for a certificate of authority.
- (21) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.
- (22) "Record date" means the date established under Article 7 of this Chapter on which a corporation determines the identity of its members for the purposes of this Chapter.
- (23) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under G.S. 55A-8-40(c) for custody of the minutes of the meetings of the board of directors and of the members and for authenticating records of the corporation.
- (24) "State," when referring to a part of the United States, includes a state and commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.
- (24a) "Unincorporated entity" means a domestic or foreign limited liability company, a domestic or foreign limited partnership, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State.
- (25) "United States" includes district, authority, bureau, commission, department, and any



other agency of the United States.

- (26) "Vote" includes authorization by written ballot and written consent. (1955, c. 1230; 1959, c. 1161, s. 4; 1985 (Reg. Sess., 1986), c. 801, s. 1; 1993, c. 398, s. 1; 1995, c. 539, s. 15; 1999-369, s. 2.2; 2001-358, s. 5(b); 2001-387, ss. 33, 34, 35, 173, 175(a); 2001-413, s. 6; 2001-487, s. 62(e).)

#### § 55A-1-41. Notice.

(a) Notice under this Chapter shall be in writing unless oral notice is authorized in the corporation's articles of incorporation or bylaws and written notice is not specifically required by this Chapter.

(b) Notice may be communicated in person; by telephone, telegraph, teletype, or other form of wire or wireless communication, or by facsimile transmission; or by mail or private carrier. If these forms of personal notice are impracticable as to one or more persons, notice may be communicated to such persons by publishing notice in a newspaper, or by radio, television, or other form of public broadcast communication, in the county where the corporation has its principal place of business in the State, or if it has no principal place of business in the State, the county where it has its registered office.

(c) Written notice by a domestic or foreign corporation to its member is effective when deposited in the United States mail with postage thereon prepaid and correctly addressed to the member's address shown in the corporation's current record of members.

(d) Written notice to a domestic or foreign corporation (authorized to conduct affairs in this State) may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its articles of incorporation, the Designation of Principal Office Address form, or any Corporation's Statement of Change of Principal Office Address form filed with the Secretary of State.

(e) Except as provided in subsection (c) of this section, written notice is effective at the earliest of the following:

- (1) When received;
- (2) Five days after its deposit in the United States mail, as evidenced by the postmark or otherwise, if mailed with at least first-class postage thereon prepaid and correctly addressed;
- (3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee;
- (4) If mailed with less than first-class postage, 30 days after its deposit in the United States mail, as evidenced by the postmark or otherwise, if mailed with postage thereon prepaid and correctly addressed;
- (5) When delivered to the member's address shown in the corporation's current list of members.

(f) Written notice is correctly addressed to a member of a domestic or foreign corporation if addressed to the member's address shown in the corporation's current list of members. In the case of members who are residents of the same household and who have the same address, the corporation's bylaws may provide that a single notice may be given to such members jointly.

(g) Oral notice is effective when actually communicated to the person entitled to oral notice.

(h) If this Chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this Chapter, those requirements govern.

(i) Written notice need not be provided in a separate document and may be included as part of a

newsletter, magazine, or other publication regularly sent to members if conspicuously identified as a notice. (1993, c. 398, s. 1; 1995, c. 539, s. 16.)

§§ 55A-1-42 through 55A-1-49. Reserved for future codification purposes.

#### Part 5. Private Foundations.

##### § 55A-1-50. Private Foundations.

Except where otherwise determined by a court of competent jurisdiction, a corporation that is a private foundation as defined in section 509(a) of the Internal Revenue Code of 1986:

- (1) Shall distribute such amounts for each taxable year at such time and in such manner as not to subject the corporation to tax under section 4942 of the Code.
- (2) Shall not engage in any act of self-dealing as defined in section 4941(d) of the Code.
- (3) Shall not retain any excess business holdings as defined in section 4943(c) of the Code.
- (4) Shall not make any investments in such manner as to subject the corporation to tax under section 4944 of the Code.
- (5) Shall not make any taxable expenditures as defined in section 4945(d) of the Code.

All references in this section to sections of the Code shall be to sections of the Internal Revenue Code of 1986 as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States. (1955, c. 1230; 1957, c. 783, s. 7; 1969, c. 875, s. 4; 1971, c. 1136, s. 1; 1977, c. 236, s. 1, c. 663; 1979, c. 1027; 1985, c. 505; 1985 (Reg. Sess., 1986), c. 801, ss. 8-14; 1993, c. 398, s. 1.)

§§ 55A-1-51 through 55A-1-59. Reserved for future codification purposes.

#### Part 6. Judicial Relief.

##### § 55A-1-60. Judicial relief.

(a) If for any reason it is impracticable for any corporation to call or conduct a meeting of its members, delegates, or directors, or otherwise obtain their consent, in the manner prescribed by its articles of incorporation, bylaws, or this Chapter, then upon petition of a director, officer, delegate, member, or the Attorney General, the superior court may order that such a meeting be held or that a written ballot or other method be used for obtaining the vote of members, delegates, or directors, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all such persons who would be entitled to notice of a meeting held pursuant to the articles of incorporation, bylaws, and this Chapter, and notice given in this manner shall be effective whether or not it results in actual notice to all such persons or conforms to the notice requirements that would otherwise apply. Notice shall be given in this manner to all persons determined by the court to be members or directors.

(c) The order issued pursuant to this section may, to the extent the court finds it reasonably required under the circumstances, dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles of incorporation, bylaws, or this Chapter.

(d) Whenever practical any order issued pursuant to this section shall limit the subject matter of

meetings or other forms of consent authorized to items, including amendments to the articles of incorporation or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, or sale of assets.

(e) Any meeting or other method of obtaining the vote of members, delegates, or directors conducted pursuant to an order issued under this section, and that complies with all the provisions of the order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles of incorporation, bylaws, and this Chapter. (1993, c. 398, s. 1.)

Article 2.  
Organization.

§ 55A-2-01. Incorporators.

One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the Secretary of State for filing. (1955, c. 1230; 1969, c. 875, s. 1; 1971, c. 1231, s. 1; 1993, c. 398, s. 1.)

§ 55A-2-02. Articles of incorporation.

(a) The articles of incorporation shall set forth:

- (1) A corporate name for the corporation that satisfies the requirements of G.S. 55D-20 and G.S. 55D-21;
- (2) If the corporation is a charitable or religious corporation, a statement to that effect if it was incorporated on or after the effective date of this Chapter;
- (3) The street address, and the mailing address if different from the street address, of the corporation's initial registered office, the county in which the initial registered office is located, and the name of the corporation's initial registered agent at that address;
- (4) The name and address of each incorporator;
- (5) Whether or not the corporation will have members;
- (6) Provisions not inconsistent with law regarding the distribution of assets on dissolution; and
- (7) The street address, and the mailing address, if different from the street address, of the principal office, and the county in which the principal office is located.

(b) The articles of incorporation may set forth any provision that under this Chapter is required or permitted to be set forth in the bylaws, and may also set forth:

- (1) The purpose or purposes for which the corporation is organized, which may be, either alone or in combination with other purposes, the transaction of any lawful activity;
- (2) The names and addresses of the individuals who are to serve as the initial directors;
- (3) Provisions not inconsistent with law regarding:
  - a. Managing and regulating the affairs of the corporation;
  - b. Defining, limiting, and regulating the powers of the corporation, its board of directors, and members (or any class of members); and
  - c. The characteristics, qualifications, rights, limitations, and obligations attaching to each or any class of members;
- (4) A provision limiting or eliminating the personal liability of any director for monetary

damages arising out of an action whether by or in the right of the corporation or otherwise for breach of any duty as a director. No such provision shall be effective with respect to (i) acts or omissions that the director at the time of the breach knew or believed were clearly in conflict with the best interests of the corporation, (ii) any liability under G.S. 55A-8-32 or G.S. 55A-8-33, (iii) any transaction from which the director derived an improper personal financial benefit, or (iv) acts or omissions occurring prior to the date the provision became effective. As used herein, the term "improper personal financial benefit" does not include a director's reasonable compensation or other reasonable incidental benefit for or on account of his service as a director, trustee, officer, employee, independent contractor, attorney, or consultant of the corporation. A provision permitted by this Chapter in the articles of incorporation, bylaws, or a contract or resolution indemnifying or agreeing to indemnify a director against personal liability shall be fully effective whether or not there is a provision in the articles of incorporation limiting or eliminating personal liability.

(c) The articles of incorporation need not set forth any of the corporate powers enumerated in this Chapter. (1955, c. 1230; 1957, c. 979, s. 11; 1959, c. 1161, s. 5; 1985 (Reg. Sess., 1986), c. 801, ss. 3, 4; 1993, c. 398, s. 1; 1995, c. 539, s. 17; 2001-358, s. 20; 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

#### **§ 55A-2-03. Incorporation.**

(a) Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed.

(b) The Secretary of State's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the State to cancel or revoke the incorporation or involuntarily dissolve the corporation. (1955, c. 1230; 1967, c. 13, s. 4; 1993, c. 398, s. 1.)

#### **§ 55A-2-04. Reserved for future codification purposes.**

#### **§ 55A-2-05. Organization of corporation.**

(a) After incorporation:

- (1) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting at the call of a majority of the directors to complete the organization of the corporation by appointing officers, adopting bylaws, and conducting any other business brought before the meeting.
- (2) If initial directors are not named in the articles of incorporation, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators (i) to elect directors and complete the organization of the corporation, or (ii) to elect a board of directors who shall complete the organization of the corporation.

(b) Action required or permitted by this Chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator. If the incorporators act at a meeting, the notice and procedural provisions of G.S. 55A-8-22, 55A-8-23, and 55A-8-24 shall apply.

(c) An organizational meeting may be held in or out of this State. (1955, c. 1230; 1969, c. 875, s. 2; 1985 (Reg. Sess., 1986), c. 801, s. 6; 1993, c. 398, s. 1.)



### **§ 55A-2-06. Bylaws.**

(a) The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

(b) The bylaws may contain any provision for regulating and managing the affairs of the corporation that is not inconsistent with law or the articles of incorporation. (1955, c. 1230; 1993, c. 398, s. 1.)

### **§ 55A-2-07. Emergency bylaws.**

(a) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt, amend, or repeal bylaws to be effective only in an emergency defined in subsection (d) of this section. The emergency bylaws, which are subject to amendment or repeal by the members, may make all provisions necessary for managing the corporation during the emergency, including:

- (1) Procedures for calling a meeting of the board of directors;
- (2) Quorum requirements for the meeting; and
- (3) Designation of additional or substitute directors.

(b) All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

(c) Corporate action taken in good faith in accordance with the emergency bylaws binds the corporation, and the fact that the action was taken pursuant to emergency bylaws shall not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event. (1993, c. 398, s. 1.)

## **Article 3.**

### **Purposes and Powers.**

#### **§ 55A-3-01. Purposes.**

(a) Every corporation incorporated under this Chapter has the purpose of engaging in any lawful activity unless a more limited purpose is set forth in its articles of incorporation.

(b) A corporation engaging in an activity that is subject to regulation under another statute of this State may incorporate under this Chapter only if permitted by, and subject to all limitations of, the other statute. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-3-02. General powers.**

(a) Unless its articles of incorporation or this Chapter provides otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its affairs, including without limitation, power:

- (1) To sue and be sued, complain and defend in its corporate name;
- (2) To have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;
- (3) To make and amend bylaws not inconsistent with its articles of incorporation or with the laws of this State, for regulating and managing the affairs of the corporation;
- (4) To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

- (5) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- (6) To purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;
- (7) To make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;
- (8) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by G.S. 55A-8-32;
- (9) To be a promoter, partner, member, associate or manager of any partnership, joint venture, trust, or other entity;
- (10) To conduct its affairs, locate offices, and exercise the powers granted by this Chapter within or without this State;
- (11) To elect or appoint directors, officers, employees, and agents of the corporation, define their duties, and fix their compensation;
- (12) To pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for any or all of its current or former directors, officers, employees, and agents;
- (13) To make donations for the public welfare or for charitable, religious, cultural, scientific, or educational purposes, and to make payments or donations not inconsistent with law for other purposes that further the corporate interest;
- (14) To impose dues, assessments, admission and transfer fees upon its members;
- (15) To establish conditions for admission of members, admit members and issue memberships;
- (16) To carry on a business;
- (17) To procure insurance for its benefit on the life or physical or mental ability of any director, officer or employee and, in the case of a charitable or religious corporation, any sponsor, contributor, pledgor, student or former student whose death or disability might cause financial loss to the corporation, and for these purposes the corporation is deemed to have an insurable interest in each such person; and to procure insurance for its benefit on the life or physical or mental ability of any other person in whom it has an insurable interest;
- (18) To engage in any lawful activity that will aid governmental policy;
- (19) To do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the corporation.

(b) It shall not be necessary to set forth in the articles of incorporation any of the powers enumerated in this section. (1955, c. 1230; 1957, c. 783, s. 7; 1969, c. 875, s. 4; 1971, c. 1136, s. 1; 1977, c. 236, s. 1, c. 663; 1979, c. 1027; 1985, c. 505; 1985 (Reg. Sess., 1986), c. 801, ss. 8-14; 1993, c. 398, s. 1.)

### **§ 55A-3-03. Emergency powers.**

(a) In anticipation of or during an emergency defined in subsection (d) of this section, the board of directors of a corporation may:

- (1) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and

(2) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(b) During an emergency defined in subsection (d) of this section, unless emergency bylaws provide otherwise:

(1) Notice of a meeting of the board of directors need be given only to those directors it is practicable to reach and may be given in any practicable manner, including by publication and radio; and

(2) One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(c) Corporate action taken in good faith during an emergency under this section, to further the ordinary affairs of the corporation, binds the corporation and the fact that the action is taken pursuant to this section shall not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event. (1993, c. 398, s. 1.)

#### **§ 55A-3-04. Ultra vires.**

(a) Except as provided in subsection (b) of this section, the validity of corporate action shall not be challenged on the ground that the corporation lacks or lacked power to act.

(b) A corporation's power to act may be challenged:

(1) In a proceeding by a member or a director against the corporation to enjoin the act;

(2) In a proceeding by the corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation; or

(3) In a proceeding by the Attorney General under G.S. 55A-14-30.

(c) In a proceeding by a member or a director under subdivision (b)(1) of this section to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss (other than anticipated profits) suffered by the corporation or another party because of enjoining the unauthorized act. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-3-05. Exercise of corporate franchises not granted.**

The Attorney General may upon the Attorney General's own information or upon complaint of a private party bring an action in the name of the State to restrain any person from exercising corporate franchises not granted. (1985 (Reg. Sess., 1986), c. 801, s. 5; 1993, c. 398, s. 1.)

#### **§ 55A-3-06. Special powers; public parks and drives and certain recreational corporations.**

Any corporation heretofore or hereafter formed for the purpose of creating and maintaining public parks and drives shall have full power and authority to lay out, manage, and control parks and drives within the State, under any rules and regulations as the corporation may prescribe and shall have power to purchase and hold property and take gifts or donations for such purpose. It may hold property and exercise such powers and trust for any town, city, township, or county, in connection with which the parks and drives shall be maintained. Any city, town, township, or county, holding such property, may vest and transfer the same to any such corporation for the purpose of controlling and maintaining the same as public parks and drives under any regulations and subject to any conditions as may be determined upon by the city, town, township, or county. All such lands as the corporation may acquire



shall be held in trust as public parks and drives, and shall be held open to the public under any rules, laws, and regulations as the corporation may adopt through its board of directors, and it shall have power and authority to make and adopt all laws and regulations as it may determine upon for the reasonable management of such parks and drives. The terms "public parks and drives" as used in this section shall be construed so as to include playgrounds, recreational centers, and other recreational activities and facilities which may be provided and established under the sponsorship of any county, city, town, township, or school district in North Carolina and constructed or established with the assistance of the government of the United States or any agency thereof. (1955, c. 1230; 1973, c. 695, s. 9; 1993, c. 398, s. 1.)

**§ 55A-3-07. Certain corporations subject to Public Records Act and Open Meetings Law.**

Any of the following corporations organized under this Chapter is subject to the Public Records Act (Chapter 132 of the General Statutes) and the Open Meetings Law (Article 33C of Chapter 143 of the General Statutes):

- (1) A corporation organized under the terms of any consent decree and final judgment in any civil action calling on a state officer to create the corporation, for the purposes of receipt and distribution of funds allocated to the State of North Carolina to provide economic impact assistance on account of one industry.
- (2) A corporation organized upon the request of the State for the sole purpose of financing projects for public use. (1999-2, s. 7; 2001-84, s. 4.)

Article 4.

Names.

**§§ 55A-4-01 through 55A-4-05: Repealed by Session Laws 2001-358, s. 23, effective January 1, 2002.**

Article 5.

Office and Agent.

**§ 55A-5-01. Registered office and registered agent.**

Each corporation must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article. (1955, c. 1230; 1957, c. 979, s. 20; 1993, c. 398, s. 1; 1995, c. 400, s. 1; 2000-140, s. 101(d); 2001-358, s. 48(a); 2001-387, s. 173; 2001-413, s. 6.)

**§ 55A-5-02: Repealed by Session Laws 2001-358, s. 48.**

**§ 55A-5-02.1: Transferred to § 55A-16-23 by Session Laws 2001-358, s. 48(d).**

**§§ 55A-5-03 through 55A-5-04: Repealed by Session Laws 2001-358, s. 48(c), effective January 1, 2002.**

Article 6.

Members and Memberships.

Part 1. Admission of Members.



corporation may be joined in such proceeding. (1993, c. 398, s. 1.)

§§ 55A-6-25 through 55A-6-29. Reserved for future codification purposes.

### Part 3. Resignation and Termination.

#### § 55A-6-30. Resignation.

- (a) Any member may resign at any time.
- (b) The resignation of a member does not relieve the member from any obligations incurred or commitments made to the corporation prior to resignation. (1993, c. 398, s. 1.)

#### § 55A-6-31. Termination, expulsion, and suspension.

- (a) No member of a corporation may be expelled or suspended, and no membership may be terminated or suspended, except in a manner that is fair and reasonable and is carried out in good faith.
- (b) Any proceeding challenging an expulsion, suspension, or termination shall be commenced within one year after the member receives notice of the expulsion, suspension, or termination.
- (c) A member who has been expelled or suspended may be liable to the corporation for dues, assessments, or fees as a result of obligations incurred or commitments made by the member prior to expulsion or suspension. (1955, c. 1230; 1993, c. 398, s. 1.)

§§ 55A-6-32 through 55A-6-39. Reserved for future codification purposes.

### Part 4. Delegates.

#### § 55A-6-40. Delegates.

- (a) A corporation may provide in its articles of incorporation or bylaws for delegates having one or all of the authority of members.
- (b) The articles of incorporation or bylaws may set forth provisions relating to:
  - (1) The characteristics, qualifications, rights, limitations, and obligations of delegates, including their selection and removal;
  - (2) Calling, noticing, holding, and conducting meetings of delegates; and
  - (3) Carrying on corporate activities during and between meetings of delegates. (1993, c. 398, s. 1.)

### Article 7.

#### Members' Meetings and Voting; Derivative Proceedings.

##### Part 1. Meetings and Action Without Meetings.

#### § 55A-7-01. Annual and regular meetings.

- (a) A corporation having members with the right to vote for directors shall hold a meeting of such members annually.
- (b) A corporation with members may hold regular membership meetings at the times stated in or fixed in accordance with the bylaws.
- (c) Annual and regular membership meetings may be held in or out of this State at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual and regular meetings shall be held at the corporation's principal office.
- (d) At annual and regular meetings, the members shall consider and act upon such matters as

may be raised consistent with the notice requirements of G.S. 55A-7-05 and G.S. 55A-7-22(d).

(e) The failure to hold an annual or regular meeting at a time stated in or fixed in accordance with the corporation's bylaws does not affect the validity of any corporate action. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-7-02. Special meeting.**

(a) A corporation with members shall hold a special meeting of members:

- (1) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or
- (2) Within 30 days after the holders of at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(b) If not otherwise fixed under G.S. 55A-7-03 or G.S. 55A-7-07, the record date for determining members entitled to demand a special meeting is the date the first member signs the demand.

(c) Special meetings of members may be held in or out of this State at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(d) Only those matters that are within the purpose or purposes described in the meeting notice required by G.S. 55A-7-05 may be acted upon at a special meeting of members. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-7-03. Court-ordered meeting.**

(a) The superior court of the county where a corporation's principal office, or, if there is none in this State, its registered office, is located may, after notice is given to the corporation and upon such further notice and opportunity to be heard, if any, as the court may deem appropriate under the circumstances, summarily order a meeting to be held:

- (1) On application of any member if an annual meeting was not held within 15 months after the corporation's last annual meeting; or
- (2) On application of a member who signed a demand for a special meeting valid under G.S. 55A-7-02, if the corporation has not held the meeting as required by that section.

(b) The court may fix the time and place of the meeting, specify a record date for determining those persons entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting (or direct that the votes represented at the meeting constitute a quorum for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting.

(c) If the court orders a meeting, it may also order the corporation to pay all or part of the member's costs (including reasonable attorneys' fees) incurred to obtain the order. (1993, c. 398, s. 1.)

#### **§ 55A-7-04. Action by written consent.**

(a) Action required or permitted by this Chapter to be taken at a meeting of members may be taken without a meeting if the action is taken by all members entitled to vote on the action. The action shall be evidenced by one or more written consents describing the action taken, signed before or after such action by all members entitled to vote thereon, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

**§ 55A-6-01. Members.**

- (a) A corporation may have one or more classes of members or may have no members.
- (b) No person shall be admitted as a member without the person's consent. (1955, c. 1230; 1993, c. 398, s. 1.)

**§§ 55A-6-02 through 55A-6-19. Reserved for future codification purposes.**

**Part 2. Members' Rights and Obligations.**

**§ 55A-6-20. Designations, qualifications, rights, and obligations of members.**

If a corporation has members, the designations, qualifications, rights, and obligations of members shall be set forth in or authorized by the articles of incorporation or bylaws, and may include any provisions not inconsistent with law or the articles of incorporation with respect to:

- (1) Conditions of admission and membership;
- (2) Voting rights and the manner of exercising voting rights;
- (3) The relative rights and obligations of members among themselves, to the corporation, and with respect to the property of the corporation;
- (4) The manner of terminating membership in the corporation;
- (5) The rights and obligations of the members and the corporation upon such termination;
- (6) The transferability or nontransferability of memberships; and
- (7) Any other matters.

Except as otherwise provided in or authorized by the articles of incorporation or bylaws, all members shall have the same designations, qualifications, rights, and obligations. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 35; 1993, c. 398, s. 1.)

**§ 55A-6-21. Prohibition of stock.**

A corporation shall neither authorize nor issue shares of stock. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 32; 1993, c. 398, s. 1.)

**§ 55A-6-22. Member's liability to third parties.**

A member of a corporation is not, as such, personally liable for the acts, debts, liabilities, or obligations of the corporation. (1993, c. 398, s. 1.)

**§ 55A-6-23. Member's liability for dues, assessments, and fees.**

A member may become liable to the corporation for dues, assessments, or fees; provided, however, that a provision in the articles of incorporation or bylaws or a resolution adopted by the board of directors authorizing or imposing dues, assessments, or fees does not, of itself, create liability. (1993, c. 398, s. 1.)

**§ 55A-6-24. Creditor's action against member.**

(a) A creditor of a corporation shall not bring a proceeding to enforce any liability of a member to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless a proceeding against the corporation would be futile.

(b) All creditors of the corporation, with or without reducing their claims to judgment, may intervene in any creditor's proceeding brought under subsection (a) of this section to collect and apply the proceeds of obligations owed to the corporation. Any or all members who are indebted to the

(b) If not otherwise determined under G.S. 55A-7-03 or G.S. 55A-7-07, the record date for determining members entitled to take action without a meeting is the date the first member signs the consent under subsection (a) of this section.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document. (1977, c. 193, s. 2; 1993, c. 398, s. 1.)

#### **§ 55A-7-05. Notice of meeting.**

(a) A corporation shall give notice of meetings of members by any means that is fair and reasonable and consistent with its bylaws.

(b) Any notice that conforms to the requirements of subsection (c) is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered; provided, however, that notice of matters referred to in subdivision (c)(2) of this section shall be given as provided in subsection (c) of this section.

(c) Notice is fair and reasonable if:

- (1) The corporation gives notice to all members entitled to vote at the meeting of the place, date, and time of each annual, regular, and special meeting of members no fewer than 10, or, if notice is mailed by other than first class, registered or certified mail, no fewer than 30, nor more than 60 days before the meeting date;
- (2) Notice of an annual or regular meeting includes a description of any matter or matters that shall be approved by the members under G.S. 55A-8-31, 55A-8-55, 55A-10-03, 55A-10-21, 55A-11-04, 55A-12-02, or 55A-14-02; and
- (3) Notice of special meeting includes a description of the matter or matters for which the meeting is called.

(d) Unless the bylaws require otherwise, if an annual, regular, or special meeting of members is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place, if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under G.S. 55A-7-07, however, notice of the adjourned meeting shall be given under this section to the members of record entitled to vote at the meeting as of the new record date.

(e) When giving notice of an annual, regular, or special meeting of members, a corporation shall give notice of a matter a member intends to raise at the meeting if:

- (1) Requested in writing to do so by a person or persons entitled to call a special meeting pursuant to G.S. 55A-7-02; and
- (2) The request is received by the secretary or president of the corporation at least 10 days before the corporation gives notice of the meeting. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-7-06. Waiver of notice.**

(a) A member may waive any notice required by this Chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver shall be in writing, be signed by the member entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) A member's attendance at a meeting:

- (1) Waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or conducting business at the meeting; and



- (2) Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter before it is voted upon. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-7-07. Record date.**

(a) The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to notice of a members' meeting. If the bylaws do not fix or provide for fixing a record date, the board of directors may fix a future date as the record date. If no record date is fixed, members at the close of business on the business day preceding the day on which notice is given are entitled to notice of the meeting.

(b) The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to vote at a members' meeting. If the bylaws do not fix or provide for fixing a record date, the board of directors may fix a future date as the record date. If no record date is fixed, members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

(c) The bylaws may fix or provide the manner for determining a date as the record date for the purpose of determining the members entitled to any rights in respect of any other lawful action. If the bylaws do not fix or provide for fixing a record date, the board may fix in advance the record date. If no record date is fixed, members at the close of business on the day on which the board adopts the resolution relating to such action, or the 60th day prior to the date of such action, whichever is later, are entitled to such rights.

(d) A record date fixed under this section shall not be more than 70 days before the meeting or action for which a determination of members is required.

(e) A determination of members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting unless the board fixes a new date for determining the right to notice or the right to vote, which it shall do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(f) If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date for notice or voting continues in effect or it may fix a new record date for notice or voting. (1993, c. 398, s. 1.)

#### **§ 55A-7-08. Action by written ballot.**

(a) Unless prohibited or limited by the articles of incorporation or bylaws and without regard to the requirements of G.S. 55A-7-04, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter.

(b) A written ballot shall:

- (1) Set forth each proposed action; and
- (2) Provide an opportunity to vote for or against each proposed action.

(c) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the same total number of votes were cast.

(d) All solicitations for votes by written ballot shall indicate the time by which a ballot shall be received by the corporation in order to be counted.

(e) Except as otherwise provided in the articles of incorporation or bylaws, a written ballot shall not be revoked. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 35; 1993, c. 398, s. 1.)

**§§ 55A-7-09 through 55A-7-19. Reserved for future codification purposes.**

## Part 2. Voting.

### **§ 55A-7-20. Members' list for meeting.**

(a) After fixing a record date for a notice of a meeting, a corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of the meeting. The list shall show the address and number of votes each member is entitled to cast at the meeting. The corporation shall prepare on a current basis through the time of the membership meeting a list of members, if any, who are entitled to vote at the meeting, but not entitled to notice of the meeting. This list shall be prepared on the same basis as and be part of the list of members.

(b) Beginning two business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, the list of members shall be available at the corporation's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held for inspection by any member for the purpose of communication with other members concerning the meeting. A member, personally or by or with his representatives, is entitled on written demand to inspect and, subject to the limitations of G.S. 55A-16-02(c) and G.S. 55A-16-05 and at his expense, to copy the list at a reasonable time during the period it is available for inspection.

(c) The corporation shall make the list of members available at the meeting, and any member, personally or by or with his representatives, is entitled to inspect the list at any time during the meeting or any adjournment.

(d) If the corporation refuses to allow a member or his representative to inspect or copy the list of members as permitted in subsections (b) and (c) of this section, the superior court of the county where a corporation's principal office (or, if there is none in this State, its registered office) is located, on application of the member, after notice is given to the corporation and upon such further evidence, notice and opportunity to be heard, if any, as the court may deem appropriate under the circumstances, may summarily order the inspection or copying at the corporation's expense. The court may postpone the meeting for which the list was prepared until the inspection or copying is complete and may order the corporation to pay the member's costs, including reasonable attorneys' fees, incurred to obtain the order.

(e) Refusal or failure to prepare or make available the members' list does not affect the validity of action taken at the meeting. (1993, c. 398, s. 1.)

### **§ 55A-7-21. Voting entitlement generally.**

(a) Unless the articles of incorporation or bylaws provide otherwise, each member is entitled to one vote on each matter voted on by the members.

(b) Unless the articles of incorporation or bylaws provide otherwise, if a membership stands of record in the names of two or more persons, their acts with respect to voting shall have the following effect:

- (1) If only one votes, such act binds all; and
- (2) If more than one votes, the vote shall be divided on a pro rata basis.

(c) An amendment to the articles of incorporation or bylaws on which members are entitled to vote, the purpose of which is to increase or decrease the number of votes any member is entitled to cast on any member action, shall be approved by the members entitled to vote on that action by a vote that

would be sufficient to take the action before the amendment. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 35; 1993, c. 398, s. 1; 1995, c. 400, s. 2.)

#### **§ 55A-7-22. Quorum requirements.**

(a) Unless this Chapter, the articles of incorporation, or bylaws provide for a higher or lower quorum, ten percent (10%) of the votes entitled to be cast on a matter shall be represented at a meeting of members to constitute a quorum on that matter. Once a member is represented for any purpose at a meeting, the member is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(b) A bylaw amendment to decrease the quorum for any member action may be approved by the members entitled to vote on that action or, unless prohibited by the bylaws, by the board of directors.

(c) A bylaw amendment to increase the quorum required for any member action shall be approved by the members entitled to vote on that action.

(d) Unless one-third or more of the votes entitled to be cast in the election of directors are represented in person or by proxy, the only matters that may be voted upon at an annual or regular meeting of members are those matters that are described in the meeting notice. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-7-23. Voting requirements.**

(a) Unless this Chapter, the articles of incorporation, or the bylaws require a greater vote or voting by class, if a quorum is present, the affirmative vote of a majority of the votes cast is the act of the members.

(b) An amendment to the articles of incorporation or bylaws on which members are entitled to vote, the purpose of which is to increase or decrease the vote required for any member action, shall be approved by the members entitled to vote on that action by a vote that would be sufficient to take the action before the amendment. (1955, c. 1230; 1993, c. 398, s. 1; 1995, c. 400, s. 3.)

#### **§ 55A-7-24. Proxies.**

(a) Unless the articles of incorporation or bylaws prohibit or limit proxy voting, a member may vote in person or by proxy. A member may appoint one or more proxies to vote or otherwise act for him by signing an appointment form, either personally or by his attorney-in-fact. A photocopy, telegram, cablegram, facsimile transmission, or equivalent reproduction of a writing appointing one or more proxies, shall be deemed a valid appointment form within the meaning of this section. In addition, if and to the extent permitted by the nonprofit corporation, a member may appoint one or more proxies (i) by an electronic mail message or other form of electronic, wire, or wireless communication that provides a written statement appearing to have been sent by the member, or (ii) by any kind of electronic or telephonic transmission, even if not accompanied by written communication, under circumstances or together with information from which the nonprofit corporation can reasonably assume that the appointment was made or authorized by the member.

(b) An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for 11 months unless a different period is expressly provided in the appointment form.

(c) An appointment of a proxy is revocable by the member unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. An appointment made irrevocable under this subsection shall be revocable when the interest with which it is coupled is extinguished. A transferee for value of an interest subject to an irrevocable appointment

may revoke the appointment if he did not have actual knowledge of its irrevocability.

(d) The death or incapacity of the member appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.

(e) A revocable appointment of a proxy is revoked by the person appointing the proxy:

- (1) Attending any meeting and voting in person; or
- (2) Signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.

(f) Subject to G.S. 55A-7-27 and to any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 35; 1993, c. 398, s. 1; 1999-139, s. 1.)

#### **§ 55A-7-25. Voting for directors; cumulative voting.**

(a) Unless otherwise provided in the articles of incorporation, the bylaws, or an agreement valid under G.S. 55A-7-30, directors are elected by a plurality of the votes cast by the members entitled to vote in the election at a meeting at which a quorum is present. If the articles of incorporation, bylaws, or an agreement valid under G.S. 55A-7-30 provides for cumulative voting by members, members may so vote, by multiplying the number of votes the members are entitled to cast by the number of directors for whom they are entitled to vote, and casting the product for a single candidate or distributing the product among two or more candidates.

(b) Members otherwise entitled to vote cumulatively shall not vote cumulatively at a particular meeting unless:

- (1) The meeting notice or statement accompanying the notice states that cumulative voting will take place; or
- (2) A member or proxy who has the right to cumulate his votes announces in open meeting, before voting for directors starts, his intention to vote cumulatively; and if such announcement is made, the chair shall declare that all persons entitled to vote have the right to vote cumulatively, shall announce the number of votes entitled to be cast, and shall grant a recess of not less than one hour nor more than four hours, as the chair shall determine, or of such other period of time as is unanimously then agreed upon.

(c) A director elected by cumulative voting may be removed by the members without cause if the requirements of G.S. 55A-8-08 are met unless the votes cast against removal would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of directors elected at the time of the director's most recent election were then being elected. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 35; 1993, c. 398, s. 1.)

#### **§ 55A-7-26. Other methods of electing directors.**

A corporation may provide in its articles of incorporation or bylaws for election of directors by members or delegates:

- (1) On the basis of chapter or other organizational unit;
- (2) By region or other geographic unit;
- (3) By preferential voting; or



- (4) By any other reasonable method. (1955, c. 1230; 1973, c. 192, ss. 1, 2; 1985, (Reg. Sess., 1986), c. 801, ss. 19, 21; 1993, c. 398, s. 1.)

**§ 55A-7-27. Corporation's acceptance of votes.**

(a) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member.

(b) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member if:

- (1) The member is an entity and the name signed purports to be that of an officer or agent of the entity;
- (2) The name signed purports to be that of an attorney-in-fact of the member and, if the corporation requests it, evidence acceptable to the corporation of the signatory's authority to sign for the member is presented with respect to the vote, consent, waiver, or proxy appointment;
- (3) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders; or
- (4) In the case of a corporation other than a charitable or religious corporation:
  - a. The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the corporation requests it, evidence of fiduciary status acceptable to the corporation is presented with respect to the vote, consent, waiver, or proxy appointment;
  - b. The name signed purports to be that of a receiver or trustee in bankruptcy of the member, and, if the corporation requests it, evidence of this status acceptable to the corporation is presented with respect to the vote, consent, waiver, or proxy appointment.

(c) The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

(d) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section are not liable in damages to the member for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise. (1993, c. 398, s. 1; 1995, c. 509, s. 27.)

**§ 55A-7-28. Reserved for future codification purposes.**

**§ 55A-7-29. Reserved for future codification purposes.**

**Part 3. Voting Agreements.**

**§ 55A-7-30. Voting agreements.**

- (a) Two or more members may provide for the manner in which their voting rights will be

exercised by signing an agreement for that purpose. The agreement may be valid for a period of up to 10 years. All or some of the parties to the agreement may extend it for more than 10 years from the date the first party signs the extension agreement, but the extension agreement binds only those parties signing it. For charitable or religious corporations, such agreements shall have a reasonable purpose not inconsistent with the corporation's charitable or religious purposes.

(b) Subject to subsection (a) of this section, a voting agreement created under this section may be specifically enforceable.

(c) The provisions of a voting agreement created under this section will bind a transferee of a membership covered by the agreement only if the transferee acquires the membership with knowledge of the provisions. (1993, c. 398, s. 1.)

§§ 55A-7-31 through 55A-7-39. Reserved for future codification purposes.

#### Part 4. Derivative Proceedings.

##### § 55A-7-40. Derivative proceedings.

(a) An action may be brought in a superior court of this State, which shall have exclusive original jurisdiction over actions brought hereunder, in the right of any domestic or foreign corporation by any member or director, provided that, in the case of an action by a member, the plaintiff or plaintiffs shall allege, and it shall appear, that each plaintiff-member was a member at the time of the transaction of which he complains.

(b) The complaint shall allege with particularity the efforts, if any, made by the plaintiff to obtain the action the plaintiff desires from the directors or comparable authority and the reasons for the plaintiff's failure to obtain the action or for not making the effort. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceedings until the investigation is completed.

(c) Upon motion of the corporation, the court may appoint a committee composed of two or more disinterested directors or other disinterested persons, acceptable to the corporation, to determine whether it is in the best interest of the corporation to pursue a particular legal right or remedy. The committee shall report its findings to the court. After considering the report and any other relevant evidence, the court shall determine whether the proceeding should be continued.

(d) Such action shall not be discontinued, dismissed, compromised, or settled without the approval of the court. The court, in its discretion, may direct that notice, by publication or otherwise, shall be given to any directors, members, creditors, and other persons whose interests it determines will be substantially affected by the discontinuance, dismissal, compromise, or settlement. If notice is so directed to be given, the court may determine which one or more of the parties to the action shall bear the expense of giving the same, in such amount as the court shall determine and find to be reasonable in the circumstances, and the amount of the expense shall be awarded as costs of the action.

(e) If the action on behalf of the corporation is successful, in whole or in part, whether by means of a compromise and settlement or by a judgment, the court may award the plaintiff the reasonable expenses of maintaining the action, including reasonable attorneys' fees, and shall direct the plaintiff to account to the corporation for the remainder of any proceeds of the action.

(f) In any such action, the court, upon final judgment and a finding that the action was brought without reasonable cause, may require the plaintiff or plaintiffs to pay to the defendant or defendants the reasonable expenses, including attorneys' fees, incurred by them in the defense of the action.

(g) In proceedings hereunder, no member shall be entitled to obtain or have access to any



communication within the scope of the corporation's attorney-client privilege which could not be obtained by or would not be accessible to a party in an action other than on behalf of the corporation. (1985 (Reg. Sess., 1986), c. 801, s. 34; 1993, c. 398, s. 1.)

## Article 8.

### Directors and Officers.

#### Part 1. Board of Directors.

##### **§ 55A-8-01. Requirement for and duties of board.**

(a) Except as provided in subsection (c) of this section, each corporation shall have a board of directors.

(b) All corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board of directors, except as otherwise provided in the articles of incorporation.

(c) A corporation may dispense with or limit the authority of a board of directors by describing in its articles of incorporation who will perform some or all of the duties of a board of directors; but no such limitation upon the authority which the board of directors would otherwise have shall be effective against other persons without actual knowledge of such limitation.

(d) To the extent the articles of incorporation vests authority of the board of directors in an individual or group other than the board of directors, the individual or group in the exercise of such authority shall be deemed to be acting as the board of directors for all purposes of this Chapter. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 18; 1993, c. 398, s. 1.)

##### **§ 55A-8-02. Qualifications of directors.**

The articles of incorporation or bylaws may prescribe qualifications for directors. A director need not be a resident of this State or a member of the corporation unless the articles of incorporation or bylaws so prescribe. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 18; 1993, c. 398, s. 1.)

##### **§ 55A-8-03. Number of directors.**

(a) A board of directors shall consist of one or more natural persons, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(b) The number of directors may be increased or decreased from time to time by amendment to or in the manner prescribed in the articles of incorporation or bylaws.

(c) The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the members entitled to vote for directors or (unless the articles of incorporation or an agreement valid under G.S. 55A-7-30 shall otherwise provide) the board of directors. If the corporation has members entitled to vote for directors, only such members may change the range for the size of the board or change from a fixed to a variable-range size board or vice versa. (1955, c. 1230; 1973, c. 192, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 801, ss. 19-21; 1993, c. 398, s. 1.)

##### **§ 55A-8-04. Election, designation, and appointment of directors.**

(a) If the corporation has members entitled to vote for directors, all the directors (except the initial directors) shall be elected at the first annual meeting of such members, and at each annual meeting thereafter, unless the articles of incorporation or bylaws provide some other time or method of

election, or provide that some of the directors are appointed by some other person or are designated. If the articles of incorporation authorize dividing the members into classes, the articles of incorporation may also authorize the election of all or a specified number of directors by the members of one or more authorized classes.

(b) If the corporation does not have members entitled to vote for directors, all the directors (except the initial directors) shall be elected, appointed, or designated as provided in the articles of incorporation or bylaws. If no method of designation or appointment is set forth in the articles of incorporation or bylaws, the directors (other than the initial directors) shall be elected by the board of directors.

(c) If any member entitled to vote for directors so demands, election of directors by the members shall be by ballot, unless the articles of incorporation or bylaws otherwise provide. (1955, c. 1230; 1973, c. 192, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 801, ss. 19-21; 1993, c. 398, s. 1.)

#### **§ 55A-8-05. Terms of directors generally.**

(a) The articles of incorporation or bylaws may specify the terms of directors. In the absence of a contrary provision in the articles of incorporation or bylaws, the term of each director shall be one year, and directors may serve successive terms.

(b) A decrease in the number of directors or term of office does not shorten an incumbent director's term.

(c) Except as provided in the articles of incorporation or bylaws:

- (1) The term of a director filling a vacancy in the office of a director elected by members expires at the next election of directors by members; and
- (2) The term of a director filling any other vacancy expires at the end of the unexpired term that such director is filling.

(d) Despite the expiration of a director's term, the director continues to serve until the director's successor is elected, designated, or appointed and qualifies, or until there is a decrease in the number of directors. (1955, c. 1230; 1973, c. 192, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 801, ss. 19-21; 1993, c. 398, s. 1; 1995, c. 509, s. 28.)

#### **§ 55A-8-06. Staggered terms for directors.**

The articles of incorporation or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups. The terms of office of the several groups need not be uniform. (1955, c. 1230; 1973, c. 192, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 801, ss. 19-21; 1993, c. 398, s. 1.)

#### **§ 55A-8-07. Resignation of directors.**

(a) A director may resign at any time by communicating his resignation to the board of directors, its presiding officer, or to the corporation.

(b) A resignation is effective when it is communicated unless the notice specifies a later effective date or subsequent event upon which it will become effective. (1993, c. 398, s. 1.)

#### **§ 55A-8-08. Removal of directors elected by members or directors.**

(a) The members may remove one or more directors elected by them with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(b) If a director is elected by a class, chapter or other organizational unit, or by region or other geographic grouping, the director may be removed only by that class, chapter, unit, or grouping.

(c) Except as provided in subsection (i) of this section, a director may be removed under subsection (a) or (b) of this section, only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors.

(d) If cumulative voting is authorized, a director shall not be removed:

(1) If the number of votes; or

(2) If the director was elected by a class, chapter, unit, or grouping of members, the number of votes of that class, chapter, unit, or grouping;

sufficient to elect the director under cumulative voting, if an election were then being held, is voted against the director's removal.

(e) A director elected by members may be removed by the members only at a meeting called for the purpose of removing the director and the meeting notice shall state that the purpose, or one of the purposes, of the meeting is removal of the director.

(f) In computing whether a director is protected from removal under subsections (b) through (d) of this section, it should be assumed that the votes against removal are cast in an election for the number of directors of the class to which the director to be removed belonged on the date of that director's election.

(g) An entire board of directors may be removed under subsections (a) through (e) of this section.

(h) A majority of the directors then in office or such greater number as is set forth in the articles of incorporation or bylaws may, subject to any limitation in the articles of incorporation or bylaws, remove any director elected by the board of directors; provided, however, that a director elected by the board to fill the vacancy of a director elected by the members may be removed by the members, but not the board.

(i) Notwithstanding any other provision of this section, if, at the beginning of a director's term on the board of directors, the articles of incorporation or bylaws provide that the director may be removed by the board for missing a specified number of board meetings, the board may remove the director for failing to attend the specified number of meetings. The director may be removed only if a majority of the directors then in office vote for the removal.

(j) Notwithstanding any other provision of this section, the articles of incorporation or bylaws may provide that directors elected after the effective date of such provision shall be removed automatically for missing a specified number of board meetings.

(k) The articles of incorporation may:

(1) Limit the application of this section in the case of a charitable or religious corporation; and

(2) Set forth the vote and procedures by which the board of directors or any person may remove with or without cause a director elected by the members or the board. (1955, c. 1230; 1973, c. 192, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 801, ss. 19-21; 1993, c. 398, s. 1.)

#### § 55A-8-09. Removal of designated or appointed directors.

(a) A designated director may be removed by an amendment to the articles of incorporation or bylaws deleting or changing the provision containing the designation.

(b) Except as otherwise provided in the articles of incorporation or bylaws:

(1) An appointed director may be removed with or without cause by the person appointing the director;

(2) The person removing the director shall do so by giving written notice of the removal

to the director and to the corporation; and

- (3) A removal is effective when the notice is effective unless the notice specifies a future effective date.

(c) Notwithstanding any other provision of this section, the articles of incorporation or bylaws may provide that directors appointed after the effective date of such provision shall be removed automatically for missing a specified number of board meetings. (1955, c. 1230; 1973, c. 192, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 801, ss. 19-21; 1993, c. 398, s. 1.)

#### **§ 55A-8-10. Removal of directors by judicial proceeding.**

(a) The superior court of the county where a corporation's principal office (or, if there is none in this State, its registered office) is located may remove any director of the corporation from office in a proceeding commenced either by the corporation or by its members holding at least ten percent (10%) of the votes entitled to be cast of any class of members, if the court finds that:

- (1) The director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation, or a final judgment has been entered finding that the director has violated a duty set forth in G.S. 55A-8-30 through G.S. 55A-8-33, and

- (2) Removal is in the best interest of the corporation.

(b) The court that removes a director may bar the director from serving on the board of directors for a period prescribed by the court.

(c) If members commence a proceeding under subsection (a) of this section, the corporation shall be made a party defendant. (1993, c. 398, s. 1.)

#### **§ 55A-8-11. Vacancy on board.**

(a) Unless the articles of incorporation or bylaws provide otherwise, and except as provided in subsections (b) and (c) of this section, if a vacancy occurs on a board of directors, including, without limitation, a vacancy resulting from an increase in the number of directors or from the failure by the members to elect the full authorized number of directors, the vacancy may be filled:

- (1) By the members entitled to vote for directors, if any, or if the vacant office was held by a director elected by a class, chapter or other organizational unit, or by region or other geographic grouping, by the members of that class, chapter, unit, or grouping;
- (2) By the board of directors; or
- (3) If the directors remaining in the office constitute fewer than a quorum of the board, by the affirmative vote of a majority of all the directors, or by the sole director, remaining in office.

(b) Unless the articles of incorporation or bylaws provide otherwise, if a vacant office was held by an appointed director, only the person who appointed the director may fill the vacancy.

(c) If a vacant office was held by a designated director, the vacancy shall be filled only as provided in the articles of incorporation or bylaws.

(d) A vacancy that will occur at a specific later date (by reason of a resignation effective at a later date under G.S. 55A-8-07(b) or otherwise) may be filled before the vacancy occurs but the new director shall not take office until the vacancy occurs. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-8-12. Compensation of directors.**

Unless the articles of incorporation provide otherwise, a board of directors may fix the compensation of directors. (1985 (Reg. Sess., 1986), c. 801, s. 26; 1993, c. 398, s. 1.)



§§ 55A-8-13 through 55A-8-19. Reserved for future codification purposes.

## Part 2. Meetings and Action of the Board.

### § 55A-8-20. Regular and special meetings.

(a) The board of directors may hold regular or special meetings in or out of this State.

(b) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting. (1955, c. 1230; 1973, c. 314, s. 3; 1985 (Reg. Sess., 1986), c. 801, ss. 24, 25; 1993, c. 398, s. 1.)

### § 55A-8-21. Action without meeting.

(a) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this Chapter to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one or more written consents signed by each director before or after such action, describing the action taken, and included in the minutes or filed with the corporate records reflecting the action taken.

(b) Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document. (1973, c. 314, s. 3; 1993, c. 398, s. 1.)

### § 55A-8-22. Notice of meetings.

(a) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

(b) Special meetings of the board of directors shall be held upon such notice as is provided in the articles of incorporation or bylaws, or in the absence of any such provision, upon notice sent by any usual means of communication not less than five days before the meeting. The notice need not describe the purpose of the special meeting unless required by: (i) this Chapter, (ii) the articles of incorporation, or (iii) the bylaws.

(c) Unless the articles of incorporation or bylaws provide otherwise, the presiding officer of the board, the president or twenty percent (20%) of the directors then in office may call and give notice of a meeting of the board. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, ss. 24, 25; 1993, c. 398, s. 1.)

### § 55A-8-23. Waiver of notice.

(a) A director may waive any notice required by this Chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. Except as provided by subsection (b) of this section, the waiver shall be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records.

(b) A director's attendance at or participation in a meeting waives any required notice to him of the meeting unless the director at the beginning of the meeting (or promptly upon his arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, ss. 24, 25; 1993, c. 398, s. 1; 1995, c. 509, s. 29.)



#### § 55A-8-24. Quorum and voting.

(a) Except as otherwise provided in: (i) this Chapter, (ii) the articles of incorporation, or (iii) the bylaws, a quorum of a board of directors consists of a majority of the directors in office immediately before a meeting begins. In no event may the articles of incorporation or bylaws authorize a quorum of fewer than one-third of the number of directors in office.

(b) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board unless: (i) this Chapter, (ii) the articles of incorporation, or (iii) the bylaws require the vote of a greater number of directors.

(c) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is deemed to have assented to the action taken unless:

- (1) He objects at the beginning of the meeting (or promptly upon his arrival) to holding it or transacting business at the meeting;
- (2) His dissent or abstention from the action taken is entered in the minutes of the meeting; or
- (3) He files written notice of his dissent or abstention with the presiding officer of the meeting before its adjournment or with the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 33; 1993, c. 398, s. 1.)

#### § 55A-8-25. Committees of the board.

(a) Unless the articles of incorporation or bylaws provide otherwise, a board of directors may create one or more committees of the board and appoint members of the board to serve on them. Each committee shall have two or more members, who serve at the pleasure of the board.

(b) The creation of a committee and appointment of members to it shall be approved by the greater of:

- (1) A majority of all the directors in office when the action is taken; or
- (2) The number of directors required by the articles of incorporation or bylaws to take action under G. S. 55A-8-24.

(c) G.S. 55A-8-20 through G.S. 55A-8-24, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board, apply to committees of the board and their members as well.

(d) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee of the board may exercise the board's authority under G.S. 55A-8-01.

(e) A committee of the board shall not, however:

- (1) Authorize distributions;
- (2) Recommend to members or approve dissolution, merger or the sale, pledge, or transfer of all or substantially all of the corporation's assets;
- (3) Elect, appoint or remove directors, or fill vacancies on the board of directors or on any of its committees; or
- (4) Adopt, amend, or repeal the articles of incorporation or bylaws.

(f) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in G.S. 55A-8-30. (1955, c. 1230; 1969, c. 875, s. 5; 1985 (Reg. Sess., 1986), c. 801, ss. 22, 23; 1993, c. 398, s. 1.)

§§ 55A-8-26 through 55A-8-29. Reserved for future codification purposes.

Part 3. Standards of Conduct.

**§ 55A-8-30. General standards for directors.**

(a) A director shall discharge his duties as a director, including his duties as a member of a committee:

- (1) In good faith;
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) In a manner the director reasonably believes to be in the best interests of the corporation.

(b) In discharging his duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
- (2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within their professional or expert competence; or
- (3) A committee of the board of which he is not a member if the director reasonably believes the committee merits confidence.

(c) A director is not entitled to the benefit of subsection (b) of this section if he has actual knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) of this section unwarranted.

(d) A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section.

(e) A director's personal liability for monetary damages for breach of a duty as a director may be limited or eliminated only to the extent provided in G.S. 55A-8-60 or permitted in G.S. 55A-2-02(b) (4), and a director may be entitled to indemnification against liability and expenses pursuant to Part 5 of Article 8 of this Chapter.

(f) A director shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of such property. (1985 (Reg. Sess., 1986), c. 801, s. 29; 1993, c. 398, s. 1.)

**§ 55A-8-31. Director conflict of interest.**

(a) A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is not voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

- (1) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board and the board or committee authorized, approved, or ratified the transaction;
- (2) The material facts of the transaction and the director's interest were disclosed or known to the members entitled to vote and they authorized, approved, or ratified the transaction; or
- (3) The transaction was fair to the corporation.

(b) For purposes of this section, a director of the corporation has an indirect interest in a



transaction if:

- (1) Another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction; or
- (2) Another entity of which he is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

(c) For purposes of subdivision (a)(1) of this section, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction shall not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subdivision (a)(1) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subdivision.

(d) For purposes of subdivision (a)(2) of this section, a conflict of interest transaction is authorized, approved, or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under the control of an entity described in subdivision (b)(1) of this section, shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subdivision (a)(2) of this section. The vote of these members, however, is counted in determining whether the transaction is approved under other sections of this Chapter. A majority of the votes, whether or not present, that are entitled to be cast in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

(e) The articles of incorporation, bylaws, or a resolution of the board may impose additional requirements on conflict of interest transactions. (1985 (Reg. Sess., 1986), c. 801, s. 26; 1993, c. 398, s. 1.)

#### **§ 55A-8-32. Loans to or guaranties for directors and officers.**

No loan, guaranty, or other form of security shall be made or provided by a corporation to or for the benefit of its directors or officers, except that loans, guaranties, or other forms of security may be made to full-time employees of the corporation who are also directors or officers by action of its board of directors in accordance with G.S. 55A-8-31(a)(1). (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 17; 1993, c. 398, s. 1.)

#### **§ 55A-8-33. Liability for unlawful loans or distributions.**

(a) The liabilities imposed by this section are in addition to any other liabilities imposed by law upon directors of a corporation.

(b) A director who votes for or assents to the making of a loan or guaranty or other form of security is personally liable to the corporation for the repayment or return of the money or value loaned, with interest thereon at the legal rate until paid, or for any liability of the corporation upon the guaranty, if it is established that he did not perform his duties in compliance with G.S. 55A-8-30 or that the loan or guaranty was made in violation of G.S. 55A-8-32.

(c) A director who votes for or assents to a distribution made in violation of Article 13 of this Chapter, Article 14 of this Chapter, or the articles of incorporation is personally liable to the

corporation for the amount of the distribution that exceeds what could have been distributed without violating Article 13 of this Chapter, Article 14 of this Chapter, or the articles of incorporation if it is established that he did not perform his duties in compliance with G.S. 55A-8-30. In any proceeding commenced under this section, a director has all of the defenses ordinarily available to a director.

(d) A director held liable under subsection (b) or (c) of this section is entitled to:

- (1) Contribution from every other director who could be held liable under subsection (b) or (c) of this section for the unlawful loan or distribution; and
- (2) Reimbursement from each person for the amount he accepted knowing the unlawful loan or distribution was made in violation of G.S. 55A-8-32, Article 13 of this Chapter, or Article 14 of this Chapter, or the articles of incorporation.

(e) No action shall be brought against the directors for liability under this section after three years from the time when the cause of action was discovered or ought to have been discovered. (1985 (Reg. Sess., 1986), c. 801, s. 33; 1993, c. 398, s. 1.)

**§§ 55A-8-34 through 55A-8-39. Reserved for future codification purposes.**

#### Part 4. Officers.

##### **§ 55A-8-40. Officers.**

(a) A corporation has the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

(b) A duly appointed officer may appoint one or more officers or assistant officers if authorized by the bylaws or the board of directors.

(c) The secretary or any assistant secretary or any one or more other officers designated by the bylaws or the board of directors shall have the responsibility and authority to maintain and authenticate the records of the corporation.

(d) The same individual may simultaneously hold more than one office in a corporation, but no individual may act in more than one capacity where action of two or more officers is required.

(e) Whenever a specific office is referred to in this Chapter, it shall be deemed to include any person who, individually or collectively with one or more other persons, holds or occupies such office. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 28; 1993, c. 398, s. 1.)

##### **§ 55A-8-41. Duties of officers.**

Each officer has the authority and duties set forth in the bylaws or, to the extent consistent with the bylaws, the authority and duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the authority and duties of other officers. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 28; 1993, c. 398, s. 1.)

##### **§ 55A-8-42. Standards of conduct for officers.**

(a) An officer with discretionary authority shall discharge his duties under that authority:

- (1) In good faith;
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) In a manner the officer reasonably believes to be in the best interests of the corporation.

(b) In discharging his duties, an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:



- (1) One or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented; or
- (2) Legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

(c) An officer is not entitled to the benefit of subsection (b) of this section if the officer has actual knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) of this section unwarranted.

(d) An officer is not liable for any action taken as an officer, or any failure to take any action, if the officer performed the duties of his office in compliance with this section.

(e) An officer may be entitled to immunity under Part 6 of Article 8 of this Chapter or to indemnification against liability and expenses pursuant to Part 5 of Article 8 of this Chapter. (1985 (Reg. Sess., 1986), c. 801, s. 29; 1993, c. 398, s. 1.)

#### **§ 55A-8-43. Resignation and removal of officers.**

(a) An officer may resign at any time by communicating his resignation to the corporation. A resignation is effective when it is communicated unless it specifies in writing a later effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date.

(b) A board of directors may remove any officer at any time with or without cause. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-8-44. Contract rights of officers.**

(a) The appointment of an officer does not itself create contract rights.

(b) An officer's removal does not affect the officer's contract rights, if any, with the corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§§ 55A-8-45 through 55A-8-49. Reserved for future codification purposes.**

### **Part 5. Indemnification.**

#### **§ 55A-8-50. Policy statement and definitions.**

(a) It is the public policy of this State to enable corporations organized under this Chapter to attract and maintain responsible, qualified directors, officers, employees, and agents, and, to that end, to permit corporations organized under this Chapter to allocate the risk of personal liability of directors, officers, employees, and agents through indemnification and insurance as authorized in this Part.

(b) Definitions in this Part:

- (1) "Corporation" includes any domestic or foreign corporation absorbed in a merger which, if its separate existence had continued, would have had the obligation or power to indemnify its directors, officers, employees, or agents, so that a person who would have been entitled to receive or request indemnification from such corporation if its separate existence had continued shall stand in the same position under this Part with respect to the surviving corporation.
- (2) "Director" means an individual who is or was a director of a corporation or an individual who, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or



State of North Carolina  
 Department of the Secretary of State

ARTICLES OF AMENDMENT  
 NONPROFIT CORPORATION

Pursuant to §55A-10-05 of the General Statutes of North Carolina, the undersigned corporation hereby submits the following Articles of Amendment for the purpose of amending its Articles of Incorporation.

1. The name of the corporation is: Bald Head Association
2. The text of each amendment adopted is as follows (*state below or attach*):  
See Exhibit A attached hereto and incorporated herein by reference.  


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3. The date of adoption of each amendment was as follows: March 29, 2017, upon the resumption of the  
adjourned January 28, 2017 annual meeting of the membership, to take effect upon the merger  
of Bald Head Stage Two Association, Inc. into Bald Head Association as evidenced by the filing  
of Articles of Merger.  


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4. (*Check a, b, and/or c, as applicable*)
  - a. ☐ The amendment(s) was (were) approved by a sufficient vote of the board of directors or incorporators, and member approval was not required because (*set forth a brief explanation of why member approval was not required*)  


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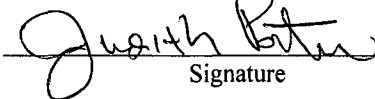
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  - b. ☒ The amendment(s) was (were) approved by the members as required by Chapter 55A.
  - c. ☐ Approval of the amendment(s) by some person or persons other than the members, the board, or the incorporators was required pursuant to N.C.G.S. §55A-10-30, and such approval was obtained.

5. These articles will be effective upon filing, unless a date and/or time is specified: \_\_\_\_\_

This the 21st day of December, 2017.

**Bald Head Association**

\_\_\_\_\_  
Name of Corporation

  
\_\_\_\_\_  
Signature

**Judith Porter, President**

\_\_\_\_\_  
Type or Print Name and Title

**Notes:**

1. Filing fee is \$25. This document and one exact or conformed copy of these articles must be filed with the Secretary of State.

## EXHIBIT A

Article IV is hereby amended in its entirety as follows:

### ARTICLE IV

#### PURPOSE OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for beautification, maintenance, preservation, and architectural control of the exterior of the single family homes, multi-family units and non-residential areas, the residence lots, assessable properties and the common areas within those certain tracts of property described as:

- (a) Such property which now is or which in the future becomes subject to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Association recorded in Book 1359, Page 1 of the Brunswick County Registry, as amended, and as the same may from time to time be amended in the future;
- (b) Such property which, as of January 28, 2017, is subject to the Protective Covenants for Bald Head Island Stage Two recorded in Book 1045, Page 676, Brunswick County Registry, as the same has been amended and corrected; and
- (c) Such property as may be annexed by approval of the Board pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Association recorded in Book 1359, Page 1 of the Brunswick County Registry, as amended, and as the same may be from time to time amended;

and to promote the health, safety, and welfare of the residents within the above-described property and any additions thereto that hereafter may be brought within the jurisdiction of this Association for this purpose.

- domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. A director is considered to be serving an employee benefit plan at the corporation's request if the director's duties to the corporation also impose duties on, or otherwise involve services by, the director to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a director.
- (3) "Expenses" means expenses of every kind incurred in defending a proceeding, including counsel fees.
  - (4) "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses actually incurred with respect to a proceeding.
  - (5) "Officer," "employee," or "agent" includes, unless the context requires otherwise, the estate or personal representative of a person who acted in that capacity.
  - (6) "Official capacity" means: (i) when used with respect to a director, the office of director in a corporation; and (ii) when used with respect to an individual other than a director, as contemplated in G.S. 55A-8-56, the office in a corporation held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the corporation. "Official capacity" does not include service for any other foreign or domestic business or nonprofit corporation or any partnership, joint venture, trust, employee benefit plan, or other enterprise.
  - (7) "Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.
  - (8) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative and whether formal or informal. (1993, c. 398, s. 1.)

**§ 55A-8-51. Authority to indemnify.**

(a) Except as provided in subsection (d) of this section, a corporation may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if the individual:

- (1) Conducted himself in good faith;
- (2) Reasonably believed (i) in the case of conduct in his official capacity with the corporation, that his conduct was in its best interests; and (ii) in all other cases, that his conduct was at least not opposed to its best interests; and
- (3) In the case of any criminal proceeding, had no reasonable cause to believe his conduct was unlawful.

(b) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of clause (ii) of subdivision (a)(2) of this section.

(c) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of no contest or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

(d) A corporation shall not indemnify a director under this section:

- (1) In connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or
- (2) In connection with any other proceeding charging improper personal benefit to the

director, whether or not involving action in his official capacity, in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

(e) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation that is concluded without a final adjudication on the issue of liability is limited to reasonable expenses incurred in connection with the proceeding.

(f) The authorization, approval, or favorable recommendation by the board of directors of a corporation of indemnification, as permitted by this section, shall not be deemed an act or corporate transaction in which a director has a conflict of interest, and no such indemnification shall be void or voidable on such ground. (1977, c. 236, s. 2; 1985 (Reg. Sess., 1986), c. 801, ss. 15, 16; 1993, c. 398, s. 1.)

#### **§ 55A-8-52. Mandatory indemnification.**

Unless limited by its articles of incorporation, a corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceedings to which the director was a party because he is or was a director of the corporation against reasonable expenses actually incurred by the director in connection with the proceeding. (1977, c. 236, s. 2; 1993, c. 398, s. 1.)

#### **§ 55A-8-53. Advance for expenses.**

Expenses incurred by a director in defending a proceeding may be paid by the corporation in advance of the final disposition of such proceeding as authorized by the board of directors in the specific case or as authorized or required under any provision in the articles of incorporation or bylaws or by any applicable resolution or contract upon receipt of an undertaking by or on behalf of the director to repay such amount unless it shall ultimately be determined that the director is entitled to be indemnified by the corporation against such expenses. (1977, c. 236, s. 2; 1985 (Reg. Sess., 1986), c. 801, ss. 15, 16; 1993, c. 398, s. 1.)

#### **§ 55A-8-54. Court-ordered indemnification.**

Unless a corporation's articles of incorporation provide otherwise, a director of the corporation who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice the court considers necessary, may order indemnification if it determines:

- (1) The director is entitled to mandatory indemnification under G.S. 55A-8-52, in which case the court shall also order the corporation to pay the director's reasonable expenses incurred to obtain court-ordered indemnification; or
- (2) The director is fairly and reasonably entitled to indemnification, in whole or in part, in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in G.S. 55A-8-51 or was adjudged liable as described in G.S. 55A-8-51(d), but if the director was adjudged so liable, such indemnification is limited to reasonable expenses incurred. (1977, c. 236, s. 2; 1993, c. 398, s. 1.)

#### **§ 55A-8-55. Determination and authorization of indemnification.**

(a) A corporation shall not indemnify a director under G.S. 55A-8-51 unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in G.S. 55A-8-51.

(b) The determination shall be made:



- (1) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;
- (2) If a quorum cannot be obtained under subdivision (1) of this subsection, by a majority vote of a committee duly designated by the board of directors (in which designation directors who are parties may participate), consisting solely of two or more directors not at the time parties to the proceeding;
- (3) By special legal counsel (i) selected by the board of directors or its committee in the manner prescribed in subdivision (1) or (2) of this subsection; or (ii) if a quorum of the board cannot be obtained under subdivision (1) of this subsection and a committee cannot be designated under subdivision (2) of this subsection, selected by majority vote of the full board (in which selection directors who are parties may participate); or
- (4) By the members, but directors who are at the time parties to the proceeding shall not vote on the determination.

(c) Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subdivision (b)(3) of this section to select counsel. (1977, c. 236, s. 2; 1993, c. 398, s. 1.)

#### **§ 55A-8-56. Indemnification of officers, employees, and agents.**

Unless a corporation's articles of incorporation provide otherwise:

- (1) An officer of the corporation is entitled to mandatory indemnification under G.S. 55A-8-52, and is entitled to apply for court-ordered indemnification under G.S. 55A-8-54, in each case to the same extent as a director;
- (2) The corporation may indemnify and advance expenses under this Part to an officer, employee, or agent of the corporation to the same extent as to a director; and
- (3) A corporation may also indemnify and advance expenses to an officer, employee, or agent to the extent, consistent with public policy, that may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract. (1977, c. 236, s. 2; 1993, c. 398, s. 1.)

#### **§ 55A-8-57. Additional indemnification and insurance.**

(a) In addition to and separate and apart from the indemnification provided for in G.S. 55A-8-51, 55A-8-52, 55A-8-54, 55A-8-55, and 55A-8-56, a corporation may in its articles of incorporation or bylaws or by contract or resolution indemnify or agree to indemnify any one or more of its directors, officers, employees, or agents against liability and expenses in any proceeding (including without limitation a proceeding brought by or on behalf of the corporation itself) arising out of their status as such or their activities in any of the foregoing capacities; provided, however, that a corporation shall not indemnify or agree to indemnify a person against liability or expenses the person may incur on account of his activities which were at the time taken, known, or believed by the person to be clearly in conflict with the best interests of the corporation or if the person received an improper personal benefit. A corporation may likewise and to the same extent indemnify or agree to indemnify any person who, at the request of the corporation, is or was serving as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise or as a trustee or administrator under an employee benefit plan. Any provision in any articles of incorporation, bylaw, contract, or resolution permitted under this section may include

provisions for recovery from the corporation of reasonable costs, expenses, and attorneys' fees in connection with the enforcement of rights to indemnification granted therein and may further include provisions establishing reasonable procedures for determining and enforcing the rights granted therein.

(b) A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation, or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by him in that capacity or arising from his status as a director, officer, employee, or agent, whether or not the corporation would have power to indemnify him against the same liability under any provision of this Chapter. (1977, c. 236, s. 2; 1985 (Reg. Sess., 1986), c. 801, ss. 15, 16; 1993, c. 398, s. 1.)

#### § 55A-8-58. Application of Part.

(a) If articles of incorporation limit indemnification or advance for expenses, indemnification and advance for expenses are valid only to the extent consistent with the articles of incorporation.

(b) This Part does not limit a corporation's power to pay or reimburse expenses incurred by a director in connection with appearing as a witness in a proceeding at a time when the director has not been made a named defendant or respondent to the proceeding. (1993, c. 398, s. 1.)

#### § 55A-8-59. Reserved for future codification purposes.

### Part 6. Immunity.

#### § 55A-8-60. Immunity.

(a) In addition to the immunity that is authorized in G.S. 55A-2-02(b)(4), a person serving as a director or officer of a nonprofit corporation shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

- (1) Is compensated for his services beyond reimbursement for expenses;
- (2) Was not acting within the scope of his official duties;
- (3) Was not acting in good faith;
- (4) Committed gross negligence or willful or wanton misconduct that resulted in the damage or injury;
- (5) Derived an improper personal financial benefit from the transaction;
- (6) Incurred the liability from the operation of a motor vehicle; or
- (7) Is a defendant in an action brought under G.S. 55A-8-33.

The immunity in this subsection may be limited or eliminated by a provision in the articles of incorporation, but only with respect to acts or omissions occurring on or after the effective date of such provision.

(b) The immunity in subsection (a) of this section is personal to the directors and officers, and does not immunize the corporation against liability for the acts or omissions of the directors or officers.

(c) Without diminishing the applicability of any other provisions of this Chapter, "nonprofit corporation" as referred to in this section shall include any credit union chartered under the laws of this State, the laws of any other state, or under the laws of the United States. (1987, c. 799, s. 3; 1989, c. 472; 1993, c. 398, s. 1.)

## Article 10.

## Amendment of Articles of Incorporation and Bylaws.

## Part 1. Amendment of Articles of Incorporation.

**§ 55A-10-01. Authority to amend.**

(a) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required in the articles of incorporation. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment.

(b) A member of the corporation does not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, distribution entitlement, or purpose or duration of the corporation. (1955, c. 1230; 1993, c. 398, s. 1.)

**§ 55A-10-02. Amendment by board of directors.**

(a) Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles of incorporation without member approval:

- (1) To delete the names and addresses of the initial directors;
- (2) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the Secretary of State;
- (3) To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting or changing a geographical attribution to the name; or
- (4) To make any other change expressly permitted by this Chapter to be made by director action.

(b) If a corporation has no members entitled to vote thereon, its incorporators, until directors have been chosen, and thereafter its board of directors, may adopt one or more amendments to the corporation's articles of incorporation subject to any approval required pursuant to G.S. 55A-10-30. The corporation shall provide at least five days' written notice of any meeting at which an amendment is to be voted upon. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the articles of incorporation and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment shall be approved by a majority of the directors in office at the time the amendment is adopted. (1955, c. 1230; 1981, c. 372; 1985 (Reg. Sess., 1986), c. 801, ss. 36, 37; 1993, c. 398, s. 1.)

**§ 55A-10-03. Amendment by directors and members.**

(a) If the corporation has members entitled to vote thereon, then, unless this Chapter, the articles of incorporation, bylaws, the members (acting pursuant to subsection (b) of this section), or the board of directors (acting pursuant to subsection (c) of this section) require a greater vote or voting by class, an amendment to a corporation's articles of incorporation to be adopted shall be approved:

- (1) By the board or in lieu thereof in writing by the number or proportion of members entitled under G.S. 55A-7-02(a)(2) to call a special meeting to consider such amendment;
- (2) By the members entitled to vote thereon by two-thirds of the votes cast or a majority of the votes entitled to be cast on the amendment, whichever is less; and
- (3) In writing by any person or persons whose approval is required by a provision of the

articles of incorporation authorized by G.S. 55A-10-30.

(b) The members entitled to vote thereon may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis.

(c) If the board initiates an amendment to the articles of incorporation or board approval is required by subsection (a) of this section to adopt an amendment to the articles of incorporation, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or any other basis.

(d) If the board or the members seek to have the amendment approved by the members entitled to vote thereon at a membership meeting, the corporation shall give notice of the membership meeting to those members in accordance with G.S. 55A-7-05. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(e) If the board or the members seek to have the amendment approved by the members entitled to vote thereon by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment. (1955, c. 1230; 1981, c. 372; 1985 (Reg. Sess., 1986), c. 801, ss. 36, 37; 1993, c. 398, s. 1; 1995, c. 400, s. 4.)

#### **§ 55A-10-04. Class voting by members on amendments.**

(a) The members of a class in a charitable or religious corporation are entitled to vote as a class on a proposed amendment to the articles of incorporation if the amendment would affect the rights of that class as to voting in a manner that is different from the manner in which the amendment would affect another class.

(b) The members of a class in a corporation other than a charitable or religious corporation are entitled to vote as a class on a proposed amendment to the articles of incorporation if the amendment would:

- (1) Affect the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer of memberships in a manner that is different from the manner in which the amendment would affect another class;
- (2) Affect the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer of memberships by changing the rights, privileges, preferences, restrictions, or conditions of another class;
- (3) Increase or decrease the number of memberships authorized for that class;
- (4) Increase the number of memberships authorized for another class;
- (5) Effect an exchange, reclassification, or termination of the memberships of that class; or
- (6) Authorize a new class of memberships.

(c) If a class is to be divided into two or more classes as a result of an amendment to the articles of incorporation, the amendment shall be approved by the members of each class that would be created by the amendment.

(d) If a class vote is required to approve an amendment to the articles of incorporation of a corporation, the amendment shall be approved by the members of the class by two-thirds of the votes cast by the class or a majority of the votes entitled to be cast by the class on the amendment, whichever is less.

(e) A class of members is entitled to the voting rights granted by this section although the articles of incorporation and bylaws provide that the class shall not vote on the proposed amendment.

(1993, c. 398, s. 1.)



**§ 55A-10-05. Articles of amendment.**

A corporation amending its articles of incorporation shall deliver to the Secretary of State for filing articles of amendment setting forth:

- (1) The name of the corporation;
- (2) The text of each amendment adopted;
- (3) The date of each amendment's adoption;
- (4) If approval of members was not required, a statement to that effect and a brief explanation of why member action was not required, and a statement that the amendment was approved by a sufficient vote of the board of directors or incorporators;
- (5) If approval by members was required, a statement that member approval was obtained as required by this Chapter;
- (6) If approval of the amendment by some person or persons other than the members, the board, or the incorporators is required pursuant to G.S. 55A-10-30, a statement that the approval was obtained. (1955, c. 1230; 1993, c. 398, s. 1.)

**§ 55A-10-06. Restated articles of incorporation.**

(a) A corporation's board of directors may restate its articles of incorporation at any time with or without approval by members or any other person.

(b) The restated articles of incorporation may include one or more amendments to the articles of incorporation. If the restated articles of incorporation include an amendment requiring approval by the members or any other person, it shall be adopted as provided in G.S. 55A-10-03.

(c) If the board of directors submits restated articles of incorporation for member action, the corporation shall notify in writing each member entitled to vote on the proposed amendment of the membership meeting in accordance with G.S. 55A-7-05. The notice shall (i) state that the purpose, or one of the purposes, of the meeting is to consider the proposed restated articles of incorporation, (ii) contain or be accompanied by a copy of the proposed restated articles of incorporation, and (iii) identify any amendment or other change they would make in the articles of incorporation.

(d) If the restated articles of incorporation include an amendment requiring approval pursuant to G.S. 55A-10-30, the board of directors shall submit the restated articles of incorporation for such approval.

(e) A corporation restating its articles of incorporation shall deliver to the Secretary of State for filing articles of restatement which shall:

- (1) Set forth the name of the corporation;
- (2) Attach as an exhibit thereto the text of the restated articles of incorporation;
- (3) State whether the restated articles of incorporation contain an amendment to the articles of incorporation requiring member approval and, if they do not, that the board of directors adopted the restated articles of incorporation;
- (4) If the restated articles of incorporation contain an amendment to the articles of incorporation requiring member approval, state that member approval was obtained as required by this Chapter; and
- (5) If the restated articles of incorporation contain an amendment to the articles of incorporation requiring approval by a person whose approval is required pursuant to G.S. 55A-10-30, state that such approval was obtained.

(f) Duly adopted restated articles of incorporation supersede the original articles of



incorporation and all amendments to them.

(g) The Secretary of State may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the other information required by subsection (e) of this section. (1965, c. 762; 1993, c. 398, s. 1.)

#### **§ 55A-10-07. Effect of amendment.**

An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, any requirement or limitation imposed upon the corporation or any property held by it by virtue of any restriction or condition upon which such property is held by the corporation or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name. (1955, c. 1230; 1985 (Reg. Sess., 1986), c. 801, s. 38; 1993, c. 398, s. 1.)

**§§ 55A-10-08 through 55A-10-19. Reserved for future codification purposes.**

### **Part 2. Bylaws.**

#### **§ 55A-10-20. Amendment by directors.**

If a corporation has no members entitled to vote thereon, its incorporators, until directors have been chosen, and thereafter its board of directors, may adopt one or more amendments to the corporation's bylaws subject to any approval required pursuant to G.S. 55A-10-30. The corporation shall provide at least five days' written notice of any meeting of directors at which an amendment is to be voted upon. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the bylaws and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment shall be approved by a majority of the directors in office at the time the amendment is adopted. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-10-21. Amendment by directors and members.**

(a) If the corporation has members entitled to vote thereon, then, unless this Chapter, the articles of incorporation, bylaws, the members (acting pursuant to subsection (b) of this section), or the board of directors (acting pursuant to subsection (c) of this section) require a greater vote or voting by class, an amendment to a corporation's bylaws to be adopted shall be approved:

- (1) By the board or in lieu thereof in writing by the number or proportion of members entitled under G.S. 55A-7-02(a)(2) to call a special meeting to consider such amendment;
- (2) By the members entitled to vote thereon by two-thirds of the votes cast or a majority of the votes entitled to be cast on the amendment, whichever is less; and
- (3) In writing by any person or persons whose approval is required by a provision of the articles of incorporation authorized by G.S. 55A-10-30.

(b) The members entitled to vote thereon may condition the amendment's adoption on its receipt of a higher percentage of affirmative votes or on any other basis.

(c) If the board initiates an amendment to the bylaws or board approval is required by subsection (a) of this section to adopt an amendment to the bylaws, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis.

(d) If the board or the members seek to have the amendment approved by the members entitled to vote thereon at a membership meeting, the corporation shall give notice of the membership meeting

to those members in accordance with G.S. 55A-7-05. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(e) If the board or the members seek to have the amendment approved by the members entitled to vote thereon by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment. (1955, c. 1230; 1993, c. 398, s. 1; 2002-27, s. 1.)

#### **§ 55A-10-22. Class voting by members on amendments.**

(a) The members of a class in a charitable or religious corporation are entitled to vote as a class on a proposed amendment to the bylaws if the amendment would affect the rights of that class as to voting in a manner that is different from the manner in which such amendment would affect another class.

(b) The members of a class in a corporation other than a charitable or religious corporation are entitled to vote as a class on a proposed amendment to the bylaws if the amendment would:

- (1) Affect the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer of memberships in a manner that is different from the manner in which such amendment would affect another class;
- (2) Affect the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer of memberships by changing the rights, privileges, preferences, restrictions, or conditions of another class;
- (3) Increase or decrease the number of memberships authorized for that class;
- (4) Increase the number of memberships authorized for another class;
- (5) Effect an exchange, reclassification, or termination of all or part of the memberships of that class; or
- (6) Authorize a new class of memberships.

(c) If a class is to be divided into two or more classes as a result of an amendment to the bylaws, the amendment shall be approved by the members of each class that would be created by the amendment.

(d) If a class vote is required to approve an amendment to the bylaws, the amendment shall be approved by the members of the class by two-thirds of the votes cast by the class or a majority of the votes entitled to be cast by the class on the amendment, whichever is less.

(e) A class of members is entitled to the voting rights granted by this section although the articles of incorporation and bylaws provide that the class shall not vote on the proposed amendment. (1993, c. 398, s. 1.)

#### **§§ 55A-10-23 through 55A-10-29. Reserved for future codification purposes.**

### **Part 3. Articles of Incorporation and Bylaws.**

#### **§ 55A-10-30. Approval by third persons.**

The articles of incorporation or bylaws may require an amendment to the articles of incorporation or bylaws to be approved in writing by a specified person or persons other than the board of directors. Such a provision in the articles of incorporation or bylaws may only be amended with the approval in writing of such person or persons. (1993, c. 398, s. 1; 1995, c. 509, s. 30.)

## Article 11.

## Merger.

**§ 55A-11-01. Approval of plan of merger.**

(a) Subject to the limitations set forth in G.S. 55A-11-02, one or more nonprofit corporations may merge into another nonprofit corporation, if the plan of merger is approved as provided in G.S. 55A-11-03.

(b) The plan of merger shall set forth:

- (1) The name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;
- (2) The terms and conditions of the merger; and
- (3) The manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations, or securities of the surviving or any other corporation or into cash or other property in whole or part.

(c) The plan of merger may set forth:

- (1) Any amendments to the articles of incorporation or bylaws of the surviving corporation to be effected by the merger; and
- (2) Other provisions relating to the merger. (1955, c. 1230; 1993, c. 398, s. 1; 1995, c. 400, s. 5.)

**§ 55A-11-02. Limitations on mergers by charitable or religious corporations.**

(a) Without the prior approval of the superior court in a proceeding in which the Attorney General has been given written notice, a charitable or religious corporation may merge only with:

- (1) A charitable or religious corporation;
- (2) A foreign corporation that would qualify under this Chapter as a charitable or religious corporation;
- (3) A wholly owned foreign or domestic corporation (business or nonprofit) which is not a charitable or religious corporation, or an unincorporated entity, provided the charitable or religious corporation is the survivor in the merger and continues to be a charitable or religious corporation after the merger; or
- (4) A business or nonprofit corporation (foreign or domestic) other than a charitable or religious corporation, or an unincorporated entity, provided that: (i) on or prior to the effective date of the merger, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets (including goodwill) of the charitable or religious corporation or the fair market value of the charitable or religious corporation if it were to be operated as a business concern are transferred or conveyed to one or more persons who would have received its assets under G.S. 55A-14-03(a)(1) and (2) had it dissolved; (ii) it shall return, transfer or convey any assets held by it upon condition requiring return, transfer or conveyance, which condition occurs by reason of the merger, in accordance with such condition; and (iii) the merger is approved by a majority of directors of the charitable or religious corporation who are not and will not become members, as "member" is defined in G.S. 55A-1-40(16) or G.S. 57C-1-03, partners, limited partners, or shareholders in or directors, managers, officers, employees, agents, or consultants of the survivor in the merger.

(b) At least 30 days before consummation of any merger of a charitable or religious corporation

pursuant to subdivision (a)(4) of this section, notice, including a copy of the proposed plan of merger, shall be delivered to the Attorney General. This notice shall include all the information the Attorney General determines is required for a complete review of the proposed transaction. The Attorney General may require an additional 30-day period to review the proposed transaction by providing written notice to the charitable or religious corporation prior to the expiration of the initial notice period. During this 30-day period, the transaction may not be finalized.

(c) Without the prior written consent of the Attorney General, or approval of the superior court in a proceeding in which the Attorney General has been given notice, no member of a charitable or religious corporation may receive or retain any property as a result of a merger other than an interest as a member, as "member" is defined in G.S. 55A-1-40(16), in the survivor of the merger. The Attorney General may consent to the transaction, or the court shall approve the transaction, if it is fair and not contrary to the public interest. (1993, c. 398, s. 1; c. 553, s. 83(a); 1995, c. 400, s. 6; 1999-204, s. 1; 1999-369, s. 2.4.)

### **§ 55A-11-03. Action on plan.**

(a) Unless this Chapter, the articles of incorporation, bylaws, or the board of directors or members (acting pursuant to subsection (c) of this section) require a greater vote or voting by class, a plan of merger to be adopted shall be approved for each constituent corporation:

- (1) By the board;
- (2) By the members entitled to vote thereon, if any, by two-thirds of the votes cast or a majority of the votes entitled to be cast on the plan of merger, whichever is less; and
- (3) In writing by any person or persons whose approval is required by a provision of the articles of incorporation authorized by G.S. 55A-10-30 for an amendment to the articles of incorporation or bylaws.

(b) If the corporation does not have members entitled to vote thereon, the merger shall be approved by a majority of the directors then in office. The corporation shall provide at least five days' written notice of any directors' meeting at which the approval will be considered. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the proposed merger.

(c) The board may condition its approval of the proposed merger, and the members entitled to vote thereon may condition their approval of the merger, on receipt of a higher percentage of affirmative votes or on any other basis.

(d) If the board seeks to have the plan approved by the members entitled to vote thereon at a membership meeting, the corporation shall give notice of the membership meeting to those members in accordance with G.S. 55A-7-05. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger and contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles of incorporation and bylaws that will be in effect immediately after the merger takes effect.

(e) If the board seeks to have the plan approved by the members entitled to vote thereon by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles of



incorporation and bylaws that will be in effect immediately after the merger takes effect.

(f) Voting by a class of members is required on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation or bylaws, would entitle the class of members to vote as a class on the proposed amendment under G.S. 55A-10-04 or G.S. 55A-10-22. The plan is approved by a class of members by two-thirds of the votes cast by the class or a majority of the votes entitled to be cast by the class, whichever is less.

(g) After a merger is adopted, and at any time before articles of merger are filed, the merger may be abandoned (subject to any contractual rights), without further action by members or other persons who approved the plan, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the board of directors. (1993, c. 398, s. 1.)

#### **§ 55A-11-04. Articles of merger.**

(a) After a plan of merger is approved by the board of directors, and if required by G.S. 55A-11-03, by the members and any other persons, the surviving corporation shall deliver to the Secretary of State for filing articles of merger setting forth:

- (1) The plan of merger;
- (2) If approval by members was not required, a statement to that effect and a statement that the plan was approved by a sufficient vote of the board of directors;
- (3) If approval by members was required, a statement that the merger was approved by the members as required by this Chapter;
- (4) If approval by some person or persons other than the members or the board was required pursuant to G.S. 55A-11-03(a)(3), a statement that the approval was obtained.

(b) A merger takes effect upon the effective date of the articles of merger.

(c) Certificates of merger shall also be registered as provided in G.S. 47-18.1. (1993, c. 398, s. 1.)

#### **§ 55A-11-05. Effect of merger.**

When a merger takes effect:

- (1) Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases;
- (2) The title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment subject to any and all conditions to which the property was subject prior to the merger;
- (3) The surviving corporation has all liabilities and obligations of each corporation party to the merger;
- (4) A proceeding pending by or against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased; and
- (5) The articles of incorporation and bylaws of the surviving corporation are amended to the extent provided in the plan of merger. (1955, c. 1230; 1967, c. 950, s. 2; 1993, c. 398, s. 1; 1999-369, s. 2.5.)

#### **§ 55A-11-06. Merger with foreign corporation.**

(a) Except as provided in G.S. 55A-11-02, one or more foreign nonprofit corporations may merge with one or more domestic nonprofit corporations if:

- (1) The merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;
- (2) The foreign corporation complies with G.S. 55A-11-04 if it is the surviving corporation of the merger and, if the foreign corporation is not authorized to conduct affairs in this State, includes in the articles of merger filed with the Secretary of State pursuant to G.S. 55A-11-04 a designation of the foreign corporation's mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) Each domestic nonprofit corporation complies with the applicable provisions of G.S. 55A-11-01 through G.S. 55A-11-03 and, if it is the surviving corporation of the merger, with G.S. 55A-11-04.

(b) Upon the merger taking effect, if the surviving corporation is a foreign corporation, it shall be deemed to have appointed the Secretary of State as its agent for service of process in a proceeding to enforce any obligation of a domestic corporation party to the merger. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign corporation. If the foreign corporation is authorized to conduct affairs in this State, the address for mailing shall be its principal office or, if there is no mailing address for the principal office on file, its registered office. If the foreign corporation is not authorized to conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (2) of subsection (a) of this section. (1973, c. 314, s. 4; 1985 (Reg. Sess., 1986), c. 801, s. 39; 1993, c. 398, s. 1; 1995, c. 400, s. 7; 2001-387, ss. 36, 37.)

#### **§ 55A-11-07. Bequests, devises, and gifts.**

Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, that is made to a constituent corporation and that takes effect or remains payable after the merger, inures to the survivor in the merger unless the will or other instrument otherwise specifically provides. (1993, c. 398, s. 1; 1999-369, s. 2.6.)

#### **§ 55A-11-08. Merger with business corporation.**

(a) One or more domestic or foreign business corporations may merge with one or more domestic nonprofit corporations if:

- (1) Each domestic business corporation complies with the applicable provisions of G.S. 55-11-01, 55-11-03, and 55-11-04;
- (2) In a merger involving one or more foreign business corporations, the merger is permitted by the law of the state or country under whose law each foreign business corporation is incorporated and each foreign business corporation complies with that law in effecting the merger;
- (3) The domestic or foreign business corporation complies with G.S. 55A-11-04 if it is the surviving corporation and, in the case of a foreign business corporation not authorized to transact business in this State, includes in the articles of merger filed pursuant to G.S. 55A-11-04 a designation of the foreign business corporation's mailing address and a commitment to file with the Secretary of State a statement of

any subsequent change in its mailing address; and

- (4) Each domestic nonprofit corporation complies with the applicable provisions of G.S. 55A-11-01 through G.S. 55A-11-03 and, if it is the surviving corporation, with G.S. 55A-11-04.

(b) Upon the merger taking effect, if the surviving corporation is a foreign business corporation, it shall be deemed to have appointed the Secretary of State as its agent for service of process in a proceeding to enforce any obligation of a domestic nonprofit corporation party to the merger. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign business corporation. If the foreign business corporation is authorized to transact business in this State, the address for mailing shall be its principal office as defined in G.S. 55-1-40(17) or, if there is no mailing address for the principal office on file, its registered office. If the foreign business corporation is not authorized to transact business in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (a) of this section.

(c) This section does not limit the power of a domestic or foreign business corporation to acquire all or part of the memberships of one or more classes of a domestic nonprofit corporation through a voluntary exchange or otherwise. (1995, c. 400, s. 8; 2001-387, ss. 38, 39.)

#### **§ 55A-11-09. Merger with unincorporated entity.**

(a) As used in this section, "business entity" means a domestic business corporation (including a professional corporation as defined in G.S. 55B-2), a foreign business corporation (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation, a domestic or foreign limited liability company, a domestic or foreign limited partnership, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State.

(b) One or more domestic nonprofit corporations may merge with one or more unincorporated entities and, if desired, one or more foreign nonprofit corporations, domestic business corporations, or foreign business corporations if:

- (1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each of the other merging business entities;
- (2) Each merging domestic nonprofit corporation and each other merging business entity comply with the requirements of this section and, to the extent applicable, the laws referred to in subdivision (1) of this subsection; and
- (3) The merger complies with G.S. 55A-11-02, if applicable.

(c) Each merging domestic nonprofit corporation and each other merging business entity shall approve a written plan of merger containing:

- (1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (2) The name of the merging business entity that shall survive the merger;
- (3) The terms and conditions of the merger;
- (4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and



- (5) If the surviving business entity is a domestic nonprofit corporation, any amendments to its articles of incorporation that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

In the case of a merging domestic nonprofit corporation, approval of the plan of merger requires that the plan of merger be adopted as provided in G.S. 55A-11-03. If any member of a merging domestic nonprofit corporation has or will have personal liability for any existing or future obligation of the surviving business entity solely as a result of holding an interest in the surviving business entity, then in addition to the requirements of G.S. 55A-11-03, approval of the plan of merger by the domestic nonprofit corporation shall require the affirmative vote or written consent of the member. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of such merging business entity.

After a plan of merger has been approved by a domestic nonprofit corporation but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or, if there is no such provision, as determined by the board of directors.

(d) After a plan of merger has been approved by each merging domestic nonprofit corporation and each other merging business entity as provided in subsection (c) of this section, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

- (1) The plan of merger;
- (2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The name of the surviving business entity and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;
- (4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
- (5) The effective date and time of merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned after the articles of merger have been filed but before the articles of merger become effective, the surviving business entity shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

Certificates of merger shall also be registered as provided in G.S. 47-18.1.

(e) A merger takes effect when the articles of merger become effective. When a merger takes effect:

- (1) Each other merging business entity merges into the surviving business entity and the separate existence of each merging business entity except the surviving business entity ceases;
- (2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;
- (3) The surviving business entity has all liabilities of each merging business entity;
- (4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the



merger;

- (5) If a domestic nonprofit corporation is the surviving business entity, its articles of incorporation shall be amended to the extent provided in the plan of merger;
- (6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic business corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and
- (7) If the surviving business entity is not a domestic business corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic business corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic business corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of the merging business entity.

(e1) If the surviving business entity is not a domestic limited liability company, a domestic business corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

- (1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic business corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic business corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and
- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process on behalf of a surviving business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (d) of this section.

- (f) This section does not apply to a merger that does not include a merging unincorporated

*Original Letter*

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SENDER'S EXTENSION:  
124

February 3, 2006

Ms. Joey Hill, Manager  
Bald Head Association  
P. O. Box 3030  
Bald Head Island, NC 28461

Re: Collection procedures

Dear Joey:

This will provide you an overview of some of the more significant changes to the Planned Community Act (N.C.G.S. §§ 47F3-101, *et seq.*) which became effective on January 1, 2006.

As you know, only some of the provisions of the PCA apply to planned communities which were in existence prior to January 1, 1999. The Secretary of State's records indicate that Bald Head Association (the "Association") was incorporated in 1982. These amendments relate to provisions which are applicable to all planned communities, regardless of when they came into being. I will first address those amendments which pertain to dues and assessments and then highlight some of the other changes.

**Procedures for Fines and Suspension of Privileges and Services:** A change to 47F-3-107.1 clarifies the due process requirements for the imposition of fines and the suspension of privileges. Under the amended statute, unless the Declaration expressly provides a specific procedure for the imposition of fines or suspension of privileges, the Association must follow this procedure. Following notice to the property owner, a hearing is to be held either by the executive board or by an adjudicatory panel appointed by the executive board consisting of members who are not officers or members of the executive board. The property owner is to have opportunity to present evidence.



The maximum fine to be imposed is \$100.00, plus \$100.00 per day for each day more than five days after the hearing that the violation continues to occur. Suspension of privileges may continue indefinitely until the violation is cured.

The property owner may appeal the decision of the adjudicatory panel to the full executive board by delivering written notice of appeal within 15 days of the decision (Because this adds a layer of process to the mix, I would advise the client to have the executive board conduct the hearing and not appoint an adjudicatory panel).

**Lien for Assessments:** The Association still has the ability to file a claim of lien against a lot when the property owner has failed to pay dues for a period of 30 days or more. Their lien rights extend to dues, fees, charges, and late charges. However, thanks to an amendment to N.C.G.S. § 47F-3-116, if the assessment against the lot is for only (a) fines, interest, and attorney's fees or (b) service, collection, consulting or administration fees, then the Association cannot proceed to foreclose the claim of lien as we would a mortgage under power of sale. Instead, the Association is forced to resort to the remedy of judicial foreclosure.

*Collection of Fees and Costs:* A lot owner is not required to pay attorney's fees and court costs until the lot owner is notified in writing of the Association's intent to seek them. The notice has to be sent first-class mail and requires that we afford the property owner 15 days to pay the amount due and thereby avoid having to pay fees and costs (Note that this goes a bit farther than N.C.G.S. § 6-21.2, which would only require us to provide 5 days notice). To add another wrinkle, the notice has to specify that the property owner may contact a named representative of the association to discuss a payment schedule, although ultimately the Association has no obligation to accept any particular payment arrangements the property owner proposes.

If the property owner does not dispute the debt, then the Association may charge "reasonable attorneys' fees" not to exceed \$1,200.00. However, based upon my reading of the statute and its interaction with § 6-21.2, I am of the opinion that the Association cannot pass along to the property owner attorney's fees exceeding 15% of the indebtedness (in other words, it can charge the lesser of 15% or \$1,200.00).

*Late Fees:* Pursuant to § 47C-3-102(11), late fees are now capped at the greater of 10% of the assessment installment unpaid or \$20.00.

**Recordkeeping:** Under § 47F-3-118, if the bylaws of the Association do not specify particular records to be maintained, then the Association must keep accurate records of all receipts, expenditures, assets, and liabilities. An income and expense statement and balance sheet must be provided to all property owners at no charge, within 75 days of the close of the fiscal year. A majority of the executive board, or a majority of lot owners voting at the annual meeting (in person or by proxy) may require a more formal accountant's audit, compilation, or review to be generated.






**Officer Compensation:** Officers and members of the executive board are prohibited from receiving financial payments, goods, or services unless the bylaws expressly authorize it.

Please contact me if you have any questions.

Sincerely yours,

MURCHISON, TAYLOR & GIBSON, PLLC



Andrew K. McVey

AKM/jmb/64475



*Q & A Markup of letter*

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February 10, 2006

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As you know, only some of the provisions of the PCA apply to planned communities which were in existence prior to January 1, 1999. The Secretary of State's records indicate that Bald Head Association (the "Association") was incorporated in 1982. These amendments relate to provisions which are applicable to all planned communities, regardless of when they came into being. I will first address those amendments which pertain to dues and assessments and then highlight some of the other changes.

**Procedures for Fines and Suspension of Privileges and Services:** A change to 47F-3-107.1 clarifies the due process requirements for the imposition of fines and the suspension of privileges. Under the amended statute, unless the Declaration expressly provides a specific procedure for the imposition of fines or suspension of privileges, the Association must follow this procedure. Following notice to the property owner, a hearing is to be held either by the executive board or by an adjudicatory panel appointed by the executive board consisting of members who are not officers or members of the executive board. The property owner is to have opportunity to present evidence.

Question from Association Manager to Attorney - We don't use an adjudicatory panel.  
Recommendations for fines/actions usually come from the ARC or the Covenant Enforcement



*Agent. In the very unlikely event the Board wanted to impose a fine, could they still sit as the hearing body, or would we be required to appoint an adjudicatory panel?*

*Attorney Answer:* The Board would appoint a panel.

The maximum fine to be imposed is \$100.00, plus \$100.00 per day for each day more than five days after the hearing that the violation continues to occur. Suspension of privileges may continue indefinitely until the violation is cured.

*Question from Association Manager to Attorney:* I assume the Board has some latitude on reducing this? In other words, if a person is making a good faith effort but it is something that may take two months to resolve, can they say, "yes, the fine will be running at an amount up to \$100/day, but if it is complete by such and such date, we'll discount it, etc?"

*Attorney Answer:* Yes, the Board has that latitude.

The property owner may appeal the decision of the adjudicatory panel to the full executive board by delivering written notice of appeal within 15 days of the decision (Because this adds a layer of process to the mix, I would advise the client to have the executive board conduct the hearing and not appoint an adjudicatory panel).

**Lien for Assessments:** The Association still has the ability to file a claim of lien against a lot when the property owner has failed to pay dues for a period of 30 days or more. Their lien rights extend to dues, fees, charges, and late charges. However, thanks to an amendment to N.C.G.S. § 47F-3-116, if the assessment against the lot is for only (a) fines, interest, and attorney's fees or (b) service, collection, consulting or administration fees, then the Association cannot proceed to foreclose the claim of lien as we would a mortgage under power of sale. Instead, the Association is forced to resort to the remedy of judicial foreclosure.

*Question from Association Manager to the Attorney:* I read this that we are allowed to file a lien – we just have to foreclose on it a different way. I also assume when it says things like "Notwithstanding any provision in the declaration to the contrary... that means "it doesn't matter if your covenant says it, this Act supersedes that. Correct?

*Attorney Answer:* Yes, this is correct. It just changes proceeding.

**Collection of Fees and Costs:** A lot owner is not required to pay attorney's fees and court costs until the lot owner is notified in writing of the Association's intent to seek them. The notice has to be sent first-class mail and requires that we afford the property owner 15 days to pay the amount due and thereby avoid having to pay fees and costs (Note that this goes a bit farther than N.C.G.S. § 6-21.2, which would only require us to provide 5 days notice). To add another wrinkle, the notice has to specify that the property owner may contact a named representative of the association to discuss a payment schedule, although ultimately the Association has no obligation to accept any particular payment arrangements the property owner proposes.

*Question to Attorney from Association Manager:* I assume we can put this all in the same letter with the fine notification.

are instituted within three years after the docketing of the claim of lien in the office of the clerk of superior court.

(d) This section does not prohibit other actions to recover the sums for which subsection (a) of this section creates a lien or prohibit an association taking a deed in lieu of foreclosure.

(e) A judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party. If the lot owner does not contest the collection of debt and enforcement of a lien after the expiration of the 15-day period following notice as required in subsection (e1) of this section, then reasonable attorneys' fees shall not exceed one thousand two hundred dollars (\$1,200), not including costs or expenses incurred. The collection of debt and enforcement of a lien remain uncontested as long as the lot owner does not dispute, contest, or raise any objection, defense, offset, or counterclaim as to the amount or validity of the debt and lien asserted or the association's right to collect the debt and enforce the lien as provided in this section. The attorneys' fee limitation in this subsection shall not apply to judicial foreclosures or to proceedings authorized under subsection (d) of this section or G.S. 47F-3-120.

(e1) A lot owner may not be required to pay attorneys' fees and court costs until the lot owner is notified in writing of the association's intent to seek payment of attorneys' fees and court costs. The notice must be sent by first-class mail to the property address and, if different, to the mailing address for the lot owner in the association's records. The notice shall set out the outstanding balance due as of the date of the notice and state that the lot owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the lot owner pays the outstanding balance within this period, then the lot owner shall have no obligation to pay attorneys' fees and court costs. The notice shall also inform the lot owner of the opportunity to contact a representative of the association to discuss a payment schedule for the outstanding balance as provided in subsection (e2) of this section and shall provide the name and telephone number of the representative.

(e2) The association, acting through its executive board and in the board's sole discretion, may agree to allow payment of an outstanding balance in installments. Neither the association nor the lot owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule only after the lot owner has been given notice as required in subsection (e1) of this section.

(f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a lot obtains title to the lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such lot which became due prior to the acquisition of title to such lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the lot owners including such purchaser, its heirs, successors, and assigns.

(g) A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed."

#### SECTION 7. G.S. 47F-3-118 reads as rewritten:

##### "§ 47F-3-118. Association records.

(a) The association shall keep financial records sufficiently detailed to enable the association to comply with this Chapter. All financial and other ~~records~~ records, including records of meetings of the association and executive board, shall be made reasonably available for examination by any lot owner and the lot owner's authorized ~~agents~~ agents as required in the bylaws and Chapter 55A of the General Statutes. If the bylaws do not specify particular records to be maintained, the association shall keep accurate records of all cash receipts and expenditures and all assets and liabilities. In addition to any specific information that is required by the bylaws to be assembled and reported to the lot owners at specified times, the association shall make an annual income and expense statement and balance sheet available to all lot owners at no charge and within 75 days after the close of the fiscal year to which the information relates. Notwithstanding the bylaws, a more extensive compilation, review, or audit of the association's books and records for the current or immediately preceding fiscal year may be

required by a vote of the majority of the executive board or by the affirmative vote of a majority of the lot owners present and voting in person or by proxy at any annual meeting or any special meeting duly called for that purpose.

(b) The association, upon written request, shall furnish to a lot owner or the lot owner's authorized agents a statement setting forth the amount of unpaid assessments and other charges against a lot. The statement shall be furnished within 10 business days after receipt of the request and is binding on the association, the executive board, and every lot owner.

(c) 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 association's 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 payments for services or expenses paid on behalf of the association which are approved in advance by the executive board."

**SECTION 8.** Article 3 of Chapter 47F of the General Statutes is amended by adding the following new section to read:

**"§ 47F-3-121. American and State flags and political sign displays.**

Notwithstanding any provision in any declaration of covenants, no restriction on the use of land shall be construed to:

(1) Regulate or prohibit the display of the flag of the United States or North Carolina, of a size no greater than four feet by six feet, which is displayed in accordance with or in a manner consistent with the patriotic customs set forth in 4 U.S.C. §§ 5-10, as amended, governing the display and use of the flag of the United States unless:

a. For restrictions registered prior to October 1, 2005, the restriction specifically uses the following terms:

1. Flag of the United States of America;
2. American flag;
3. United States flag; or
4. North Carolina flag.

b. For restrictions registered on or after October 1, 2005, the restriction shall be written on the first page of the instrument or conveyance in print that is in boldface type, capital letters, and no smaller than the largest print used elsewhere in the instrument or conveyance. The restriction shall be construed to regulate or prohibit the display of the United States or North Carolina flag only if the restriction specifically states: **'THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA'.**

This subdivision shall apply to owners of property who display the flag of the United States or North Carolina on property owned exclusively by them and does not apply to common areas, easements, rights-of-way, or other areas owned by others.

(2) Regulate or prohibit the indoor or outdoor display of a political sign by an association member on property owned exclusively by the member, unless:

a. For restrictions registered prior to October 1, 2005, the restriction specifically uses the term 'political signs'.

b. For restrictions registered on or after October 1, 2005, the restriction shall be written on the first page of the instrument or conveyance in print that is in boldface type, capital letters, and no smaller than the largest print used elsewhere in the instrument or conveyance. The restriction shall be construed to regulate or prohibit the display of political signs only if the restriction specifically states: **'THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE POLITICAL SIGNS'.**

Even when display of a political sign is permitted under this subdivision, an association (i) may prohibit the display of political signs earlier than 45 days

Attorney Answer: Yes, you can put it all in the same letter; we have also updated our lien notification letter. I believe the advising of attorney fees only applies to overdue assessments, not fines.

If the property owner does not dispute the debt, then the Association may charge "reasonable attorneys' fees" not to exceed \$1,200.00. However, based upon my reading of the statute and its interaction with § 6-21.2, I am of the opinion that the Association cannot pass along to the property owner attorney's fees exceeding 15% of the indebtedness (in other words, it can charge the lesser of 15% or \$1,200.00).

**Late Fees:** Pursuant to § 47C-3-102(11), late fees are now capped at the greater of 10% of the assessment installment unpaid or \$20.00.

Question to Attorney from Association Manager: Does this mean there's a cap on our overdue interest?

Attorney Answer: No, his interpretation of the PCA is that this is intended to apply to late fees, not interest.

**Recordkeeping:** Under § 47F-3-118, if the bylaws of the Association do not specify particular records to be maintained, then the Association must keep accurate records of all receipts, expenditures, assets, and liabilities. An income and expense statement and balance sheet must be provided to all property owners at no charge, within 75 days of the close of the fiscal year. A majority of the executive board, or a majority of lot owners voting at the annual meeting (in person or by proxy) may require a more formal accountant's audit, compilation, or review to be generated.

Question to Attorney from Association Manager: Andy, the actual language says "shall make available to all unit owners". Can we do that by posting it on the website and referencing in the September Island Report that it is available on the website and/or we would be happy to mail a hard copy to anyone who wants it? We hate to waste the postage/money on something 98% of people are going to pitch. We put our income statement on the website monthly as it is, and of course provide the prior year's audited statement to our members in each annual meeting packet.

Attorney Answer: Yes, this does the job. Suggested that we also state that a hardcopy will be available for inspection at the BHA Center as well.

**Officer Compensation:** Officers and members of the executive board are prohibited from receiving financial payments, goods, or services unless the bylaws expressly authorize it.

Question to Attorney from Association Manager: We provide a Board member gift at the end of each year for retiring Board members. We budget \$150 per retiring member. Often, they request a donation to their favored charity, but sometimes it is an actual "good", such as a gift certificate, plaque, etc. Would this be breaking this rule?

Attorney Response: Do not believe this is an issue to the PCA; more concerned with Board members draining coffers to be "paid" members.



## MISCELLANEOUS QUESTIONS ON PCA AMENDMENTS

- 1) Does this impact our deposit requirement? *Attorney Reponse: The PCA does not specifically address/prohibit the deposit issue. He would just recommend if we fine someone against their deposit, that it not exceed \$100/day.*
- 2) We have a remedy clause in our Covenants which allows us to enter a property and fix a violation and then charge the property owner the cost. Is this provision still valid? We don't do it often, and mostly is small stuff – removal of a non-compliant sign (\$50 to pay to have this removed, etc.) Is this still okay? *Attorney Response: This is still fine.*
- 3) How does this impact fines specifically noted in our Covenants – The one that comes to mind is the \$500/month fine for failure to complete a construction within 24 months. How does this impact the situations we currently have and those going forward? *Attorney Response: The current two situations you have of \$500/month fines predated the 1/06 changes to the PCA. Also feels that the \$500/month fine is consistent with the PCA, because the BHA could be charging them much more with \$100/day. Provided we are still affording members the notice and hearing process prior to assessing, do not regard the deposit requirement conflicting with PCA>*

## QUESTIONS RELATED TO THE PCA ACT ITSELF

1. Section 47F-3-102 – from “suspend privileges or services”, I am understanding this to mean that if someone has not paid their assessments, we still have to allow them to utilize our building, common area and vote in the elections, unless we have given them notice and an opportunity to be heard. Correct? *Attorney Response: Correct*
2. Section 2, GS 47F-3-103 – the executive board may not act to amend the declaration – remember we have the provision that allows them to make clarifications and corrections (Article 14.2) – does that impact that Article? *Attorney Response: This is one of the sections not applicable to POA's formed before 1999.*
3. Section 6, GS47F-3-116(f) – this seems to appear that if a property owner is able to unload his property without our knowledge and there was a lien/assessment against it, we can't make the new owner responsible for it. Is this a correct interpretation? *Attorney Response: This refers to a foreclosure, not a property being bought/transferred; refers to mortgage holder on the property, where the bank forecloses on first deed of trust. In that case our claim is wiped out by the first lien rights on the property. In the case of a property being sold, if we've filed lien/have a lien in place, it attaches to the property regardless of ownership. If we're at “demand letter” stage and haven't filed the lien, then the claim would be against the prior owner only.*

The Association Manager, based on attorney feedback and these PCA changes, went back to the **Covenant Violation Policy** and reworked it to make certain it aligns with the PCA. The attorney reviewed it and provided changes, as did the ARC Administrator. Because the changes were fairly extensive, the updated policy is provided without markup for better comprehension. The Board is asked to approve this update for staff use.

Chap. 47F ⇒ Planned  
Community  
Act

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

HOUSE BILL 1541  
RATIFIED BILL

AN ACT TO AMEND THE LAWS GOVERNING HOMEOWNER ASSOCIATIONS TO  
PROVIDE GREATER PROTECTIONS FOR HOMEOWNERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 47F-3-102(11) reads as rewritten:

"§ 47F-3-102. Powers of owners' association.

Unless the articles of incorporation or the declaration expressly provides to the contrary, the association may:

- (11) Impose reasonable charges for late payment of ~~assessments~~ 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 of 30 days or longer;

**SECTION 2.** G.S. 47F-3-103(b) reads as rewritten:

"(b) The executive board may not act unilaterally on behalf of the association to amend the declaration (G.S. 47F-2-117), to terminate the planned community (G.S. 47F-2-118), or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members (~~G.S. 47F-3-103(d)~~), (G.S. 47F-3-103(e)), but the executive board may unilaterally fill vacancies in its membership for the unexpired portion of any term. Notwithstanding any provision of the declaration or bylaws to the contrary, 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."

**SECTION 3.** G.S. 47F-3-103 is amended by adding a new subsection to read:

"(f) The association shall publish the names and addresses of all officers and board members of the association within 30 days of their election."

**SECTION 4.** G.S. 47F-3-107.1 reads as rewritten:

"§ 47F-3-107.1. Procedures for fines and suspension 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 the executive board or an adjudicatory panel appointed by the executive 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 in G.S. 47F-3-102(11) and (12). 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. If the executive board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the executive board. 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 is decided that a fine should be imposed, a fine not to exceed one hundred ~~fifty~~ dollars (~~\$150.00~~) (\$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. Such fines shall be assessed by liens under G.S. 47F-3-116. 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 cured. 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."

SECTION 5. G.S. 47F-3-108 reads as rewritten:

"§ 47F-3-108. Meetings.

(a) A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by lot owners having ten percent (10%), or any lower percentage specified in the bylaws, of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States 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.

(b) 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.

(c) Except as otherwise provided in the bylaws, meetings of the association and the executive board shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised."

SECTION 6. G.S. 47F-3-116 reads as rewritten:

"§ 47F-3-116. Lien for assessments.

(a) Any assessment levied against a lot remaining unpaid for a period of 30 days or longer shall constitute a lien on that lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the lot is located in the manner provided herein. Unless the declaration otherwise provides, fees, charges, late charges, and other charges imposed pursuant to G.S. 47F-3-102, 47F-3-107, 47F-3-107.1, and 47F-3-115 are enforceable as assessments under this section. The Except as provided in subsections (a1) and (a2) of this section, the association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. ~~Unless the declaration otherwise provides, fees, charges, late charges, fines, interest, and other charges imposed pursuant to G.S. 47F-3-102, 47F-3-107, 47F-3-107.1, and 47F-3-115 are enforceable as assessments under this section.~~

(a1) An association may not foreclose an association assessment lien under Article 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by the association solely associated with fines imposed by the association. The association, however, may enforce the lien by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.

(a2) An association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any lot owner unless the fee is expressly allowed in the declaration. Any lien securing a debt consisting solely of these fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.

(b) The lien under this section is prior to all liens and encumbrances on a lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or 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. This subsection does not affect the priority of mechanics' or materialmen's liens.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien

before the day of the election and later than seven days after an election day, and (ii) may regulate the size and number of political signs that may be placed on a member's property if the association's regulation is no more restrictive than any applicable city, town, or county ordinance that regulates the size and number of political signs on residential property. If the local government in which the property is located does not regulate the size and number of political signs on residential property, the association shall permit at least one political sign with the maximum dimensions of 24 inches by 24 inches on a member's property. For the purposes of this subdivision, 'political sign' means a sign that attempts to influence the outcome of an election, including supporting or opposing an issue on the election ballot. This subdivision shall apply to owners of property who display political signs on property owned exclusively by them and does not apply to common areas, easements, rights-of-way, or other areas owned by others."

**SECTION 9. G.S. 47F-1-102 reads as rewritten:**

**"§ 47F-1-102. Applicability.**

(a) This Chapter applies to all planned communities created within this State on or after January 1, 1999, except as otherwise provided in this section.

(b) This Chapter does not apply to a planned community created within this State on or after January 1, 1999:

- (1) Which contains no more than 20 lots (including all lots which may be added or created by the exercise of development rights) unless the declaration provides or is amended to provide that this Chapter does apply to that planned community; or
- (2) In which all lots are restricted exclusively to nonresidential purposes, unless the declaration provides or is amended to provide that this Chapter does apply to that planned community.

(c) Notwithstanding the provisions of subsection (a) of this section, G.S. 47F-3-102(V) through (6) and (11) through (17) (Powers of owners' association), G.S. 47F-3-103(f) (Executive board members and officers), G.S. 47F-3-107(a), (b), and (c) (Upkeep of planned community; responsibility and assessments for damages), G.S. 47F-3-107(d) (Procedures for fines and suspension of planned community privileges or services), G.S. 47F-3-108 (Meetings), G.S. 47F-3-115 (Assessments for common expenses), and G.S. 47F-3-116 (Lien for assessments), G.S. 47F-3-118 (Association records), and G.S. 47C-3-121 (American and State flags and political sign displays) apply to all planned communities created in this State before January 1, 1999, unless the articles of incorporation or the declaration expressly provides to the contrary. These sections apply only with respect to events and circumstances occurring on or after January 1, 1999, and do not invalidate existing provisions of the declaration, bylaws, or plats and plans of those planned communities. G.S. 47F-1-103 (Definitions) also applies to all planned communities created in this State before January 1, 1999, to the extent necessary in construing any of the preceding sections.

(d) Notwithstanding the provisions of subsections (a) and (c) of this section, any planned community created prior to January 1, 1999, may elect to make the provisions of this Chapter applicable to it by amending its declaration to provide that this Chapter shall apply to that planned community. The amendment may be made by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven percent (67%) of the votes in the association are allocated or any smaller majority the declaration specifies. To the extent the procedures and requirements for amendment in the declaration conflict with the provisions of this subsection, this subsection shall control with respect to any amendment to provide that this Chapter applies to that planned community.

(e) This Chapter does not apply to planned communities or lots located outside this State."

**SECTION 10. G.S. 47C-3-102(a)(11) reads as rewritten:**

**"§ 47C-3-102. Powers of unit owners' association.**

(a) Unless the declaration expressly provides to the contrary, the association, even if unincorporated, may:



- (11) Impose charges for late payment of ~~assessments~~ 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 of 30 days or longer, and levy reasonable fines not to exceed one hundred fifty dollars (~~\$150.00~~) (\$100.00) (G.S. 47C-3-107.1) for violations of the declaration, bylaws, and rules and regulations of the association;"

SECTION 11. G.S. 47C-3-102(a)(14) reads as rewritten:

- "(14) Assign its right to future income, including the right to receive common expense ~~assessments~~, but only to the extent the declaration expressly so provides; assessments."

SECTION 12. G.S. 47C-3-103(b) reads as rewritten:

"(b) The executive board may not act on behalf of the association to amend the declaration (G.S. 47C-2-117), to terminate the condominium (G.S. 47C-2-118), or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members (~~G.S. 47C-3-103(f)~~), (G.S. 47C-3-103(e) and (f)), but the executive board may fill vacancies in its membership for the unexpired portion of any term. Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by at least sixty-seven percent (67%) vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than members appointed by the declarant."

SECTION 13. G.S. 47C-3-103 is amended by adding a new subsection to read:

"(g) The association shall publish the names and addresses of all officers and board members of the association within 30 days of the election."

SECTION 14. G.S. 47C-3-107.1 reads as rewritten:

"§ 47C-3-107.1. ~~Charges for late payments, fines.~~ Procedures for fines and suspension of condominium privileges or services.

The bylaws of the association may provide for a hearing before an adjudicatory panel to determine if a unit owner should be fined not to exceed one hundred fifty dollars (\$150.00) for a violation of the declaration, bylaws or rules and regulations of the association. Such panel shall accord to the party charged with the violation notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. Such a fine shall be an assessment secured by lien under G.S. 47C-3-116. Unless a specific procedure for the imposition of fines or suspension of condominium privileges or services is provided for in the declaration, a hearing shall be held before the executive board or an adjudicatory panel appointed by the executive board to determine if any unit owner should be fined or if condominium privileges or services should be suspended pursuant to the powers granted to the association in G.S. 47C-3-102(1.1). 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. The unit owner 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, 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. Such fines shall be assessments secured by liens under G.S. 47C-3-116. If it is decided that a suspension of condominium privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured. A unit owner may appeal a 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."

SECTION 15. G.S. 47C-3-108 reads as rewritten:

"§ 47C-3-108. Meetings.

(a) A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by unit



owners having twenty percent (20%) or any lower percentage specified in the bylaws of the votes in the association. Not less than 10 nor more than 50 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner, or sent by electronic means, including by electronic mail over the Internet, to an electronic mailing address designated in writing by the unit owner. The notice of any meeting must 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.

(b) Meetings of the executive board shall be held as provided in the bylaws. At regular intervals, the executive board meeting shall provide unit owners an opportunity to attend a portion of an executive board meeting and to speak to the executive board about their issues and 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.

(c) Except as otherwise provided for in the bylaws, meetings of the association and executive board shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised."

SECTION 16. G.S. 47C-3-116 reads as rewritten:

"§ 47C-3-116. Lien for assessments.

(a) Any assessment levied against a unit remaining unpaid for a period of 30 days or longer shall constitute a lien on that unit when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the unit is located in the manner provided ~~therefor by Article 8 of Chapter 44 of the General Statutes herein.~~ Unless the declaration otherwise provides, fees, charges, late charges and other charges imposed pursuant to G.S. 47C-3-102, 47C-3-107, 47C-3-107.1, and 47C-3-115 are enforceable as assessments under this section. Except as provided in subsections (a1) and (a2) of this section, ~~The the association's~~ lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. ~~Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to G.S. 47C-3-102(10), (11), and (12), G.S. 47C-3-107(d) and 47C-3-107.1, are enforceable as assessments under this section.~~

(a1) An association may not foreclose an association assessment lien under Article 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by the association solely associated with fines imposed by the association. The association, however, may enforce the lien by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.

(a2) An association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any unit owner unless the fee is expressly allowed in the declaration. Any lien secured by debt consisting solely of these fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.

(b) The lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the unit) recorded before the docketing of the lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments or charges against the unit. This subsection does not affect the priority of mechanics' or materialmen's liens.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing thereof in the office of the clerk of superior court.

(d) This section does not prohibit actions to recover sums for which subsection (a) creates a lien or prohibit an association taking a deed in lieu of foreclosure.

(e) A judgment, decree, or order in any action brought under this section ~~must~~ shall include costs and reasonable attorneys' fees for the prevailing party. If the unit owner does not contest the collection of debt and enforcement of a lien after the expiration of the 15-day period following notice as required in subsection (e1) of this section, then reasonable attorneys' fees shall not exceed one thousand two hundred dollars (\$1,200), not including costs or expenses incurred. The collection of debt and enforcement of a lien remain uncontested as long as the unit owner does not dispute, contest, or raise any objection, defense, offset, or counterclaim as to the



amount or validity of the debt and lien asserted or the association's right to collect the debt and enforce the lien as provided in this section. The attorneys' fee limitation in this subsection shall not apply to judicial foreclosures or proceedings authorized under subsection (d) of this section or G.S. 47F-4-117.

(e1) A unit owner may not be required to pay attorneys' fees and court costs until the unit owner is notified in writing of the association's intent to seek payment of attorneys' fees and court costs. The notice must be sent by first-class mail to the property address and, if different, to the mailing address for the unit owner in the association's records. The notice shall set out the outstanding balance due as of the date of the notice and state that the unit owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the unit owner pays the outstanding balance within this period, then the unit owner shall have no obligation to pay attorneys' fees and court costs. The notice shall also inform the unit owner of the opportunity to contact a representative of the association to discuss a payment schedule for the outstanding balance as provided in subsection (e2) of this section and shall provide the name and telephone number of the representative.

(e2) The association, acting through its executive board and in the board's sole discretion, may agree to allow payment of an outstanding balance in installments. Neither the association nor the unit owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule only after the unit owner has been given notice as required in subsection (e1) of this section.

(f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a unit, obtains title to the unit as a result of foreclosure of a first mortgage or first deed of trust, such purchaser, and its heirs, successors and assigns, shall not be liable for the assessments against such unit which became due prior to acquisition of title to such unit by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the unit owners including such purchaser, and its heirs, successors and assigns.

(g) A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed."

SECTION 17. G.S. 47C-3-118 reads as rewritten:

"§ 47C-3-118. Association records.

(a) The association shall keep financial records sufficiently detailed to enable the association to comply with this chapter. All financial and other ~~records~~ records, including records of meetings of the association and executive board, shall be made reasonably available for examination by any unit owner and the unit owner's ~~his~~ authorized ~~agents~~ agents as required by the bylaws and by Chapter 55A of the General Statutes if the association is a nonprofit corporation. If the bylaws do not specify particular records to be maintained, the association shall keep accurate records of all cash receipts and expenditures and all assets and liabilities. In addition to any specific information that is required by the bylaws to be assembled and reported to the unit owners at specified times, the association shall make an annual income and expense statement and balance sheet available to all unit owners at no charge and within 75 days after the close of the fiscal year to which the information relates. Notwithstanding the bylaws, a more extensive compilation, review, or audit of the association's books and records for the current or immediately preceding fiscal year may be required by a vote of the majority of the executive board or by the affirmative vote of a majority of the unit owners present and voting in person or by proxy at any annual meeting or any special meeting duly called for that purpose.

(b) The association, upon written request, shall furnish a unit owner or the unit owner's authorized agents a statement setting forth the amount of unpaid assessments and other charges against a unit. The statement shall be furnished within 10 business days after receipt of the request and is binding on the association, the executive board, and every unit owner.

(c) 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 association's executive board or to a business, business associate, or relative of an officer or member of the executive board, except as expressly

**AMENDED BYLAWS OF THE BALD HEAD ASSOCIATION  
AS OF JANUARY 2023**

**ARTICLE I  
NAME AND LOCATION**

The name of the corporation is **BALD HEAD ASSOCIATION**, hereinafter referred to as the Association. The principal office of the corporation shall be located on Bald Head Island, North Carolina, but meetings of members and directors may be held at such places within the State of North Carolina as may be designated by the Board of Directors.

**ARTICLE II  
DEFINITIONS**

Section 1. "Amenities" means the facilities constructed, erected, or installed on the Common Area for the use, benefit and enjoyment of Members.

Section 2. "Articles" means the Articles of Incorporation of Bald Head Association.

Section 3. "Assessable Property" shall mean and refer to any lot, parcel, multi-family unit or site or non-residential property which is subject by covenants of record to assessment by the Association and includes all the property herein other than the Common Area.

Section 4. "Association" means Bald Head Association, its successors and assigns.

Section 5. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Association.

Section 6. "Bylaws" means the Bylaws of the Association.

Section 7. "Common Area" means all real property and facilities owned by the Association for the common use and enjoyment of all Members of the Association, including greenways, recreational areas, dunes, beaches and roadways. It is intended that the Common Area will include all of the Subject Property except platted lots, Multi-Family Sites, and other Non-Residential Areas, the golf course, clubhouse sites and sites established for utility purposes.

Section 8. "Common Expense" means and includes actual and estimated expenses of acquiring, maintaining and operating the Common Areas and property owned or leased by the Association; of providing services provided for the Association or its Members; and of operating the Association and its committees for general purposes. This will include any reasonable reserves, as may be found necessary and appropriate by the Board of Directors pursuant to BHA's Declaration, these Bylaws and the Articles of Incorporation, and will, in addition, include the following:

(a) expenses of administration, maintenance, repair or replacement of the Common Area and Limited Common Area;

(b) expenses declared to be Common Expenses by the provisions of BHA's Declaration, these Bylaws, or agreed to be Common Expenses by the Members present and



voting in Person or voting by proxy at a meeting of the Members;

(c) hazard, liability, or such other insurance premiums as BHA's Declaration or these Bylaws may require the Association to purchase;

(d) any ad valorem taxes and public assessments levied against the Common Area; and

(e) expenses for the provision of services benefiting all Members, including, without limitation, transportation services.

Section 9. "Declaration": means the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Association.

Section 10. "General Assessments" means assessments to fund Common Expenses for the general benefit of all Units within the Properties.

Section 11. "Limited Common Area" means those portions of the Common Area that serve only a limited number of Units and which may include, but specifically is not limited to, walkways, parking buildings or areas serving only specified lots, and such other similar areas as may be designated by the Association. The Limited Common Area will be managed and maintained by the Association at the expense of only Owners of Units served thereby.

Section 11. "Manager" shall mean and refer to the person employed by the Board of Directors as a professional manager, pursuant to the provisions of the Bylaws, to manage the affairs of the Association.

Section 12. "Member" means and refers to every Owner.

Section 13. "Owner" means and refers to the record Owner, whether one or more persons or entities, of a fee simple title to any Unit which is part of the Properties, including contract sellers, but excluding those having such interest merely as a security for the performance of an obligation and any association responsible for maintaining Common Area in any Multi-Family Site.

Section 14. "Person" means and refers to any individual, corporation, partnership, association, trustee or other legal entity.

Section 15. "Properties" or "Subject Property" means and refers to that certain real property described in Exhibits A and B of the Declaration.

Section 16. "Special Assessments" means and refers to an assessment levied and collected by the Board for the purposes set forth in Section 5.5(a) and (b) of the Declaration.

Section 17. "Unit" means a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy. A Lot is a Unit as that term is used in the Declaration. The term will refer to the land, if any, which is part of the Unit as well as any improvements thereon, including the Living Unit. The term will not include any time share interests, only the Unit subject to the time share interests. Non-residential areas may have more than one Unit assigned to it by the Board as provided in Section 2.3 of the Declaration.

Section 18. “User” means members of an Owner’s family, occupants of an Owner’s Unit, and the guests, invitees, licensees, agents, employees, representatives, tenants, lessees and contract purchasers of any Owner.

### **ARTICLE III MEETING OF MEMBERS**

Section 1. Annual Meetings. The regular annual meeting of the members shall occur on the last Saturday of January of each year on a date and at a time to be established by the Board of Directors.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote 150 of all of the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, or otherwise circulated to the membership at least thirty (30) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice or to the email address supplied by the member, provided the member has consented to transact business with the Association electronically. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. At the annual meetings and all special meetings, the presence, in person or by proxy, of one hundred-fifty(150)entitled to be cast, or of proxies entitled to cast votes, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be (1) in writing and filed with the Secretary or (2) validated through a third-party electronic voting system and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot. The Board of Directors shall vote undesignated proxies.

### **ARTICLE IV BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE**

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors consisting of six Directors, who need not be members of the Association. There shall be a minimum of three (3) who are “living unit” owners (home, villa, condo, etc.).

Section 2. Term of Office. The Directors shall serve for a term of three (3) years or until a successor is duly elected or appointed. The Directors shall be divided into classes, composed of

as nearly equal numbers of directors as is practicable. Each Director shall hold office until his/her term expires, death, resignation, removal, disqualification or his/her successor has been elected or appointed. No Director, whether elected or appointed, may serve more than six consecutive years. After a one-year hiatus, a previous Director may serve again.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

Section 4. Vacancies. A vacancy on the Board may be filled by appointment by the Board. The Director appointed to such vacancy shall serve for the remainder of the term of the Director he/she replaces. If elected to a partial term, a Director's service during that partial term shall not count as part of the six consecutive years sequence.

Section 5. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 6. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting, by obtaining the written approval of all of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors, and will be recorded with the minutes of the next meeting of the Directors.

## **ARTICLE V NOMINATION AND ELECTION OF DIRECTORS**

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall make as many nominations for elections to the Board of Directors as it shall in its discretion determine, but not less than one (1) nominee for each vacancy to be filled. The Nominating Committee shall submit its nominees at the regular September meeting of the Board of Directors. A petition signed by a minimum of fifteen (15) individual property owners, advocating a nominee for election to the Board of Directors, may be submitted to the Association office no later than sixty (60) days prior to the annual meeting and this candidate or candidates shall be added to the final ballot which will be mailed to the membership no less than thirty (30) days in advance of the annual meeting. The names of all nominees shall be included with the notice of the annual meeting, or otherwise circulated to the membership no less than thirty (30) days in advance of the annual meeting. No nominations shall be made from the floor at member meetings.

Section 2. Election. Election to the Board of Directors shall take place at member meetings and shall be by secret ballot. At such election the members and or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is permitted.

## **ARTICLE VI MEETINGS OF DIRECTORS**

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least nine (9) times per year, or as determined by the Board without notice, at such place and hour as may be fixed from time to time by resolution of the Board provided that all members of the Board of Directors shall receive three (3) days' notice, which may be waived.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two (2) Directors, after not less than ten (10) days' notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## **ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. Powers. The Board of Directors shall have the power to: (a) adopt and publish Rules and Regulations governing the use of the Common Area and Amenities, and the personal conduct of the members and their guests thereon, and to establish fees for use as well as penalties for the infractions thereof; (b) suspend the voting rights and right to use of any recreational facilities or the Common Areas by a Member or any person to whom he has delegated his right or enjoyment during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days for infraction of published rules and regulations; (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration; (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties; (f) contract with any person to maintain the Common Area; and (g) procure adequate insurance including hazard insurance on the Common Areas and Amenities, Directors' liability insurance, and such other insurance as it shall deem necessary and appropriate; and include the cost of such insurance in the annual assessment of the members.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by 100 of the members who are entitled to vote;

(b) supervise all officers, agents, and employees of this Association, and to see that



their duties are properly performed;

(c) as more fully provided in the Declaration, to:

1. establish and levy General, Supplemental and Special Assessments against each lot, Unit or area at least thirty (30) days in advance of each annual assessment period;
2. send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
3. enforce the lien against any property for which assessments are not paid within one hundred eighty (180) days after the due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned or managed by the Association;

(f) maintain commercial crime coverage against the loss of or damage to money, securities and other property resulting directly from theft, forgery or alteration covering all directors, officers, trustees and employees;

(g) cause the Common Area, Limited Common Areas and Amenities to be maintained;

(h) designate depositories for Association funds;

(i) appoint such committees as are provided for in these Bylaws, and such other committees as shall be appropriate or necessary for the proper administration and performance of the Association; and

(j) exercise their powers in good faith and do and perform such other matters and things not expressly prohibited by law, the Declaration, or these Bylaws as are necessary and appropriate to the proper administration, operation and maintenance of the Association and the Properties.

(k) establish and publish Rules and Regulations as more fully referenced in the Declaration.

(l) enforce the Rules and Regulations

(m) enforce the Declaration, the Articles, Bylaws, Design Guidelines and Use Guidelines and Restrictions.

## **ARTICLE VIII OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. The officers of the Association shall be President, Vice President, Secretary and Treasurer, who shall be members of the Board of Directors. The Board may appoint an Assistant Secretary and Assistant Treasurer who need not be members of the Board.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office without cause by the Board. Any officer may resign at any time upon giving written notice to the Board, the President or Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

### **PRESIDENT**

The President shall preside at all meetings of the Board of Directors; shall see that orders and regulations of the Board are carried out and perform such other duties as the Board shall determine.

### **VICE PRESIDENT**

The Vice President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of the Vice President by the Board.

### **SECRETARY**

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the

Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

#### **TREASURER**

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all promissory notes of the Association, and shall keep proper books of accounts. The Treasurer shall cause an annual audit of the Association books to be made by a public accountant at the completion of each calendar year; shall prepare an annual budget and a statement of income and expenditures, any of these to be made available to any member upon request; and shall deliver a copy of the most recent audited yearly statement of assets and liabilities to all members at each annual meeting. Any officer of the Association may sign checks.

### **ARTICLE IX MEMBERSHIP**

Every person or entity who is a record Owner of a fee or undivided fee interest in any lot, multi-family site, or nonresidential property (hereinafter "Assessable Property") which is subject by covenants of record to assessments by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership of such Assessable Property shall be the sole qualification for membership and no owner shall have more than one membership, except as expressly provided hereinafter. Membership shall be appurtenant to and may not be separated from ownership of any Assessable Property which is subject to assessment by the Association. The Board of Directors may make reasonable rules relating to the proof of ownership of an Assessable Property.

### **ARTICLE X VOTING RIGHTS**

Section 1. Classes. The Association shall have one class of voting membership. Members shall be entitled to one vote for each lot, Unit or other Assessable Property in which they hold the interest required for membership by Article IX. When more than one person holds an interest in any lot, Unit or other Assessable Property, all such persons shall be members. The vote for such lot, Unit or other Assessable Property shall be exercised as the owners thereof determine, but in no event shall more than one vote be cast with respect to any lot, Unit or other Assessable Property, and no fractional vote shall be cast with respect to any Assessable Property.

## ARTICLE XI COMMITTEES

The following guidelines are approved for the selection and appointment of those committees deemed necessary to meet the goals of the Bald Head Association:

(a) Size – Except for the Architectural Review Committee, all other committees should consist of three (3) or six (6) members including the chairman, who shall be appointed each year during the annual meeting by the President of the Association; however, the Board shall have the authority to increase the size of any committee to a maximum of nine (9) members including the chairman, if the Board determines that such is appropriate and necessary.

(b) Term – Committee members shall serve for a three (3) year term with 1/3 of the members rotating off each year, with the exception of the Nominating Committee, whose members shall serve for a one (1) year term as designated elsewhere in these Bylaws. The committee chairman shall be designated by the President and approved by the Board of Directors of the Bald Head Association annually. In the event of a vacancy, a replacement shall be appointed by the Board of Directors for the remainder of such member's term.

(c) Expiring Terms - After serving a term, the member whose term has expired is not eligible for reappointment to that committee until one (1) year has passed. The Board has the discretion to waive this requirement if it deems it necessary for the continued effective operation of that committee. The retired member is eligible to serve on a different committee. Committee chairpersons may serve in a non-voting, ex-officio capacity to the committee once their term expires, if requested to do so by the Board.

(d) Removal – The Board of Directors may, by a majority vote, choose to remove a committee member if so requested by the committee chair, or if the Board determines the member is not able to contribute effectively to the committee's work.

(e) Attendance - Committee members, in order to remain on a committee, must attend at least fifty percent (50%) of the meetings of said committee held during a given year, or demonstrate an equivalent participation level in the committee's activities. The committee chairperson will make this determination.

(f) Board of Directors - The President shall appoint a member of the Board to each committee as a non-voting, ex-officio member.

(g) Architectural Review Committee: shall be follows:

The Committee will consist of at least five (5) persons appointed by the Board beginning on January 1, 2000, and will have jurisdiction over all construction on any portion of the Properties. Thereafter, the Board may change the number of persons serving on the Committee to an odd number of at least five (5) and not more than eighteen (18) persons by a vote of not less than two-thirds (2/3) of the Board.

(h) The Board may create such other committees, as it sees fit, from time to time and, with the exception of the Architectural Review Committee, make changes to the



responsibilities of the currently existing committees without the necessity of an amendment to these Bylaws. Effective January 2018, the committees and job descriptions are as follows:

#### **Architectural Review Committee**

- a. Review and approve architectural and site plans for Association members as authorized by applicable covenants and other legal instruments.
- b. Monitor and verify that new and renovated building plans maintain or improve the aesthetic and design quality of the Island.
- c. Review plans on basis of submission requirements, design integrity and appropriateness as spelled out in the design guidelines and addendum(s).
- d. Recommend needed revisions to the Design Guidelines for consideration by the Board of Directors.
- e. Oversee projects specific to this Committee as charged by the Board of Directors.
- f. Review and evaluate projects; provide updates on progress toward stated goals.
- g. Adhere to all procedures, policies and duties as fully referenced in the Declaration.

#### **Community Wide Standards Committee**

- a. Teams of committee members shall make regular evaluations of the neighborhoods in order to permit the BHA to identify properties in need of maintenance to comply with the Community Wide Standards.
- b. The committee as a whole shall seek to view and evaluate or look at photos of all properties, if possible, teams have identified as in violation.
- c. The committee as a whole should vote on whether or not homes are in violation.
- d. For all properties for which a violation is found by a majority of the committee, the then current Community Wide Standards procedure should be followed.

#### **Education and Recreation Committee**

- a. To discuss, devise, recommend and/or implement recreation and education programs for property owners, renters, and visitors.
- b. Oversee projects specific to this Committee as charged by the Board of Directors.
- c. Review and evaluate projects; provide updates on progress toward stated goals.

#### **Finance Committee**

- a. Review and advise with regard to the budget of the Association. Submit all recommendations to the Bald Head Association.

- b. Review the annual audit.
- c. Develop fiscal plans to further the long range plan of the Association.
- d. Oversee projects specific to this Committee as charged by the Board of Directors.
- e. Review and evaluate projects; provide updates on progress toward stated goals.

#### **Long-Range Planning Committee**

- a. Review and evaluate past Long Range Plans; summarize progress toward stated goals.
- b. Recommend actions that help fulfill Association purposes and responsibilities.
- c. Manage long-term projects as charged by the Board of Directors.

#### **Resource Conservation and Beautification Committee**

- a. Make recommendations for the maintenance and development of Common Areas.
- b. Use means to control and eliminate litter, i.e. Litter Sweeps.
- c. Oversee projects specific to this Committee as charged by the Board of Directors.
- d. Review and evaluate projects; provide updates on progress toward stated goals.

#### **Nominating Committee**

The Nominating Committee shall consist of a Chairperson, who shall be a member of the Board of Directors and four (4) members of the Association who are not currently members of the Board of Directors. The Nominating Committee shall be appointed by the Board of Directors.

### **ARTICLE XII BOOKS AND RECORDS**

The books, records, and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and these Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable fee.

### **ARTICLE XIII CORPORATE SEAL**

The Association shall have the seal in circular form having within its circumference the words: Bald Head Association.

### **ARTICLE XIV AMENDMENTS**

Section 1. These Bylaws may be amended, at a regular or special meeting of the members,

by a vote of a majority of members present in person or by proxy, subject to the quorum requirement. Any proposed changes shall be provided to the membership along with notice of the Annual Meeting at least thirty (30) days in advance of said meeting. Such notices may be sent by email provided the member has consented to transact business with the Association electronically or by hard copy mailed postage prepaid to the most recent address of the owner of record at the time of the mailing.

Section 2. In the case of any irreconcilable conflict between the Declaration, these Bylaws or the Articles of Incorporation of the Association, the provisions of the Declaration will control over the Articles and Bylaws, and the Articles will control over the Bylaws.

## **ARTICLE XV MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year.

## CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly appointed Assistant Secretary of the Bald Head Association, a North Carolina corporation, and;

That the foregoing Bylaws constitute the amended Bylaws as of January 27, 2023, of said Association, as duly adopted at the annual meeting of the membership thereof, held on the 27<sup>th</sup> day of January, 2023, and amended thereafter.

IN WITNESS WHEREOF, I have hereunto subscribed by name and affixed the seal of said Association this the 25<sup>th</sup> day of August, 2023

Robert Drumbeller (SEAL)  
Secretary





**Amended and Restated**

**Declaration of Covenants, Conditions and Restrictions**

**for**

**BALD HEAD ASSOCIATION**

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STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS FOR BALD HEAD  
ASSOCIATION**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BALD HEAD ASSOCIATION (hereinafter "Declaration"), is made this the \_\_\_\_ day of \_\_\_\_\_, 2017, by Bald Head Association, on behalf of itself and all Owners of parcels of real property or lots described and shown on **EXHIBITS A and B**, with the consent of Bald Head Island Limited, LLC, a North Carolina limited liability company, as successor-in-interest to Bald Head Island Limited, a Texas Limited Partnership.

PREAMBLE

WHEREAS, Carolina Cape Fear Corporation, a North Carolina corporation, did, while Owner of Bald Head Island, place certain restrictive covenants on record which apply to land conveyed when the deed or deeds for such land made specific reference to the restrictive covenants recorded in Book 263, Page 621, of the Brunswick County Registry; and

WHEREAS, Bald Head Island Corporation, a North Carolina corporation, acquired substantially all of the undeveloped portion of Bald Head Island in Smithville Township, Brunswick County, North Carolina, pursuant to foreclosure deed, dated May 3, 1976, and recorded in Book 350 at Page 68 of the Brunswick County Registry; and

WHEREAS, subsequent to the recording of the above restrictive covenants, Carolina Cape Fear Corporation and Bald Head Island Corporation did convey lots on Bald Head Island with reference to said restrictions; and

WHEREAS, Bald Head Island Corporation recorded a Declaration of Restrictions dated April 18, 1977, for property located within Stage I of Bald Head Island, which property is

more particularly described therein, and which Declaration of Restrictions is recorded in Book 374, Page 645, of the Brunswick County Registry; and

WHEREAS, Bald Head Island Corporation and certain Owners of residential lots shown on the subdivision plats of Stage I recorded in Map Book 12, Pages 1-11 and 38 subsequently recorded an Amended and Restated Declaration of Restrictions, dated July 1, 1978, on property located in Stage I of Bald Head Island and which property is more particularly described therein, which Amended and Restated Declaration of Restrictions is recorded in Book 409, Page 421, of the Brunswick County Registry; and

WHEREAS, Bald Head Island Corporation and certain Owners of parcels of real property or residential lots subsequently recorded an Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick County, dated January 29, 1982, for property which is more particularly described therein, which Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island, Stage I, Brunswick County, is recorded in Book 498, Page 260, of the Brunswick County Registry; and

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick County, recorded in Book 498, Page 260, Brunswick County Registry, was subsequently amended in accordance with the requirements set forth in Article XI, Section 4 of said Declaration, by that Amendatory Addendum to Amended and Restated Declaration of Covenants, Conditions and Restrictions recorded in Book 725, Page 943, of the Brunswick County Registry, and by that Resolution before the Board and Amendment, which resolution is recorded in Book 1076, Page 89, of the Brunswick County Registry, and which amendment is recorded in Book 1076, Page 91, of the Brunswick County Registry; and

WHEREAS, certain lots subject to the restrictive covenants recorded in Book 263, Page 621, the Declaration of Restrictions recorded in Book 374, Page 645, the Amended and Restated Declaration of Restrictions recorded in Book 409, Page 421, and Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island, Stage I recorded in Book 498, Page 260, all of the Brunswick County Registry, are no longer located above the mean high water line of the Atlantic Ocean and the Cape Fear River because of erosion or other natural phenomenon ("Excluded Lots"); and

WHEREAS, these Excluded Lots no longer have voting rights or the obligation to pay assessments to the Association because they do not lie above the mean high water line of the Atlantic Ocean or the Cape Fear River and have accordingly not been included as Owners for purposes of amending the restrictive covenants set forth in those documents recorded in Book 263, Page 621, Book 374, Page 645, Book 409, Page 421 and Book 498, Page 260, all of the Brunswick County Registry; and

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick County, recorded in Book 498, Page 260, of the Brunswick County Registry (the "1982 Declaration") was intended to supersede and

replace all previous covenants and restrictions for property described in **EXHIBIT A** therein and/or annexed thereto; and

WHEREAS, the 1982 Declaration provided that it could be amended by an instrument signed by Owners of not less than fifty percent (50%) of the Owners of Assessable Properties, as defined therein, in accordance with the procedure for certification and recordation set forth in Article XI, Section 5 therein; and

WHEREAS, the 1982 Declaration and other amended covenants for property described in **EXHIBIT A** were so amended and superseded by the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Association recorded in Book 1359, Page 1 of the Brunswick County Registry (the "2000 Declaration"); and

WHEREAS, the 2000 Declaration was subsequently amended by instruments recorded in Book 1436, Page 1298, Book 2655, Page 877, Book 2857, Page 93, Book 3153, Page 586, Book 3352, Page 1347, Book 3352, Page 1347, Book 3352, Page 1351, and Book 3508, Page 76; and

WHEREAS, this Declaration is intended in part to memorialize all applicable changes to the 2000 Declaration effected by the recordation of these prior amendments; and

WHEREAS, Bald Head Island Limited, a Texas Limited partnership, is the successor and/or assignee of Carolina Cape Fear Corporation and Bald Head Island Corporation; and

WHEREAS, Bald Head Island Limited, LLC, successor to the rights of Bald Head Island Limited, has joined in the execution of this Declaration because its consent is necessary to effect certain additional changes to the 2000 Declaration; and

WHEREAS, in accordance with 2000 Declaration, as amended, the Board of Directors and the membership of Bald Head Association were authorized to take such action as may be necessary to cause a legal merger (the "Merger") of Bald Head Association and Bald Head Island Stage Two Association, Inc., so long as the Merger was approved by the members of each association and the governing bodies of the two associations deemed the Merger to be mutually desirable and in the best interest of their respective memberships; and

WHEREAS, the Boards of Directors of both Bald Head Association and Bald Head Island Stage Two Association, Inc. do deem such a Merger to be mutually desirable and in the best interests of their respective memberships; and

WHEREAS, the Boards of Directors of both Bald Head Association and Bald Head Island Stage Two Association, Inc. voted to cause such a merger to occur pursuant to Chapter 55A, Article 11 of the North Carolina General Statutes and an Agreement and Plan of Merger separately filed in Book \_\_\_, Page \_\_\_ of the Brunswick County Registry; and

WHEREAS, at the 2017 BHA annual meeting, the BHA membership, as signified by an affirmative vote by more than two-thirds of those present and voting in person or by proxy at a meeting of its members, approved the Merger and the adoption of this Declaration; and

WHEREAS, the membership of Bald Head Island Stage Two Association, Inc., as signified by an affirmative vote of more than two-thirds of the votes cast or a majority of the votes entitled to be cast in person or by proxy at a meeting of its members, whichever is less, approved the Merger; and

WHEREAS, the membership of Bald Head Island Stage Two Association, Inc., as signified by an affirmative vote of at least sixty percent (60%) of those membership votes in attendance either in person or by proxy at a meeting duly called for such purpose, approved the adoption of this Declaration; and

WHEREAS, the merger occurred on \_\_\_\_\_, 2017 upon the filing of Articles of Merger with the North Carolina Secretary of State; and

WHEREAS, Bald Head Association is the surviving corporation; and

WHEREAS, prior to the recordation of this Declaration, the Properties described in **EXHIBIT B** to this Declaration have been subject to the Protective Covenants for Bald Head Island Stage Two recorded in Book 1045, Page 676, Brunswick County Registry, as the same was amended and corrected in accordance therewith by instruments recorded in Book 1089, Page 122; Book 1100, Page 863; Book 3351, Page 209; Book 3536, Page 1243; Book 3691, Page 1391; and Book 3737, Page 609 (as otherwise amended, collectively, the “Stage Two Primary Covenants”); and

WHEREAS, the Stage Two Primary Covenants may be amended by approval of sixty percent (60%) of those membership votes in attendance either in person or by proxy at a meeting duly called for such purpose; and

WHEREAS, various neighborhood communities comprised by certain Properties identified in **EXHIBIT B** were annexed and made subject to the Protective Covenants for Bald Head Island Stage Two recorded in Book 1045, Page 676, by amendments to the Stage Two Primary Covenants, including without limitation (the Book and Page number in which these documents have been recorded in the office of the Register of Deeds of Brunswick County are included with each document in parentheses): Amended Declaration of Protective Covenants and Amendments for Cedar Court (Book 1062, Page 114); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Chicamacomico Woods, Cape Fear Station (Eco Tract A) (Book 2110, Page 508); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Eco-A-Prime, Cape Fear Station (Book 2172, Page 1426); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Eight (8) Lots in Commercial Tract 5A Cape Fear Station (Book 2173, Page 10); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Kinnakeet Woods, Cape Fear Station (Eco Tract B) (Book 2110, Page 516); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Kiitty Hawk Woods



(Eco-B-Prime) Cape Fear Station (Book 2365, Page 276); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Eco Tract C – Kitty Hawk (Book 1953, Page 505); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Single Family 1 Cape Fear Station (Book 1590, Page 290); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Single Family 2 Cape Fear Station (Book 1590, Page 297); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Single Family 3 Cape Fear Station (Book 1380, Page 707); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Single Family 4 Cape Fear Station (Book 1590, Page 304); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Single Family 5 and 7 Cape Fear Station (Book 1380, Page 714); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Single Family 6 Cape Fear Station (Book 1862, Page 1159); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Single Family 8 Cape Fear Station (Book 1382, Page 241); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 9 Cape Fear Station (Book 1380, Page 1721); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 10 Cape Fear Station (Book 1380, Page 1147); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 11 Cape Fear Station (Book 1381, Page 98); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 12 Cape Fear Station (Book 1604, Page 71); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 15 Cape Fear Station (Book 1476, Page 1123); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 16 – Shoals Watch Cape Fear Station (Book 1733, Page 763); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 17 Cape Fear Station (Book 1732, Page 269); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 18 Cape Fear Station (Book 1372, Page 263); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 21 Cape Fear Station (Book 1979, Page 1227); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Recreation 1 – Village Common Cape Fear Station (Book 1388, Page 1353); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Phase One, Surfman’s Walk Cape Fear Station – Multi-Family 3 (Book 1573, Page 785); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for The Crescent (Book 2180, Page 1195); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two for Faire Isle, f/k/a Palmetto Point Island (Book 1260, Page 264); Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, The Grove (Book 1261, Page 257); Amended and Restated Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Keeper’s Landing, Cape Fear Station – Multi-Family 4 (Book 1966, Page 132); Amended Declaration of Protective Covenants and Annexation (Palmetto Cove) (Book 1045, Page 696); Amended Declaration of Protective Covenants and Annexation (Palmetto Court) (Book 1062, Page 110); Amendment to Protective Covenants for Bald Head Island Stage Two, Loggerhead Beach (Book 1287, Page 1040); Amendment and Annexation to Protective Covenants Bald Head Island Stage Two Braemar Highlands (Book 1116, Page 689); Amended Protective Covenants Bald Head Island Stage Two Braemar Extension (Book 1127, Page 1033); Amended Protective Covenants Bald Head Island Stage Two Lot 2072 Extension (Book 1242, Page 855); Amendment and Annexation to Protective Covenants Bald Head Island Stage Two Single Family 14 Cape Fear

Station (Book 1435, Page 657); Amendment and Annexation to Protective Covenants Bald Head Island Stage Two Single Family 13 Cape Fear Station (Book 1602, Page 410); Amendment and Annexation to Protective Covenants Bald Head Island Stage Two Phase Two, Surfman's Walk Cape Fear Station – Multi Family 3 (Book 1610, Page 132); Amendment and Annexation to Protective Covenants Bald Head Island Stage Two Keeper's Landing Cape Fear Station- Multi Family 4 (Book 1766, Page 1200); Amendment and Annexation to Protective Covenants Bald Head Island Stage Two Eco Tract C- Kitty Hawk Cape Fear Station (Book 1915, Page 62); Amendment and Annexation to Protective Covenants Bald Head Island Stage Two The Crescent Cape Fear Station Multi Family 2 (Book 2075, Page 1220); Amendment and Annexation to Protective Covenants Bald Head Island Stage Two Eco-A-Prime Phase 2, Cape Fear Station (Book 2526, Page 795); (collectively, as amended and supplemented, the “Stage Two Secondary Covenants”); and

WHEREAS, the Stage Two Secondary Covenants include restrictions and covenants in addition to those contained in the Stage Two Primary Covenants that are unique to the particular properties subject to the Stage Two Secondary Covenants; and

WHEREAS, the communities known as Flora’s Bluff and Killegray Ridge, as further described in **EXHIBIT A**, shall not be subject to any covenants or architectural guidelines which are applicable solely to Stage Two properties as those properties are described in **EXHIBIT B**; and

WHEREAS, this Declaration is intended to replace and supersede the Stage Two Primary Covenants and the 2000 Declaration and to apply to all properties described in **EXHIBITS A and B**; provided that the Stage Two Secondary Covenants shall remain in full force and effect, subject to the terms of **EXHIBIT C**; and

WHEREAS, the Board of Directors of Bald Head Association has certified this Declaration in accordance with Article XI, Section 5 of the 2000 Declaration and has attached hereto the certification required therein; and

NOW, THEREFORE, Bald Head Association, pursuant to the authority set forth above, and with the consent of Bald Head Island Limited, LLC, hereby declares in consideration of the premises and intending to be legally bound: that the Stage Two Primary Covenants and the 2000 Declaration are hereby replaced and superseded by this Declaration and all of the Properties, described in **EXHIBITS A and B** attached hereto and/or subsequently annexed by agreement, shall be hereafter held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described Properties or any part thereof, and shall inure to the benefit of each Owner thereof.

## ARTICLE 1

## DEFINITIONS

1.1 Amenities means the facilities constructed, erected, or installed on the Common Area for the use, benefit and enjoyment of Members.

1.2 Architectural Review Committee, ARC, or Committee means the Committee which has jurisdiction over all construction on any portion of the Properties and whose members are appointed by the Board, as further described in Article 7.

1.3 Articles means the Articles of Incorporation of Bald Head Association.

1.4 Association means Bald Head Association, its successors and assigns.

1.5 Board of Directors or Board means those persons elected or appointed and acting collectively as the Directors of the Association.

1.6 Bylaws means the Bylaws of Bald Head Association.

1.7 Capital Improvement means land, building(s), equipment, fixtures, or personal property relating thereto.

1.8 Common Area means all real property and facilities owned by the Association for the common use and enjoyment of all Members of the Association, including greenways, recreational areas, dunes, beaches and roadways. It is intended that the Common Area will include all of the Subject Property except platted lots, Multi-Family Sites, and other Non-Residential Areas, the golf course, clubhouse sites and sites established for utility purposes.

1.9 Common Expense means and includes actual and estimated expenses of acquiring, maintaining and operating the Common Areas and property owned or leased by the Association; of providing services provided for the Association or its Members; and of operating the Association and its committees for general purposes. This will include any reasonable reserves, as may be found necessary and appropriate by the Board of Directors pursuant to this Declaration, the Bylaws and Articles, and will, in addition, include the following:

(a) expenses of administration, maintenance, repair or replacement of the Common Area and Limited Common Area;

(b) expenses declared to be Common Expenses by the provisions of this Declaration, the Bylaws, or agreed to be Common Expenses by the Members present and voting in Person or voting by proxy at a meeting of the Members;

(c) hazard, liability, or such other insurance premiums as this Declaration or the Bylaws may require the Association to purchase;

(d) any ad valorem taxes and public assessments levied against the Common Area; and

(e) expenses for the provision of services benefiting all Members, including, without limitation, transportation services.

1.10 Community Wide Standard means the standard of conduct, maintenance or other activity generally prevailing in the Properties or Bald Head Island. Such standard may be more specifically determined by the Board.

1.11 Declaration means this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Association.

1.12 Estate Lots means all lots designated on any recorded plat as E- followed by a number.

1.13 General Assessments means assessments to fund Common Expenses for the general benefit of all Units within the Properties.

1.14 Improved Unit means a Unit with a completed structure ("Living Unit") built upon it for which the Village of Bald Head has issued a certificate of occupancy.

1.15 Limited Common Area means those portions of the Common Area that serve only a limited number of Units and which may include, but specifically is not limited to, walkways, parking buildings or areas serving only specified lots, and such other similar areas as may be designated by the Association. The Limited Common Area will be managed and maintained by the Association at the expense of only the Owners of Units served thereby. Service Areas, as defined herein, are included within the term Limited Common Area.

1.16 Member means and refers to every Owner.

1.17 Multi-Family Site means Timber Creek Condominiums, Royal James Landing condominiums, Swans Quarter Condominium site, Bald Head Island Villas, The Hammocks, Lighthouse Landing, Sabal Palm Cottages, Flora's Bluff, Killegray Ridge, Ibis Roost, Keeper's Landing, Sumner's Crescent, and Surfman's Walk, and any other sites which are or become a part of the Properties, whether by annexation or merger, and which are designated or identified as Multi-Family Sites at the time of annexation or merger.

1.18 Non-Residential Areas means and refers to any plot of land which is a part of or will be annexed to the Properties when permanently developed or established for Non-Residential uses such as the Bald Head Island Club and similar types of facilities, golf courses, club house or other facilities owned by the Association, inns, motels, hotels, offices, shops, service businesses, maintenance and repair areas and similar commercial or service uses necessary and desirable to the Properties and operation of the community.

1.19 Owner means and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Unit which is a part of the Properties, including contract



sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.20 Person means and refers to any individual, corporation, partnership, association, trustee, or other legal entity.

1.21 Properties or Subject Property means and refers to that certain real property described in **EXHIBITS A and B** attached hereto.

1.22 Rules and Regulations means the Rules and Regulations of Bald Head Association.

1.23 Service Area means portions of the Common Area located within the property described in **EXHIBIT B** attached hereto which are reserved for the exclusive use of one or more, but fewer than all, of the Owners.

1.24 Special Assessments means and refers to an assessment which may be levied and collected by the Board in accordance with Section 5.5(a) and (b).

1.25 Stage Two means the portion of the Properties described in **EXHIBIT B** attached hereto.

1.26 Supplemental Assessments or Supplemental Dues means and refers to an assessment as set forth in Section 5.5(c).

1.27 Unimproved Unit means a vacant Unit with no Living Unit or completed structure built upon it.

1.28 Unit means a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy. A "Lot" is a Unit as that term is used in this Declaration. The term will refer to the land, if any, which is part of the Unit as well as any improvements thereon, including the Living Unit. Non-residential areas may have more than one Unit assigned to it by the Board as provided in Section 2.3.

1.29 User means members of an Owner's family, occupants of an Owner's Unit, and the guests, invitees, licensees, agents, employees, representatives, tenants, lessees and contract purchasers of any Owner.

## **ARTICLE 2**

### **ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS**

2.1 Function of Association. The Association will be responsible:

(a) to act on such matters as the Board determines affects the welfare and recreation of its Members and the beautification and conservation of the natural environment of the Properties;

(b) to communicate the actions, decisions and activities of the Association and Bald Head events (deemed by the Board to be of general interest) to its Members;

(c) to provide such services and facilities to its Members as the Board determines will promote the welfare and recreation of its Members and beautification and conservation of the natural environment of the Properties or any part of them, which services may include, for example, operating a Community Center building for its Members and others;

(d) for ownership, management, maintenance, operation and control of the Common Area owned or leased by the Association within the Properties and any private roads and Amenities owned by the Association, or other areas maintained by the Association;

(e) for enforcement of this Declaration, the Articles, Bylaws and the Rules and Regulations;

(f) for administering and enforcing the architectural design guidelines and controls set forth in this Declaration and in the Design Guidelines; and

(g) to perform its functions in accordance with this Declaration , the Bylaws, the Articles and applicable North Carolina law.

2.2 Membership. Every Owner will be a Member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Unit which is subject to assessment by the Association. There will be only one membership per Unit. If a Unit is owned by more than one Person, all Co-Owners will share the privileges of that membership. The membership rights of an Owner which is a corporation, partnership, limited liability company or other legal entity may be exercised by any officer, director, partner, member, manager, or trustee, or by any other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. The Board of Directors may make reasonable rules relating to the proof of Ownership of a Unit.

### 2.3 Voting.

(a) The Association shall have one class of voting membership. Members shall be entitled to one vote for each Unit in which they hold the interest required for membership by this ARTICLE. When more than one person holds such interest in any Unit, all such persons shall be Members. The vote for each Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any single Unit, and no fractional vote shall be cast with respect to any Unit. Members may notify the Secretary of the Association of the name of the individual who is entitled to cast the vote for that

Unit in writing prior to any meeting; absent such notification the Member's vote will be suspended if more than one person seeks to exercise it.

(b) Non-Residential Areas will be entitled to one vote for each Unit owned. The number of Units allocated to each Non-Residential Area will be determined by the Board, but will not be less than one Unit.

(c) The Association for any Common Area owned or any association within a Multi-Family Site for any property owned within such Multi-Family Site will not have any votes.

(d) Bald Head Island Limited, LLC shall only be entitled to one (1) vote for each Unit in which it holds the interest required for membership by this Article and is not entitled to three (3) votes per each Lot owned in Stage Two, as such right was previously established in the Stage Two Primary Covenants.

### **ARTICLE 3**

#### **RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

3.1 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property.

3.2 Rules. The Association, through its Board, may make, revoke, amend and enforce reasonable rules governing the use of the Properties, in addition to further defining or limiting and, where specifically authorized hereunder, it may create exceptions to those covenants and restrictions set forth in this Declaration. Such rules shall be binding upon all Owners and Users.

3.3 Enforcement. The Association may impose sanctions for violations of this Declaration, the Articles, the Bylaws, or Rules and Regulations, including reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities or Amenities within the Common Area. In addition, the Association may exercise self-help to cure violations, and may suspend any services it provides to the Unit of any Owner who is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. The Board may seek relief in any court for violations or to abate nuisances. The Board may assess the reasonable monetary fines authorized by this Section as a Special Assessment authorized by ARTICLE 5 of this Declaration, and may take any other action permitted by this Declaration for the enforcement of this Declaration, including those set forth in ARTICLE 15.

3.4 Board Authority and Implied Rights. Except as otherwise specifically provided in this Declaration, the Bylaws or Articles, all rights and powers of the Association may be exercised by the Board without a vote of the membership. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, or the North Carolina Nonprofit Corporation Act, or other applicable laws or reasonably implied therefrom or reasonably necessary to effectuate any such right or privilege.

3.5 Indemnification. To the maximum extent allowed by North Carolina law, the Association will indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be party by reason of being or having been an officer, director or committee member.

The Association will, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

3.6 Management and Administration. The management and administration of the Association and Common Area will be the sole right and responsibility of the Association. The management will be carried out in accordance with the terms and conditions of this Declaration, the Articles, Bylaws and Rules and Regulations; or they may be delegated to another person or entity, including a management company.

3.7 Association Insurance. The Association will maintain all insurance coverage it believes desirable, including, but not limited to officers' and directors' liability insurance, general liability insurance, Workman's Compensation insurance and casualty insurance.

## **ARTICLE 4 CONDEMNATION**

4.1 Condemnation. If any part of the Common Area shall be taken (or conveyed in lieu of condemnation by the Board acting on a vote of at least two-thirds of the Members present and voting in person or voting by proxy at a meeting of the Members) by any authority having the power of condemnation or eminent domain, each Owner will be entitled to written notice. The award made for such taking will be payable to the Association and will be used as set forth in paragraph 4.2 below and thereafter, in the discretion of the Board of Directors.

4.2 Restoration. If the taking involves a portion of the Common Area on which improvements have been constructed, the Association will restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless at least two-thirds of the Members present and voting in person or voting by proxy at a meeting of the Members shall otherwise agree. Any such construction will be in accordance with plans approved by the Board.

## **ARTICLE 5 ASSESSMENTS**

5.1 Creation of Assessments.

(a) The Association is hereby authorized to levy assessments against each Unit for Association expenses as the Board may specifically authorize from time to time. There will be three types of assessments for Association expenses: (1) General Assessments to fund Common Expenses for the general benefit of all Units within the Properties (“General Assessments”); (2) Special Assessments as described in Section 5.5; and (3) Supplemental Assessments (also referred to as Supplemental Dues) to fund the cost of providing management, maintenance, repair, and replacement to Service Areas that benefit only certain Units. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties is deemed to covenant and agree to pay these assessments.

(b) The Association will, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid. Such certificate will be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(c) No Owner may exempt himself from liability for assessments, by non-use of Common Area, abandonment of his Unit, or any other means. No diminution or abatement of assessments or set-off will be claimed or allowed for any alleged failure of the Association or Board to take some action, or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(d) The Association is specifically authorized, but not obligated, to enter into subsidy contracts or contracts for “in kind” contribution of services, materials or a combination of services and materials with other entities for payment of Common Expenses.

5.2 Purposes of Assessments. The assessments levied by the Association will be used exclusively for the purpose of fulfilling the function of the Association as more specifically set forth in Section 2.1 herein.

5.3 Computation of General Assessment.

(a) At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, including a capital contribution to establish a reserve fund in accordance with a budget prepared as provided in Section 5.4.

(b) The General Assessment will be levied against all Units as hereinafter set forth and will be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. Improved Units shall pay General Assessments (as of the beginning of the fiscal year following the issuance of a certificate of occupancy for the Improved Unit) equal to three (3) times the General Assessment payable by the Owner of an Unimproved Unit.



5.4 Capital Reserve Budget. The Board will annually prepare a capital reserve budget for acquisition, maintenance and replacement of Capital Improvements which considers the number and nature of replaceable assets, the expected life of each asset, and the expected cost.

5.5 Special Assessments.

(a) In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover Capital Improvements, including acquisition, construction, reconstruction, maintenance, repair or replacement thereto, or unbudgeted expenses or expenses in excess of those budgeted. The Board may establish the amount of the Special Assessment for Capital Improvements if it is less than (1) ten percent (10%) of the General Assessment or (2) TWO HUNDRED FIFTY DOLLARS (\$250.00), whichever is greater, in any assessment year for each Unit. All other Special Assessments for Capital Improvements will require the affirmative vote of two-thirds of Members present and voting in person or by proxy at a meeting of the Members who will be subject to such Special Assessment. Special Assessments for Capital Improvements will be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Improved Units shall pay Special Assessments levied under this subparagraph (a) equal to three (3) times the Special Assessment levied against an Unimproved Unit hereunder.

(b) The Board will have the power to levy Special Assessments against a particular Unit or Units constituting less than all Units within the Properties, as follows:

(1) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners, which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner;

(2) to cover costs including overhead and administrative costs and reserves incurred for maintenance, repair and replacement of any private roads, signs, fences and berms or other structures or items which are constructed for the benefit of certain specified Units;

(3) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration including, but not be limited to, ARTICLE 10, the Bylaws, Rules and Regulations, Design Guidelines or costs incurred as a consequence of the conduct of the Owner or User, including fines; provided that the Board shall give the Unit Owner prior written notice and an opportunity for a hearing before levying a Special Assessment under this subsection (b)(3);

(4) to cover all expenses, including overhead, administrative costs and reserves, incurred for maintenance, repair and replacement of any Limited Common Area; or

(5) to cover all expenses, including overhead, administrative costs and reserves for maintenance, repair and replacement of any areas or services for the benefit of any Non-Residential Areas.

5.6 Supplemental Assessments. The Board will have authority to levy Supplemental Dues against a particular Unit or Units constituting less than all of the Units located within the property described in **EXHIBIT B**, to cover the cost of providing management, maintenance, repair, and replacement to Service Areas that benefit only certain Units, including management costs and reserves that shall be collected for the sole purpose of maintenance, repair, and replacement to particular Service Areas, pursuant to the terms of the Stage Two Secondary Covenants. Reserves collected as part of the Supplemental Assessments for the maintenance, repair, and replacement to Service Areas shall be maintained in separate accounts. The Board may enforce such Supplemental Dues in the same manner as Special Assessments. Supplemental Assessments will be payable in such manner and at such times as determined by the Board.

5.7 Due Dates of General Assessment. The Board of Directors will fix the amount of the General Assessment against each Unit at least thirty (30) days in advance of the due date. Written notice of each General Assessment will be sent to every Owner subject thereto. The due dates will be established by the Board of Directors. The Board of Directors will require the General Assessment be paid at least annually, but may require them to be paid more often. Special Assessments and Supplemental Assessments may be collected separately from the General Assessments and the Board may require that they be paid, annually, semi-annually, quarterly, or monthly. The Association will, upon request, furnish a certificate signed by an officer of the Association setting forth whether the General Assessment, Special Assessment, or Supplemental Assessment on a specified Unit have been paid.

5.8 Lien for Assessments. All assessments, together with interest from the due date of such assessment at a rate determined by the Board (not to exceed the highest rate allowed by North Carolina law), late charges, costs, and reasonable attorney's fees, will be a charge and continuing lien upon each Unit against which the assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, will also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment was made. Such lien will be superior to all other liens, except the liens of all ad valorem taxes or assessments, and any other liens which by law would be superior. Upon a transfer of title to a Unit, the grantee will be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first mortgagee or first beneficiary under a deed of trust who obtains title to a Unit by exercising the remedies provided in its mortgage or deed of trust or any individual obtaining title by or through a foreclosure will be personally liable for unpaid assessments which accrued prior to such acquisition of title. In the event of any transfer of title to a Unit, the lien of the assessments will not be extinguished.

5.9 Effect of Nonpayment of Assessments: Remedies of the Association: Any assessments or portion thereof which are not paid when due will be delinquent. The Association may record notice of the claim of lien in the Office of the Clerk of Superior Court of Brunswick County, file Notice of Lis Pendens, file a suit to collect such delinquent assessments and charges against the Owner personally obligated to pay the same, foreclose the lien against the property in the same manner as provided in North Carolina for the foreclosure of deeds of trust, including foreclosure under a power of sale, utilize any combination of these actions, or utilize any other remedy provided under North Carolina law. For any of these actions, interest, late charges, costs and reasonable attorneys' fees will be added to the amount of such assessment. The Association may bid for the Unit at any foreclosure or judicial sale and acquire, hold, lease, mortgage, and convey the Unit. The sale or transfer of any Unit will not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. No Owner may waive or otherwise escape liability for the assessments provided for herein.

5.10 Exempt Property. The following property will be exempt from the payment of General Assessments, Special Assessments, and Supplemental Assessments:

- (a) all Common Area or Limited Common Area;
- (b) any property dedicated to and accepted by any governmental authority or public utility;
- (c) any property held by a conservation trust or similar nonprofit entity as a conservation easement, except to the extent that any such easement lies within the boundaries of a Unit which is subject to assessment under this ARTICLE (in which case the Unit will not be exempted from assessment).

## **ARTICLE 6 MORTGAGEE PROVISIONS**

6.1 Notice to Association. In the event that any Member is in default in any obligation hereunder which remains unpaid for a period of sixty (60) days, every lender who is a first mortgagee or first beneficiary under a deed of trust as to the Unit of the defaulting Member will be immediately notified of such default, provided that such lender will have given specific written notice to the Association that it is the holder of a first mortgage, or first deed of trust, and will have requested the notice of default as herein set forth.

6.2 Failure of Mortgagee to Respond. Any mortgagee or beneficiary under a deed of trust who receives a written request from the Board to respond to or consent to any action, will be deemed to have approved such action if the Association does not receive a written response within thirty (30) days of the mailing of such request, provided such request is delivered to the mortgagee or beneficiary of a deed of trust by certified or registered mail, return receipt requested.

## **ARTICLE 7 DESIGN GUIDELINES**

## 7.1 General.

(a) No structures, buildings, improvements or construction, which shall include within its definition, clearing, grading, excavation and other sitework, will be commenced, erected, or maintained upon any Unit or the Properties, nor will any exterior addition, change, alteration, or change of color be made, except in compliance with this ARTICLE, the Design Guidelines and until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same will 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 Committee according to the provisions of Section 7.2. Structures, buildings and improvements shall include, but not be limited to any dwelling, garage, fence, wall, sidewalk, walkways, hedge, mass planting, change in grade or slope, drainage pipe, drainage canal, ditch, swale, catch basin, swimming pool, tree house, playhouse, sign, flagpole, exterior illumination, monument or marker, outdoor statuary, exterior lights, security lights, storm door, well utility facility, mailbox, patio, deck, screening for outdoor trash cans or other purposes, sprinkler system, driveway, outdoor decorative objects, shrubbery or landscaping.

(b) Any Owner may remodel, paint or redecorate the interior of structures on his Unit without approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

(c) This ARTICLE will apply to improvements to the Common Area by, or on behalf of, the Association.

(d) This ARTICLE will apply to improvements located on golf course property, but not to the design of the golf course.

## 7.2 Architectural Review.

(a) Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article will be handled by the Committee as described in this Section 7.2. All members of the ARC shall be members of the Association with the exception that a maximum of two (2) members of the ARC may be Design Professionals ("Design Professionals" shall include engineers, architects, surveyors, interior designers, landscapers, and other professionals engaged in the business of constructing or designing residential homes or landscaping) who are not members of the Association. No more than one-third of the Committee's membership shall be contractors, builders, architects or others involved in the design or construction of structures on the Properties. The Board may hire such professionals as it deems necessary to assist the Committee in the discharge of its duties. The Board may establish and charge reasonable fees for review of applications hereunder. These fees may include the fees charged by any professional employed by the Board and may require such fees to be paid in full prior to review.

(b) The Committee will consist of at least five (5) persons appointed by the Board beginning on January 1, 2000, and will have jurisdiction over all construction on any portion of the Properties. Thereafter, the Board may change the number of persons serving on the Committee to an odd number of at least five (5) and not more than eighteen (18) persons by a vote of not less than two-thirds (2/3) of the Board.

(c) The Committee will consider as part of the review process the natural beauty and features of the land, adherence to the Community Wide Standards, aesthetic compatibility of architectural style and materials with other structures on Bald Head Island, and will maximize the conservation of trees and natural vegetation.

### 7.3 Design Guidelines and Procedures.

(a) The Committee will prepare design guidelines, application and review procedures (the "Design Guidelines"), and amendments thereto which shall apply to all construction activities within the Properties. The Design Guidelines will contain general provisions applicable to all of the Properties. The Design Guidelines will also contain specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, intended use, and applicable covenants. The Design Guidelines, application and review procedures, and any amendments thereto must be adopted and approved by the Board of Directors initially and reviewed at least every five (5) years thereafter.

(b) Any amendments to the Design Guidelines will apply to construction and modifications commenced after the date of such amendment only, and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

(c) The Committee will make the Design Guidelines available to Owners and contractors who seek to engage in development or construction within the Properties, and all such Persons will conduct their activities in accordance with such Design Guidelines.

### 7.4 Submission of Plans and Specifications.

(a) No construction or improvements, as defined in Section 7.1(a), will be commenced, erected, placed or maintained on any Unit; nor will any exterior addition, change or alteration be made thereto, until the plans and specifications ("Plans") will have been submitted to and approved by the Committee. The approval of the Plans will be consistent with the Design Guidelines. The Plans will show site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, screening, and grading plans. The Design Guidelines will set forth the procedure for submission of the Plans. A reasonable fee for the review of the Plans will be required and submitted, along with the Plans and any other supporting documents required by the Committee. The Board may require a deposit to be posted prior to the commencement of any construction or work, which will be used for administrative costs, fees, damage to any Common Area, fines, or penalties incurred during construction or work. Any sums still due and owing will be a Special



Assessment and may be collected in accordance with ARTICLE 5 or to insure that construction is completed in accordance with the Plans (including landscaping) approved by the Committee. Any sums remaining at the completion of construction will be returned to Owners or contractor.

(b) In reviewing each submission, the Committee will consider such parameters as the suitability of the proposed building, improvements, structure, landscaping, and the materials of which it is to be built; the proposed site; visual aesthetics; natural platforms and finish grade elevations; harmony of external design with nearby structures, property and environment; location in relation to surrounding structures, property and plant life which it deems appropriate and to the extent they are articulated in the Design Guidelines; possible negative impact on other Units; and compliance with the Design Guidelines and this Declaration. The Committee, for the purpose of retaining the natural features of the Lots, may require relocation of native plants within the construction site as a condition of approval of any submission. The Committee may also consider whether the construction methodology to be utilized and the method of transporting the components to be used in construction will cause substantial damage to the private streets or vegetation. Location of any driveways will be subject to the approval of the Committee.

(c) The Committee will have the right to refuse to approve any Plans which, based on the Design Guidelines, are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld.

(d) No bulldozing or clearing of trees or excavation of lakes or ponds will be commenced until the Plans showing the nature, kind, shape and location of work to be done have been submitted to and approved in writing by the Committee and a copy filed permanently with the Committee.

(e) The Committee, within forty-five (45) days from the meeting at which each complete submission has been reviewed, will advise the Property Owner submitting the Plans, in writing, at an address specified at the time of submission of (1) the approval of Plans, or (2) the segments or features of the Plans which are deemed by the Committee to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines. In the event the Committee fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, approval will be deemed to have been given. Notice will be deemed to have been given at the time the envelope containing such notice, properly addressed and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice will, however, be sufficient and will be deemed to have been given at the time of delivery.

(f) If construction does not commence on a project for which Plans have been approved within 24 months of such approval, such approval will be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans for reconsideration.

(g) An applicant of any Unit disagreeing with the finding of the Committee may appeal the decision to the Board of Directors by giving written notice of appeal to the president of the Association within fifteen (15) days following receipt of notice of denial.

The Board may refer the matter to an independent board of appeals of at least three (3) persons appointed by the Board, none of whom shall be a member of the Board or the Architectural Review Committee. Such board of appeals appointed by the Board shall review the decision of the Architectural Review Committee and make a recommendation or take other action as directed by the Board. The rules and procedures under which such board of appeals operates shall be determined by the Board. The Board of Directors will then review the plans, giving the chairman of the Architectural Review Committee, or his designee, the opportunity to present to the Board of Directors specific reasons why the plans were rejected, and the Owner of the Unit or his agent may present information challenging the findings of the Committee. The decision of the Committee will only be overridden by a two-thirds vote of the Board of Directors, and the actions of the Board must be consistent with this Declaration and the Design Guidelines. The Board of Directors will adopt an appeals procedure which is in accordance with the framework set forth in this paragraph.

7.5 No Waiver of Future Approvals. Each Owner acknowledges that the members of the Committee and the Design Guidelines will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of Plans for any work done or proposed, or any other matter requiring approval, will not be deemed to constitute a waiver of the right to withhold approval for any similar Plans subsequently or additionally submitted for approval.

7.6 Variance. The Committee may authorize in its discretion reasonable variances or adjustments from compliance with any of its guidelines and procedures in order to alleviate practical difficulties and hardship in their enforcement and operation. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; or (b) stop the Committee from denying a variance in other circumstances. Any such variances shall not violate the spirit or the intent of this document to create a subdivision of Units owned in fee by various persons with each such Owner having an easement upon areas owned by the Association.

7.7 Limitation of Liability. Review and approval of any application pursuant to this ARTICLE will be made on the basis of this ARTICLE and the Design Guidelines only and the Committee will not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board nor the Committee, will be held liable for any injury, damages, or loss arising out of the review and approval of any application. This includes, but is not limited to, the granting of a variance, the manner or quality of construction, defects in any Plans, deficiencies in kind or quality of materials used, or for ensuring compliance with building codes and other governmental requirements.

(a) Any structure placed or improvement made in violation of this ARTICLE will be deemed to be non-conforming. Upon written request from the Board, Owner shall, at its own cost and expense, remove such structure or improvement and restore the land to substantially the same condition which existed prior to the non-conforming work. Should an Owner fail to remove and restore as required, the Board will have the right to enter the property,

remove the violation, and restore the property to substantially the same condition as it previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the Unit Owner and the benefited Unit and collected as a Special Assessment in accordance with the provisions of ARTICLE 5.

(b) The Association shall have the authority to establish fines for violations of this ARTICLE and the Design Guidelines, including fines for continuing violations. The fine amounts may be deducted from any deposit posted. If the fines are not paid, the Association may establish a Special Assessment in accordance with the provisions of ARTICLE 5.

(c) In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available, including injunctive relief and proceedings for contempt, to enforce the provisions of this ARTICLE and the decisions of the Committee in accordance with the provisions of ARTICLE 15.

#### 7.8 Specific Design Guidelines.

(a) Site Placement. To insure that the maximum balance of view, privacy and breeze will be available to each home located within the Properties; and to assure that all structures will be located with regard to the topography of each individual Unit or Multi-Family Site taking into consideration the height of the dunes, the location of trees on each Unit and similar considerations, the Committee will have the right of approval of the precise site and location of any Multi-Family structure, house or dwelling or other structure upon all the Properties. In its right to approve, the following guidelines for building will be used as a minimum standard, be adhered to, and be followed except with the prior written approval of Committee:

(1) On Estate Lots no building or structure will be located within fifty (50) feet of the street property line in front of said Unit, within twenty-five (25) feet of the side or ten (10) feet of the rear of said Estate Lots.

(2) No Lots shall be merged with one another, except as provided in Section 13.1. On Merged Lots, no building or structure will be located within thirty-five (35) feet of the front property line abutting the roadway, within twenty-five (25) feet of the side or ten (10) feet of the rear lines of the resulting Merged Lot.

(3) Any setbacks or any allowed building pad shown on any recorded subdivision plat are incorporated herein by reference. Unless otherwise shown on such a plat or specified in an amended declaration annexing properties hereto, no building or structure will be located (a) on any other Lot within the properties described in **EXHIBIT A**, within thirty-five (35) feet of the street property line in front of said Unit or within ten (10) feet of the side or rear lines of said Unit, and within fifteen (15) feet of any side street and (b) on any Lot within the properties described in **EXHIBIT B**, within thirty-five (35) feet of the street property line in front of said Unit or within ten (10) feet of the side or rear lines of said Unit. To the extent there is a conflict between this sub-section and the requirements of the approved Planned

Unit Development (PUD) applicable to all or a portion of the Properties, the PUD shall be controlling.

(b) General Building Restrictions. Construction on numbered single-family Units within the Properties will be governed by the following general minimum requirements:

(1) Except with the prior written approval of the Board, all single family residences will have a maximum height of thirty-five (35) feet as measured from the lowest natural point where the main building perimeter and any attached structures meet grade ("Lowest Point") to the highest point of the roof. For the purpose of determining the Lowest Point on a lot where any elevation beneath the building perimeter falls below an elevation of five feet (5') above mean sea level (AMSL), the Lowest Point shall be considered five feet (5') AMSL. Height limitations for properties annexed hereto may differ from the height limitation set forth herein; any such limitation on height shall be contained in the amendment subjecting such annexed properties to the terms, provisions and conditions of this Declaration; provided that the Lowest Point for all properties shall be determined as set forth herein. The Board will establish the maximum height of Multi-Family and Non-Residential structures as part of the Design Guidelines, which may not exceed forty-five (45) feet except with the prior written approval of the Board.

(2) Except as provided herein or in the Stage Two Secondary Covenants, single-family residences will have the minimum square footage of sixteen hundred (1600) square feet of enclosed living area, exclusive of garages, boat sheds, terraces, decks and open porches. A maximum of three hundred (300) square feet of the square footage of the floor plan may be included in a fully screened porch, so long as the roof of such porch forms an integral part of the roof line of the main structure.

(3) No temporary structures, such as trailers, tents, canopies or mobile homes, will be placed on any Unit within the Properties; provided, however, that in the course of the construction of the building as set out above, the contractor or builder may have shelters or storage sheds used in the course of the construction and for no other purpose, which will be removed from the premises within ten days after the completion of the building. No tents or canopies will be placed on any Unit without the written consent of the Association.

The Committee will approve the location of any structure, having regard for the foregoing considerations, aesthetic considerations, Community-Wide Standard, size, shape and location of the property, type of housing, and any other reasonable considerations. The Committee has the right to require maintenance and/or removal of plant material to protect an Owner's view.

(c) Completion. Once construction of a dwelling or other improvements is started on any Unit, the exterior improvements, including painting and landscaping must be completed in accordance with the approved plans and specifications within twenty-four (24) months from the Commencement Date. "Commencement Date" will be the date of the issuance of the building permit. Failure to complete construction within twenty-four (24) months from commencement date may result in a fine being imposed in the minimum

amount of \$500.00 per month, which shall be payable to the Association. The fine imposed under this Section will be a Special Assessment enforceable in accordance with ARTICLE 5.

(d) Compliance with Local Regulations. Buildings must in all particulars meet the requirements of the Brunswick County Health Department regulations and the Village of Bald Head Island building code and ordinances, including the procuring of a building permit and landscape permit.

(e) Water and Sewer Service. All buildings must hook up to water and sewer service at the time of construction, whether provided by a private utility company or the Village of Bald Head Island.

(f) Non-Residential Guidelines. The Board may adopt specific guidelines governing any Non-Residential structure located within, annexed to, or merged with the Properties.

(g) Braemar Building and Site Restrictions. Lots within the Braemar Subdivision shall be subject to the further building and site restrictions set forth in **EXHIBIT D** hereto.

## **ARTICLE 8 COMMON AREA**

8.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, will manage and control the Common Area and all improvements thereon (including, but not limited to, private roads, rights of way, furnishings, equipment, walkways, gazebos, master walkway, and common landscaped areas); and will keep it in good, clean, attractive, and sanitary condition, order and repair, consistent with this Declaration and the Community-wide Standard.

8.2 Dedication of Common Area. The Association may dedicate portions of the Common Area to any local, state, or federal governmental entity, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.

8.3 Management of Common Area. The management and administration of the Association, Common Area, recreation areas and Amenities will be the sole right and responsibility of the Association.

8.4 Permitted Use of Portions of Common Area.

(a) The Association does, subject to the terms and conditions contained in this Declaration, hereby establish, declare and grant, for the benefit of the Bald Head Island Club ("Club") and its successors in ownership of the Club Property, the following non-exclusive licenses for use of the portions of the Common Area further described below:



(i) Landscaping. A license over that certain portion of the Common Area that (A) is located directly adjacent to the Club Property, (B) lies within thirty (30) feet of the boundary between the Common Area and the Club Property and (C) is currently being landscaped by the Club (the “Landscape License Area”), for the limited purposes of landscaping, planting of grass, watering the Golf Course, application of fertilizer to the Golf Course as needed, and otherwise mowing and maintaining the Landscape License Area (the “Landscape License”). The Landscape License will include the right to trim underbrush and remove trees less than three inches in diameter (outside bark to outside bark) when measured four (4) feet above ground level, stumps, trash and debris that would or could be in conflict with the plans and specifications of the Golf Course as reasonably determined by the Club. No strip clearing, including, without limitation, the removal of underbrush including all roots, shall be permitted.

(ii) Play Areas. A license to permit and authorize registered Golf Course players and their caddies to enter upon the Landscape License Area to recover a ball or play a ball (the “Play License”). The Play License is subject to the official regulations of the course, and such entering and playing will not be deemed a trespass. Registered Golf Course players or their caddies will not be privileged to enter the Landscape License Area with a golf cart or other vehicle. The Club and its successors in ownership of the Club Property shall place and maintain “out of bounds” markers on said areas at the expense of the Club or its successors in ownership of the Club Property.

(b) The Association shall also cooperate with the Club in identifying any areas outside of the Landscape License Area that are currently being landscaped or maintained by the Club (the “Extended Landscape License Area”), and any such use shall be (i) considered a license subject to the same restrictions and limitations as the Landscape License Area and as otherwise set forth herein, including, without limitation, Section 3 below (the “Extended Landscape License”) and (ii) non-hostile to the right and title of the Association and non-exclusive to the use of such area by the Association and its members.

(c) To the extent the Club has compelling reason to maintain or use areas within or outside of the Landscape License Area or the Extended Landscape License Area in a manner that is beyond the rights to landscape granted herein (e.g. for phragmite reduction), (i) the Association shall, upon request by the Club, discuss appropriate terms for such use, (ii) any such use shall be terminable by the Association at any time unless otherwise agreed in writing by the Association and (iii) to the extent any such use is currently occurring, it shall be deemed non-hostile to the right and title of the Association and non-exclusive to the use of such areas by the Association and its members.

(d) Cart Paths. The Association hereby declares that (a) all use, operation, maintenance, repair and replacement of the golf cart paths in existence as of January 30, 1998 (the “Cart Paths”), being the date of that certain Deed from Bald Head Island Limited to the Association recorded in Book 1205, Page 63 of the Brunswick County Public Registry, and the area they occupied as of such date (the “Cart Path Area”), by the Club and its agents, contractors and employees, shall be for the limited purpose of inspecting, maintaining, removing, replacing and operating the Cart Paths for the benefit of Golf Course players and their caddies, and (b) any

use by the Club of Common Area outside the Cart Path Area for any cart paths (the “Cart Path License Area” and, together with the Landscape License Area and the Extended Landscape License Area, referred to herein as the “License Areas”) shall be (i) considered a license subject to the same restrictions and limitations as the Cart Path Area and as otherwise set forth herein, including, without limitation, Section 3 below (the “Cart Path License” and, together with the Landscape License, the Extended Landscape License and the Play License, referred to herein as the “Licenses”) and (ii) non-hostile to the right and title of the Association and non-exclusive to the use of such area by the Association and its members.

(e) Term of Licenses. Subject to this Section, the term of the Licenses shall continue in effect until the Association or the Club provides the other at least six (6) months prior written notice of its desire to terminate the same. In the event of a termination of the Licenses, the Club shall be solely responsible for the dismantling and removal of any facilities and equipment from the License Areas within sixty (60) days following such termination. The termination of the Licenses shall not affect the other restrictions and declarations set forth in this Declaration unless otherwise agreed in writing by the Association.

(f) Existing Golf Course Maintenance Easement Area. The Association hereby declares that (a) the “golf course maintenance easement area” described in Section 12.10(b) of the Covenants (the “Easement Area”) as interpreted by the Association includes only those areas within thirty (30) feet of the boundary between such Units and the Club Property and (b) any use by the Club of property that is part of a Unit but lies outside the Easement Area (the “Extended Maintenance Area”) shall be (i) subject to the same restrictions and limitations applicable to the Easement Area, but terminable by such Unit owner at any time and (ii) non-hostile to the right and title of the owner of such Unit and non-exclusive to the use of such area by the owner of such Unit.

(g) Compliance. If the Club’s use fails to comply, or ceases to comply, with any and all present or future federal, state or local laws, statutes, ordinances, rules, regulations or orders of any and all governmental or quasi-governmental authorities (collectively, the “Requirements”) having jurisdiction over the License Areas, the Easement Area, the Extended Maintenance Area or the Cart Path Area (collectively, the “Accessed Areas”), then the Licenses or other rights under this Declaration shall be terminable by the Association immediately at any time.

(h) Liability. The Association shall not be liable or responsible in any way for any claims against the Association with respect to or arising out of: (i) any death or any injury of any nature whatsoever that may be suffered or sustained by the Club or any other person, from any causes whatsoever relating to the Club’s use of the Licenses or other rights under this Declaration; or (ii) any loss or damage or injury to any property outside or within the Accessed Areas belonging to the Club or any other person.

(i) Reserved Rights; Amendment or Termination. The Association reserves, for itself and its successors and assigns, all rights to use the Accessed Areas in any manner that does not directly and materially interfere with the rights granted to the Club in this Declaration or in the Covenants. The Association, on behalf of itself and its successors and assigns, reserves

the right to revoke, amend, further define, limit, or create exceptions to this Declaration and make and enforce any additional reasonable rules governing the use of the Accessed Areas, all as may be deemed necessary or desirable in the sole judgment of the Association. All rights and obligations reserved or granted to the Association hereunder shall be binding upon and inure to the benefit of its successors and assigns.

(j) No Liens or Right to Assign. The Club shall not have the right, directly, indirectly, by operation of law or otherwise assign, mortgage, pledge, encumber, sub-license or otherwise transfer any interest under this Declaration; provided, however, this Declaration apply to any successor owner of the Club Property. Nothing contained in this Declaration shall empower or confer upon the Club any right to do any act which can, shall or may encumber the interest or title of the Association or Unit owners in and to the Accessed Areas.

(k) License Only; No Warranties. Notwithstanding anything to the contrary contained herein, any and all rights conferred upon the Club pursuant to this Section create a license only, and no lease, easement or other right or interest of any kind or nature (other than a license) is created or conferred pursuant to this Section. Acceptance of any areas by the Club shall be on an "AS IS, WHERE IS and WITH ALL FAULTS" basis and any warranty, covenant, or guaranty, oral or written, express or implied or by operation of law is disclaimed.

(l) No Public Dedication. Nothing contained in this Section shall ever constitute or be construed as a dedication of any interest herein to the public or give any member of the public any right whatsoever.

(m) Acceptance by Club. The Club, by its use of the Accessed Areas, shall be deemed to have accepted and agreed to the terms and conditions herein.

## **ARTICLE 9 PROPERTY RIGHTS IN COMMON AREA**

9.1 Easement Rights of Owner in Common Area. Every Owner will have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area which shall be appurtenant to and pass with the title to every Unit, subject to the following provisions:

(a) this Declaration, the Articles, the Bylaws, the Rules and Regulations and any other applicable covenants;

(b) any restrictions or limitations contained in any deed conveying such property to the Association;

(c) the right of the Board to adopt rules regulating the use and enjoyment of the Common Area and improvements thereon, including rules restricting use of the recreational facilities within the Common Area to occupants of Units and their guests and rules

limiting the number of guests who may use the Common Area; and the right of the Board to establish penalties for any infractions thereof;

(d) the right of the Board to suspend the voting rights and the right to use the Common Area and the recreational facilities within the Common Area by an Owner or User (1) for any period during which any charge against such Owner's Unit remains unpaid, and (2) for a period not to exceed sixty (60) days for a single violation, or for a longer period in the case of any continuing violation, of this Declaration, the Bylaws, Articles, or the Rules and Regulations, after notice and a hearing pursuant to procedures adopted by the Board;

(e) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area;

(f) the right of the Board to impose reasonable fees for services or membership requirements and charge reasonable membership admission or other fees for the use of any recreational facility situated upon the Common Area;

(g) the right of the Board to permit use of any recreational facilities situated on the Common Area by persons, other than Owners and Users upon payment of use fees established by the Board;

(h) the right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth herein. The rights of such mortgagees in said Properties will be subordinate to the rights of the Unit Owners hereunder; and

(i) easements as provided in ARTICLE 12.

9.2 Extension of Easement Rights. Any Owner may extend his or her right of use and enjoyment to any User, subject to reasonable Board regulation. An Owner who leases his or her Unit will be deemed to have assigned all such rights to the lessee of such Unit for the duration of the lease and any such lessee will abide by all the restrictions contained herein. Any such lease will not release the Owner of his liability for damage to the Common Area caused by said lessee. Owner shall be liable for damage to the Common Area caused by any User.

## **ARTICLE 10**

### **USE GUIDELINES AND RESTRICTIONS**

10.1 Plan of Development, Applicability, Effect. The Properties are subject to architectural and Design Guidelines as set forth in ARTICLE 7 and to guidelines and restrictions governing land use, individual conduct, and uses of or actions upon the Properties as provided in this ARTICLE 10. This Declaration establishes affirmative and negative covenants, easements, and restrictions (the "Use Guidelines and Restrictions").

10.2 Rules and Regulations. Subject to the terms of this ARTICLE 10, the Board will implement and manage the Use Guidelines and Restrictions through Rules and

Regulations which adopt, modify, cancel, limit, create exceptions to, or expand the Use Guidelines and Restrictions.

10.3 Acknowledgment of Owners.

(a) All Owners and all the Properties are subject to the Use Guidelines and Restrictions and are given notice that, (1) their ability to use their privately owned property is limited thereby, and (2) the Board may add, delete, modify, create exceptions to, or amend the Use Guidelines and Restrictions in accordance with Section 10.2.

(b) Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by these provisions, agrees to be bound thereby, and agrees that the Use Guidelines and Restrictions and Rules and Regulations may change from time to time.

10.4 Rights of Owners. Except as may be specifically provided in this Declaration, the Board may not adopt any rule which interferes with the activities carried on within the confines of Units; except that the Association may prohibit activities not normally associated with property restricted to residential or commercial use; that it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that generate excessive noise or traffic, that create unsightly conditions visible outside the Unit, that block the views from other Units, that create an unreasonable source of annoyance, embarrassment or discomfort to the Association or other Owners; that constitute an illegal, immoral, improper, noxious or offensive activity; or that create a nuisance.

10.5 Use Guidelines and Restrictions. The following Use Guidelines and Restrictions apply to all the Properties except for that real property owned by the Bald Head Island Club or the golf course at the time of the recordation of this Declaration:

(a) Single Family Utilization. This Declaration will restrict all Units to use only for single family residential purposes unless an amendment to this Declaration is adopted in accordance with Section 14.2. No home or other structure constructed within the described area will be utilized for commercial purposes, except that home offices will be permitted as long as such offices do not induce traffic, require signage, require outdoor storage of equipment, inventory, vehicles, or include retail space. If otherwise approved in accordance with the procedures and standards set out within this Declaration, nothing contained herein will prohibit or restrict the construction of any appurtenant structure to any residence, including, but not limited to, decks, walkways, crofter's cottages or cart storage facilities.

No dwelling, including any ancillary structure or annex to a Unit, will be utilized at any time for occupancy by more than one family or one family with guests. The Owner of a Unit is specifically prohibited from occupying an ancillary structure or annex located on his Unit while renting the primary residential dwelling, or from occupying the primary residential dwelling while renting the ancillary structure or annex, or from renting to two or more rental parties, the primary residence and the ancillary structure or annex.



(b) Dunes. An Owner will not remove, reduce, cut down or otherwise change or cause to be removed, reduced, cut down or changed the elevation of any sand dunes or ridges or both within the Properties, even upon their respective Unit, except with the written permission and consent of the Association.

(c) Parking Rights. The Association may regulate the parking of vehicles, boats, trailers and other such items on the Common Area or the Properties. No vehicles, boats, trailers or other similar types of equipment shall be parked within the traffic lane of any street maintained by the Association.

(d) Parking Restrictions. Each Unit Owner will provide off-street parking space(s) for his Unit as required by the Design Guidelines. Off-street parking spaces may be established by the Association at various places for access to selected Common Areas. No boat, water craft of any kind, and no boat trailer will be allowed to be parked overnight on any Unit or Common Area unless screened in accordance with the Design Guidelines. Any vehicle violating this restriction may be removed and impounded by the Association and towing charges assessed.

(e) Satellite Receivers/Antennae. No exterior structure or device intended for receiving or transmitting radio, television or other electronic signals or waves will be allowed. Notwithstanding the foregoing, (i) antennae or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (ii) antennae or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; or (iii) antennae or satellite dishes designed to receive television broadcast signals which are less than one meter in diameter ("Permitted Devices") shall be permitted, *provided that* any such Permitted Device is placed in the least conspicuous location on the Lot in which an acceptable quality signal can be received and is screened from the view of adjacent Living Units, streets and Common Area in a manner consistent with the Community Wide Standard and the Design Guidelines. No Permitted Device may be placed on the Common Area without the written approval of the Board.

(f) Quiet Enjoyment. No immoral, illegal, improper, obnoxious or offensive activity will be carried on upon the Properties which may be or may become a nuisance or annoyance to the neighborhood or Unit Owners.

(g) Prohibited Uses. It is the intent and purpose of the Association to ensure development and maintenance of the Bald Head Island complex as an exclusive residential community of the highest quality and at the same time to endeavor to retain the natural, unspoiled beauty of the Island. To that end the following restrictive uses and limitations are placed on all Units within the Properties:

(1) No fuel tanks or storage receptacles will be exposed to public view and will either be located and kept in an accessory building, underground receptacles or screened from view. Trash and garbage receptacles will be enclosed or screened from view.

(2) No open or exposed storage, including junk or abandoned items of personal property, will be maintained on any Unit. No trash or refuse, including leaves, will be burned in an open incinerator within the Properties.

(3) No animals, livestock or poultry of any kind will be raised, bred or kept within the Properties except household pets, which may not be kept, bred or maintained for any commercial purpose. Pets must be kept under control by the Owner at all times and attended as required by the ordinances of the Village of Bald Head Island. The Owner will be responsible to remove all pet excrement deposited on the Properties.

(4) No (i) cluster growths of vegetation in excess of two square feet, (ii) trees measuring three inches or more in diameter (outside bark to outside bark) at four feet along the trunk from the ground level, and (iii) tree limbs of more than three inches or more in diameter may be removed without prior written approval of the Association, which approval will not be unreasonably withheld.

(5) No beach access will be allowed or created other than in a location permitted by the Board.

(h) Signs. No commercial signs, including “for rent”, “for sale” and other similar signs will be erected or maintained within the Properties except those which conform to the then-existing Design Guidelines. The Board retains the right to modify the Association standard for signs, including the right to disallow signs altogether and to change the standard specifications, including, but not limited to, the size, shape, color, content, type of material and location of the sign or symbol. Any modification to the defined Association sign standard must be approved by a two-thirds (2/3) vote of all Board members.

(i) Construction. Construction signage and temporary structures, including trailers, shall conform to the then-existing Design Guidelines. The Association will adopt standards for construction sites for the purpose of reasonably controlling the aesthetics, trash, and noise resulting from construction. The Association must approve all identification signs. Only one construction sign will be allowed per Unit.

(j) Non-Residential Structures. The Board may adopt regulations regarding the land use, individual conduct and uses of or actions upon any Non-Residential Areas, at the time any property is annexed into or merged with the Properties, at the time of any amendment permitting non-residential use within any areas currently designated as single family residential Units, or at any other time deemed appropriate by the Board.

## **ARTICLE 11 MAINTENANCE**

11.1 Responsibility of Association. The Association will be responsible to maintain and keep in good repair the Common Area and other Property which the Board may decide to maintain in the interest of the Association.

The Association shall have an affirmative obligation to maintain all private access easements and all driveway easements in **EXHIBIT B** Properties and improvements on either, to the extent conveyed to the Association or to the extent such responsibility is assigned to the Association by this Declaration or any amendment hereto, in good condition, subject to the payment of Supplemental Assessments by the Owners of all Lots benefitted by the easements. Under no circumstances shall the Association have an obligation to utilize Association funds to maintain the access and driveway easements and improvements thereon, other than those funds collected for those purposes. Some of these private access easements (referred to herein as "Easements" and each an "Easement") are described in amendments to the Stage Two Primary Covenants recorded in the following Books and Pages of the Brunswick County Register of Deeds: Book 1380, at Page 707; Book 1380, at Page 714; Book 1480, at Page 721; Book 1382, at Page 241; Book 1573, at Page 785; Book 1590, at Page 290; Book 1953, at Page 505; and Book 1979, at Page 1227. The Association, with the approval, as to each particular Easement, of all the owners of the Lots subject to the particular Easement, as depicted on recorded plats of the Easements ("Easement Owners") may dedicate the Easement to the Village of Bald Head Island for use by the public. Upon approval by the Association and the Easement Owners, a plat shall be recorded that indicates the dedication of the Easement to the Village of Bald Head Island for use as a public street. After the Association's compliance with the Village Code of Ordinances, including, without limitation, those provisions applicable to a service access thoroughfare, and any other legal requirements applicable to the dedication and acceptance of the dedication of the Easement by the Village of Bald Head Island, the Association shall be responsible for the maintenance of the Easements only in the event the Village fails to keep the Easements in proper repair and free from unnecessary obstructions, abandons the Easements as provided by law, or by agreement of the Association and Village.

11.2 Responsibility of Owner. Each Unit Owner will maintain and preserve the grounds of the Unit. Living Unit, and all structures located thereon in a clean, neat, sightly and attractive condition; and will provide for the removal of all trash or refuse from the Unit. This removal will be consistent with the Community Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Declaration. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may, but is not required to, perform such maintenance responsibility and assess all costs incurred by the Association against the Unit and the Owner in accordance with ARTICLE 5. The Association will afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

Within certain subdivisions or communities depicted in **EXHIBIT B**, certain properties as shown on recorded plats of said subdivisions shall be owned by the owner of more than one Lot, for the sole benefit and use of said owners. For example, a common driveway may provide access to two or more Lots, or a common walkway may provide beach access or access to other areas to the owners of two or more Lots. The owners of such Lots shall have the primary responsibility for the maintenance and upkeep of such jointly-owned properties. However, to the extent that one or more of said owners fails or refuses to maintain such properties in a good, useable and sightly condition, or to the extent that one or more of such owners does not pay said owner's pro rata share for the upkeep and maintenance of such facility,

the Association shall have the full right and authority to go upon such property, and to bring such improvements located hereon into a good, slightly, useable condition, or to cause landscaping or maintenance to be undertaken to maintain the safety and slightly appearance of such property, and the Association shall have the right to assess, in the nature of a special assessment, without approval of any owner, the cost thereof against any owner not contributing said owner's fair and prorate share of the cost of such activities or improvements. Before the Association undertakes such action or expends any funds, the Association shall give a written notice to all affected owners, giving such owners thirty (30) days in which to take the required action or to pay the required fees. Failure of the owners to then so act shall give the absolute right to the Association to proceed as allowed herein, and to collect as part of the assessment an additional twenty percent (20%) of the cost of the work performed as an administrative and supervisory fee.

11.3 Maintenance of Units. If, in the opinion of the Association, any Owner fails to maintain any Unit owned by him in a manner which is reasonably neat and orderly and as is required by ARTICLE 10 or 11 or shall fail to keep improvements constructed thereon in a state of repair so as not to be unsightly, all in the sole opinion of the Association, the Association in its discretion, by the affirmative vote of a majority of the members of the Board of Directors, and following ten (10) days written notice to Owner, may enter upon and make or cause to be made repairs to such improvements and perform such maintenance on the Unit as may be required. This maintenance includes the removal of trash, pruning of shrubbery, weeding, performing items of erosion control, and removing unsightly structures and objects. The Association shall have an easement for the purpose of accomplishing the foregoing.

11.4 Standard of Performance.

Maintenance, as used in this ARTICLE, will include, but not be limited to, repair and replacement as needed, as well as other duties, as the Board may determine necessary or appropriate to satisfy the Community Wide Standard. All maintenance will be performed in a manner consistent with the Community Wide Standard and all applicable covenants and restrictions.

## **ARTICLE 12 EASEMENTS**

12.1 Easement for Utility Installation.

(a) All of the Common Area will be subject to a perpetual non-exclusive easement for water lines, sanitary sewers, storm drainage facilities, telephone and electric power lines, television antenna lines, and other public utilities as may be established by the Association whether the same be within the boundaries of any Unit; provided, however, to the extent that the Properties have been made subject to utility easements by that instrument recorded in Book 490, Page 260 of the Brunswick County Registry or other recorded easement, and such easements have been utilized by public utilities for the placement or construction of utilities easements, or are reasonably necessary, as determined by the Board of the Association, for use for such placement based upon the location of existing utilities within such easements, such easements shall survive the recording of this Declaration. All other utility easements

reserved to Bald Head Island Limited, LLC or its predecessors, i.e., easements which have not been utilized by public utilities in the construction or placement of utility systems or are not deemed necessary to be utilized by public utilities in the construction or placement of utility systems, are extinguished.

(b) The Association may grant easements for utility or other purposes for the benefit of the Properties and the Units, over, under, along and through the Common Areas. Provided, however that no such grant of easement will have a material adverse effect on the use, enjoyment or value of any Unit.

(c) All utility wires, lines, cables and lines, and pipes, without exception, will be underground.

(d) The Owners of Lots described in **EXHIBIT B** agree to execute a contract for availability of utility services in the form as approved from time to time by the North Carolina Utilities Commission, and to pay such charges as required thereby and as the same may be amended from time to time with approval of the North Carolina Utilities Commission. To the extent allowed by the North Carolina Utilities Commission, said fee may be collected as part of Supplemental Dues payable to the Association, and the Association shall remit such sums collected to the appropriate utility company.

12.2 Easements for Cross-Drainage. Every Unit and the Common Area will be burdened with easements for drainage of water runoff from other portions of the Properties. No Unit Owner will alter the drainage on any Unit so as to materially increase the drainage of water onto, or prevent drainage from, adjacent portions of the Properties without the consent of the Owner of the affected property.

12.3 Power to Grant Easements. The Association will have the power and authority to grant and to establish in, over, upon and across the Common Area conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Properties.

12.4 Easement for Entry. The Association will have the right, but not the obligation, to enter upon any Unit to perform maintenance pursuant to ARTICLE 11 hereof, and to inspect for the purpose of ensuring compliance with this Declaration, Bylaws, and the Rules and Regulations. This right may be exercised by any member of the Board and its officers, agents, employees, and managers without being guilty of a trespass. Except in an emergency situation, entry will only be during reasonable hours and after notice to the Owner.

12.5 Easement for Maintenance. All maintenance of any water, sewer or drainage easement will be the responsibility of the Owner of the Unit on which said easement is located. No structure, planting or other material will be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, sewer or drainage facilities, or which may change the direction of flow of drainage channels in the easements. The easement area of each Unit and all improvements in it will be maintained continuously by the Owner of the Unit, except for those improvements for which a public authority or utility company is responsible.



12.6 Easements for Owner's Ingress and Egress. Every Owner and User shall have a perpetual non-exclusive easement and right of ingress and egress over and across any of the private roads and sidewalks located or to be located within the Properties, as shown on any recorded plats of the Property, for the purpose of providing vehicular and pedestrian access to and from the Properties.

12.7 Easement for Pathways. Each Owner and User will have a perpetual, non-exclusive easement for the use and enjoyment of bicycle paths, pedestrian paths, or nature preserve trails, if any, which may be established by the Association.

12.8 Common Area Easement. Every Owner of a Unit within the Properties, as an appurtenance to such Unit, shall have a perpetual easement over and upon the Common Area within the Properties for each and every purpose or use to which such Common Area is intended as determined by its type, or for which such Common Area generally is used, including, but not limited to, easement of access, maintenance, repair or replacement of the Common Area.

12.9 Grading Easement. The Association reserves unto itself, its successors and assigns, perpetual, alienable and releasable easements within the Properties, including an easement on, over and under the ground to cut drainways for surface water and an easement to grade soil whenever and wherever such action may appear to the Association to be necessary.

12.10 Golf Course Restrictions for Fairway Units. The following special restrictions will apply to all Units abutting, adjoining or lying contiguous to the golf course:

(a) Owners of such Units will not engage in any activities which would detract from the playing qualities of the Bald Head Island Golf Course, or from the Properties and its attractive overall landscaping plan for the entire golf course area.

(b) The owner of the golf course ("Golf Course Owner") is hereby granted an assignable "golf course maintenance easement area" of thirty (30) feet from the boundary between the Units and the golf course for the purpose of landscaping, planting of grass, watering the golf area, application of fertilizer to the golf area as needed, and otherwise mowing and maintaining the easement area. This easement privilege will include the removal of underbrush, trees less than three inches in diameter (outside bark to outside bark) when measured four feet along the tree trunk, clustered growth measuring less than two square feet, stumps, trash and debris that would or could be in conflict with the plans and specifications of the golf course area as determined by the Golf Course Owner.

(c) Golf Course Owner is hereby granted for itself, its successors or assigns, an easement to permit and authorize registered golf course players and their caddies to enter upon the golf course easement maintenance area to recover a ball or play a ball. This easement is subject to the official regulations of the course, and such entering and playing will not be deemed a trespass. Registered golf players or their caddies will not be privileged to enter the golf course maintenance easement area on any Unit with a golf cart or other vehicle. Golf

Course Owner, its successors or assigns, agree to place and maintain “out of bounds” markers on said lots at the expense of the Golf Course Owner, its successors and assigns.

12.11 Prior Easements. Notwithstanding the replacement of the 2000 Declaration and Stage Two Primary Covenants with this Declaration, all easements created and described in the 2000 Declaration and Stage Two Primary Covenants shall be easements appurtenant to, and shall run with, the land by whomsoever owned, whether or not the same shall be contained or referred to in any future deed or conveyance, and shall at all times inure to the benefit and be binding upon the Association and the Owners, all their grantees and their respective heirs, successors, personal representatives or assigns.

12.12 Easements Run with the Land. All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on all undersigned, their heirs, successors and assigns, and any Owner, purchaser, mortgagee, beneficiary under a deed of trust and other Person having an interest in said land, or any part or portion thereof, regardless of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee, beneficiary under a deed of trust and other Person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or deed of trust or other evidence of obligation, to the easements and rights described in this Declaration.

## **ARTICLE 13**

### **SUBDIVISION OF LOTS AND ANNEXATION**

13.1 Subdivision. No Unit within the Properties shall be subdivided or divided into smaller Unit(s) or its boundary lines changed, nor shall any Unit or portion of a Unit be added to or incorporated into any other Unit, without the written consent of the Association, except that subdivision or division of any Unit into Time Share Units is prohibited. However, any two property Owners may jointly purchase and divide a Unit between their respective Units, but in such event, the Unit then ceases in perpetuity to be a Unit in the Properties and is merged into the Ownership of the respective adjoining property Owners in the ratio of their division. Such division must be recorded in writing with the Association. The total number of Units, as indicated on **EXHIBIT A and B** shall not be increased. This Section shall not preclude the addition of Units by subsequent annexation of additional areas.

If the recombination of any Units reduces the total number of allowable building Units within Properties, for purposes of membership in the Association and for purposes of the payment of dues and assessments, recombined Units will be considered a single Unit.

13.2 Annexation. The Association may annex and subject any property on Bald Head Island to the provisions of this Declaration with the consent of the owner of such property (and any mortgagee or holder of a deed of trust on such property) and the affirmative vote of a majority of the members of the Board of Directors of the Association then holding office. Such annexation shall be accomplished by recording a supplemental declaration in the office of the Register of Deeds of Brunswick County describing the property to be annexed and

specifically subjecting it to the terms of this Declaration and the jurisdiction of the Association. Any such supplemental Declaration shall be signed by the President of the Association and the owner of the annexed property (and the mortgagee or holder of a deed of trust on the annexed property, if any). Any such annexation shall be effective upon recording the supplemental declaration in the office of the Register of Deeds of Brunswick County unless otherwise provided therein. Any property annexed and made subject to this Declaration shall be subject to all the terms and conditions of this Declaration, and the owner of such annexed property shall be a member of the Association.

## **ARTICLE 14**

### **DURATION, AMENDMENT AND TERMINATION**

14.1 Units, Persons and Entities Subject to this Declaration, Duration and Termination. All present and future Owners and Users, shall be subject to, and shall comply with the covenants, conditions, restrictions and affirmative obligations set forth in this Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance, the entering into of a lease, or the entering into occupancy or the visiting of any Unit will constitute an agreement that the provisions of this Declaration are accepted and ratified by such Owner and User and that they will fully comply with the terms and conditions of this Declaration. The covenants, conditions, restrictions, and affirmative obligations of this Declaration shall inure to the benefit of and be enforceable by the Association, or the Owner of any Unit, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded in the Brunswick County Registry, after which date this Declaration shall be extended for successive periods of thirty (30) years, unless a majority of the then Owners agree to revoke the same. The covenants, restrictions, conditions and affirmative obligations of this Declaration shall run with and bind the land and shall bind any Person having at any time any interest or estate in any Unit as though such provision were made a part of each and every deed of conveyance or lease.

14.2 Amendment. This Declaration may be amended by vote of two-thirds of those present and voting in person or voting by proxy at a meeting of the Members. An instrument which has attached as an exhibit, a certified copy of the resolution adopting the amendment and which has been signed by the president of the Association and attested to by its secretary, must be recorded in the Brunswick County Registry for such an amendment to be effective. In no event may this Declaration be amended so as to alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or to affect any lien for the payment thereof established herein.

The Board of Directors of the Association may amend this Declaration as shall be necessary, in its opinion, and without the consent of any Owner, in order to qualify the Association or the Subject Property or any portion thereof, for tax-exempt status. Such amendment will become effective upon the date of its recordation in the Brunswick County Registry.

The Association through a vote of two-thirds of its Board of Directors will be allowed to amend this Declaration, notwithstanding any other provision contained herein, and without joinder of any other party, to correct any discovered error contained herein, to clarify any ambiguity contained herein, or to add or delete any incidental provisions deemed in the sole discretion of Association to be in the best interest of the Association. This right may be exercised, and will be effective, only upon the recordation of a "Corrected Declaration" in the office of the Register of Deeds of Brunswick County. The Corrected Declaration shall specifically reference this document, and the provision impacted.

## **ARTICLE 15**

### **COMPLIANCE WITH THIS DECLARATION, THE ARTICLES, THE BYLAWS, AND THE RULES AND REGULATIONS OF THE ASSOCIATION**

In the case of failure of an Owner or User to comply with the terms and provisions contained in this Declaration, the Articles, the Bylaws, Rules and Regulations or Design Guidelines, the following relief shall be available:

15.1 Enforcement. The Association, any Owner, any aggrieved Owner on Bald Head Island on behalf of the Association, or any Owner on behalf of all the Owners on Bald Head Island who are Members of the Association shall have the right to enforce by any proceeding at law or in equity, all of the conditions, covenants and restrictions of this Declaration and the Articles, Bylaws, Rules and Regulations of the Association, Design Guidelines and any and all laws hereinafter imposed pursuant to the terms of this Declaration. The prevailing party will be entitled to collect all costs thereof, including reasonable attorneys' fees.

15.2 Remedies. The Association shall have the right to remedy the violation, including the right of entry onto any Unit without being guilty of trespass, and assess the costs of remedying same against the offending Owner as a Special Assessment as provided in ARTICLE 5 herein.

15.3 Suspension of Rights. For any violation of any provision of this Declaration, the Articles, the Bylaws, the Rules and Regulations, or Design Guidelines by an Owner or his User, including, but not limited to, the nonpayment of any General Assessment, Special Assessment, or Supplemental Assessment, the Association shall have the right to suspend the offending Owner's voting rights and/or the use by such Owner and his/her Users of the Common Area and recreational facilities and Amenities for any period during which a violation continues. Such penalties may not be for more than sixty (60) days for violation of any of the Association's published Rules and Regulations.

15.4 Fines. The Association may establish a schedule of fines for the violation of this Declaration, the Articles, Bylaws and Rules and Regulations and Design Guidelines. If an Owner does not pay the fine within fifteen (15) days the fine shall be a Special Assessment

against the Owner's Unit and may be enforced by the Association in accordance with ARTICLE 5 herein.

15.5 Remedies Cumulative. The remedies provided by this Article are cumulative, and are in addition to any other remedies provided by law.

15.6 Waiver. No provision contained in this Declaration, the Articles, the Bylaws, the Rules and Regulations, or the Design Guidelines will be deemed to have been waived, abandoned, or abrogated by reason of failure to enforce them on the part of any Person or the Association as to the same or similar future violations, no matter how often the failure to enforce is repeated. The Association will not be liable to any Owner or other aggrieved party for failure to enforce any provision of this Declaration, the Articles, Bylaws, Rules and Regulations, or Design Guidelines.

## **ARTICLE 16 GENERAL PROVISIONS**

16.1 Dispute Resolution. If a dispute, controversy or claim (whether based upon contract, tort, statute, common law or otherwise) (collectively, a "Dispute") involving the Association arises from or relates directly or indirectly to Bald Head Island, to the development of Bald Head Island, or to this Declaration, Articles, Bylaws, Rules and Regulations, or Design Guidelines; and if the dispute cannot be settled through direct discussions; the parties, including the Association or any Owner, shall submit the dispute for resolution in a mediation administered by a North Carolina certified mediator with experience in homeowners association matters. The mediator will be chosen by agreement by both parties under rules consistent with the rules for mediation required by North Carolina Superior Court. The mediation shall be nonbinding on the parties.

16.2 Amenities and Facilities. Every park, recreation area, recreation facility, dedicated access, and other Amenities appurtenant to the Properties, whether or not shown and delineated on any recorded plat of the Properties, will be considered private and for the sole and exclusive use of the Owners of Units within the Properties. Neither the recording of any plat nor any act of the Association with respect to such area is, or is intended to be, or will be construed as a dedication to the public of any such areas, facilities, or Amenities.

16.3 Applicability; Leases. All provisions of this Declaration and of any Association Rules and Regulations will apply to all Owners and Users of any Unit. Any lease on a Unit will provide that the User of the Unit will be bound by the terms of this Declaration, the Bylaws, and the Rules and Regulations of the Association.

16.4 Other Associations. Other associations have been or may be established within the Properties (e.g., condominium associations) and in connection therewith may designate limited common areas solely for the benefit of members of such associations. The annexation to Bald Head Association of such areas does not and will not entitle the Members of Bald Head Association to the use of any limited common area established for the benefit of members of such other associations.



16.5 Variances. The Board in its discretion by a vote of at least two-thirds of the members of the Board may allow reasonable variances and adjustments of this Declaration in order to alleviate practical difficulties and hardship in their enforcement and operation. Any such variances will not violate the spirit or the intent of this document to create a subdivision of Units owned in fee by various persons, with each such Owner having an easement upon areas owned by the Association.

16.6 Conflict. In the event of any irreconcilable conflict between this Declaration and the Bylaws of the Association or the Articles of Incorporation of the Association, the provisions of this Declaration will control. In the event of any irreconcilable conflict between **EXHIBIT C** and the Declaration itself, the provisions of **EXHIBIT C** will control with respect to those Properties in **EXHIBIT B** (Stage Two). As to Properties in **EXHIBIT A**, the remainder of the Declaration will control.

16.7 Severability. Invalidation of any one of the covenants or restrictions set forth herein by judgment of any court, agency or legislative order will in no way affect any other provisions, covenants, conditions or restrictions contained in this Declaration.

16.8 Captions. The captions preceding the various Articles of this Declaration are for the convenience of reference only, and will not be used as an aid in interpretation or construction of this Declaration. As used herein, the singular includes the plural and where there is more than one Owner of a Unit said Owners are jointly and severally liable for the obligations herein imposed. Throughout this Declaration, references to the masculine will be deemed to include the feminine, the feminine to include the masculine, and the neuter to include the masculine and feminine.

16.9 Liberal Construction. The provisions of this Declaration shall be construed liberally to effectuate its purpose of creating a common plan or scheme of development of fee simple ownership of Units and buildings governed and controlled by rules, regulations, restrictions, covenants, conditions, reservations and easements administered by an owners' association with each Owner entitled to and burdened with the rights and easements equivalent to those of other Owners.

## **ARTICLE 17**

### **STAGE TWO SECONDARY COVENANTS**

17.1 References in Stage Two Secondary Covenants to Stage Two Primary Covenants. The Stage Two Secondary Covenants shall remain in full force and effect, but the Stage Two Primary Covenants are no longer in effect and have been replaced and superseded by this Declaration. The Stage Two Secondary Covenants contain references to the Stage Two Primary Covenants. Those references shall refer to certain sections of this Declaration as set forth on **EXHIBIT C**.

17.2 Enforcement of Stage Two Secondary Covenants. The Association is vested with exclusive authority to enforce the Stage Two Secondary Covenants, except to the extent that any of the communities so authorized by the Stage Two Secondary Covenants may, if they so desire, form a sub-association for the purpose of enforcing the Stage Two Secondary Covenants applicable to the particular community; provided that these communities may not be forced or otherwise compelled by the Association to form a sub-association.\_

IN WITNESS WHEREOF, the Association, acting pursuant to the authority recited above, and Bald Head Island Limited, LLC, for the purpose of consenting to the terms of this Declaration, have caused this Declaration to be executed under seal in a manner so as to be binding this the day and year first above written.

BALD HEAD ASSOCIATION

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary  
(SEAL)

BALD HEAD ISLAND LIMITED, LLC

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary  
(SEAL)

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

I, \_\_\_\_\_, a Notary Public of the State and County aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is \_\_\_\_\_ Secretary of Bald Head Association, a North Carolina corporation with its principal office in Brunswick County, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal, and attested by himself/herself as its \_\_\_\_\_ Secretary.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

I, \_\_\_\_\_, a Notary Public in and for the State and County aforesaid, do hereby certify that \_\_\_\_\_, personally came before me this day and acknowledged that he is President of Bald Head Island Limited, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

## **EXHIBIT A**

**BEING** all of that real property located on Bald Head Island, Smithville Township, Brunswick County, North Carolina, and more particularly described as follows:

That portion of Bald Head Island bounded on the northeast by North Bald Head Wynd, as located on the subdivision plats hereinafter described, extended to the high water mark of the Cape Fear River, on the east by Muscadine Wynd, as located on the subdivision plats hereinafter described, extended to the high water mark of the Atlantic Ocean, and on the South, West and Northwest by the high water mark of the Atlantic Ocean and the Cape Fear River, which is not shown on subdivision plats recorded in Map Book 12, Pages 1-11 and 38 of the Brunswick County Registry, or included in the tracts set aside for the Bald Head Inn as described in that deed of trust to Dotson G. Palmer, et al., Trustees for Mutual Savings and Loan Association, recorded in Book 288 at Page 470 of the Brunswick County Registry, and amended by Modification Agreement recorded in Book 342, Page 129 of the Brunswick County Registry; and

**BEING** all of that real property annexed to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick County recorded in Book 498, Page 260, of the Brunswick County Registry; and

**BEING** all of that real property described in the documents set forth below and all amendments thereto, all of which are recorded in the Brunswick County Registry:

Book 263, Page 621.  
Book 288, Page 470.  
Book 342, Page 129.  
Book 374, Page 645.  
Book 379, Page 583.  
Book 399, Page 488.  
Book 409, Page 421.  
Book 498, Page 260.  
Book 514, Page 164.  
Book 580, Page 880.  
Book 588, Page 877.  
Book 661, Page 441.  
Book 661, Page 443.  
Book 666, Page 678.  
Book 679, Page 344  
Book 679, Page 349.  
Book 700, Page 522.  
Book 700, Page 528  
Book 715, Page 803.  
Book 882, Page 431.  
Book 925, Page 149.  
Book 961, Page 754.

Book 976, Page 977.  
Book 1005, Page 953.  
Book 1023, Page 362.  
Book 1177, Page 391; and

**BEING** all of that real property described in the maps set forth below and all revisions and additions thereto, which maps are all recorded in the Brunswick County Registry:

Map Book 12, Pages 1-11.  
Map Book 12, Pages 14-17.  
Map Book 12, Pages 36-39.  
Map Cabinet I, Page 373.  
Map Cabinet J, Pages 178-184.  
Map Cabinet J, Page 319.  
Map Cabinet L, Page 195.  
Map Cabinet M, Pages 84-86.  
Map Cabinet O, Page 380.  
Map Cabinet Q, Page 206.  
Map Cabinet S, Page 12.  
Map Cabinet S, Page 112.  
Map Cabinet S, Pages 143-144.  
Map Cabinet U, Page 287.  
Map Cabinet X, Page 231.  
Map Cabinet Y, Page 93.  
Map Cabinet Y, Page 246.  
Map Cabinet Z, Page 72.  
Map Cabinet Z, Page 196; and

**BEING** all of that real property which is located in, made a part of, and annexed to the following subdivisions or sections, including, but not limited to those documents and maps set forth below and all amendments, revisions and additions thereto, all of which are recorded in the Brunswick County Registry:

Sabal Palm Cottages

Book 1068, Page 106  
Book 1109, Page 753  
Book 1100, Page 828

Map Book 17, Page 153  
Map Book 18, Page 14



### Timber Creek Condominiums

Book 597, Page 185  
Book 600, Page 232  
Book 601, Page 137  
Book 649, Page 475

Map Cabinet O, Page 160  
Map Cabinet O, Page 161  
Condominium Plat Book 3, Pages 37-41

### Lighthouse Landing

Book 766, Page 519  
Book 1068, Page 124  
Book 1075, Page 337  
Book 1081, Page 365  
Book 1195, Page 163  
Book 1122, Page 288  
Book 1132, Page 1015

Map Cabinet Z, Page 399  
Map Book 17, Page 152  
Map Book 17, Page 241  
Map Book 17, Page 465  
Map Book 18, Page 232  
Map Book 18, Page 440

### Bald Head Island Villas

Book 487, Page 687  
Book 803, Page 580

Map Cabinet M, Page 250

### Ibis Roost

Book 785, Page 231  
Book 912, Page 168  
Book 945, Page 491  
Book 956, Page 1046  
Book 966, Page 468  
Book 971, Page 584  
Book 979, Page 280  
Book 983, Page 830  
Book 1062, Page 118

Map Cabinet T, Pages 287-289  
Map Cabinet T, Page 373  
Map Cabinet U, Page 213  
Map Cabinet X, Page 388  
Map Cabinet Y, Page 71  
Map Cabinet Y, Page 187  
Map Cabinet Y, Page 268  
Map Cabinet Y, Page 305

#### Middle Island

Book 399, Page 448  
Book 814, Page 501  
Book 824, Page 315

#### Swans Quarter

Book 651, Page 884  
Book 663, Page 442

Condominium Plat Book 5, Pages 82-94  
Condominium Plat Book 5, Pages 131-136

#### The Hammocks

Book 1240, Page 983  
Book 1252, Page 47  
Book 1261, Page 1148  
Book 1263, Page 755  
Book 1286, Page 919  
Book 1310, Page 1039

Map Cabinet 7, Page 345  
Map Cabinet 7, Page 346  
Map Cabinet 7, Page 347  
Map Cabinet 7, Page 348  
Map Cabinet 7, Page 349  
Map Cabinet 7, Page 350  
Map Cabinet 7, Page 392  
Map Cabinet 7, Page 393  
Map Cabinet 7, Page 394  
Map Cabinet 7, Page 395  
Map Cabinet 7, Page 396  
Map Cabinet 7, Page 397  
Map Cabinet 7, Page 398

Map Cabinet 7, Page 432  
Map Cabinet 7, Page 433  
Map Cabinet 7, Page 434  
Map Cabinet 7, Page 478  
Map Cabinet 7, Page 479  
Map Cabinet 7, Page 480  
Map Cabinet 7, Page 481  
Map Cabinet 7, Page 482  
Map Cabinet 7, Page 483

### Flora's Bluff

Book 911, Page 497  
Book 926, Page 719  
Book 927, Page 951  
Book 930, Page 1066  
Book 933, Page 550  
Book 940, Page 197  
Book 941, Page 344  
Book 942, Page 1082  
Book 953, Page 633  
Book 959, Page 672  
Book 961, Page 1009  
Book 971, Page 582  
Book 987, Page 594  
Book 1004, Page 99  
Book 1077, Page 255

Map Cabinet X, Pages 101-102  
Map Cabinet X, Page 253  
Map Cabinet X, Page 262  
Map Cabinet X, Page 279  
Map Cabinet X, Page 318  
Map Cabinet X, Page 356  
Map Cabinet X, Page 362  
Map Cabinet X, Page 371  
Map Cabinet Y, Page 37  
Map Cabinet Y, Page 79  
Map Cabinet Y, Page 95  
Map Cabinet Y, Page 186  
Map Cabinet Y, Page 333  
Map Cabinet Z, Page 62  
Map Book 17, Page 262

### Killegray Ridge

Book 1007, Page 1015  
Book 1017, Page 131  
Book 1018, Page 44  
Book 1020, Page 435  
Book 1025, Page 806  
Book 1025, Page 808  
Book 1036, Page 115  
Book 1040, Page 728  
Book 1047, Page 292  
Book 1064, Page 714  
Book 1066, Page 211  
Book 1084, Page 519  
Book 1084, Page 521  
Book 1095, Page 585  
Book 1103, Page 1177

Map Cabinet Z, Page 89  
Map Cabinet Z, Page 92  
Map Cabinet Z, Page 165  
Map Cabinet Z, Page 171  
Map Cabinet Z, Page 192  
Map Cabinet Z, Page 231  
Map Cabinet Z, Page 232  
Map Cabinet Z, Page 303  
Map Cabinet Z, Page 337  
Map Cabinet Z, Page 398  
Map Book 17, Pages 127-128  
Map Book 17, Page 146  
Map Book 17, Page 341  
Map Book 17, Page 342  
Map Book 17, Page 345

Book 1112, Page 583  
Book 1149, Page 792  
Book 1155, Page 54  
Book 1177, Page 54  
Book 1177, Page 391  
Book 1192, Page 746  
Book 1208, Page 1139  
Book 1219, Page 900  
Book 1220, Page 740  
Book 1238, Page 116

Map Book 17, Page 518  
Map Book 18, Page 85  
Map Book 18, Page 276  
Map Book 18, Page 467  
Map Book 19, Page 243  
Map Book 19, Page 371  
Map Book 19, Page 499  
Map Book 20, Page 152

### Bald Head Island Harbour

Book 697, Page 267  
Book 722, Page 952  
Book 808, Page 358  
Book 892, Page 13  
Book 955, Page 846  
Book 982, Page 43  
Book 985, Page 384  
Book 991, Page 1022  
Book 1005, Page 945  
Book 1011, Page 189  
Book 1069, Page 67  
Book 1092, Page 196  
Book 1169, Page 1129  
Book 1185, Page 928

Map Cabinet R, Page 365  
Map Cabinet S, Page 142  
Map Cabinet S, Page 300  
Map Cabinet U, Page 41  
Map Cabinet U, Page 66  
Map Cabinet U, Page 157  
Map Cabinet W, Page 323  
Map Cabinet X, Page 367  
Map Cabinet Y, Page 61  
Map Cabinet Y, Page 289  
Map Cabinet Y, Page 313  
Map Cabinet Z, Page 75  
Map Cabinet Z, Page 118  
Map Cabinet 17, Pages 176 and 177.

## **EXHIBIT B**

### **STAGE TWO**

All of the property previously made subject to the terms of the Protective Covenants for Bald Head Island Stage Two recorded in Book 1045, Page 676 in the office of the Register of Deeds of Brunswick County, including without limitation the property described in the following amendments, as they have been amended and supplemented (the Book and Page number in which these documents have been recorded in the office of the Register of Deeds of Brunswick County are included with each document in parentheses):

Braemar Extension (Book 1127, Page 1033);  
Braemar Highlands (Book 1116, Page 689);  
Cedar Court (Book 1062, Page 114);  
Chicamacomico Woods, Cape Fear Station (Eco Tract A) (Book 2110, Page 508);  
Eco-A-Prime, Cape Fear Station (Book 2172, Page 1426);  
Eco-A-Prime Phase 2, Cape Fear Station (Book 2526, Page 795).  
Eco Tract C - Kitty Hawk Cape Fear Station (Book 1915, Page 62);  
Eco Tract C – Kitty Hawk (Book 1953, Page 505);  
Eight (8) Lots in Commercial Tract 5A Cape Fear Station (Book 2173, Page 10);  
Faire Isle, f/k/a Palmetto Point Island (Book 1260, Page 264);  
Keeper's Landing Cape Fear Station - Multi Family 4 (Book 1766, Page 1200);  
Keeper's Landing, Cape Fear Station – Multi-Family 4 (Book 1966, Page 132);  
Kinnakeet Woods, Cape Fear Station (Eco Tract B) (Book 2110, Page 516);  
Kitty Hawk Woods (Eco-B-Prime) Cape Fear Station (Book 2365, Page 276);  
Loggerhead Beach (Book 1287, Page 1040);  
Lot 2072 Extension (Book 1242, Page 855);  
Palm Court (Book 1062, Page 110);  
Palmetto Cove (Book 1045, Page 696);  
Phase One, Surfman's Walk Cape Fear Station – Multi Family 3 (Book 1573, Page 785)  
Phase Two, Surfman's Walk Cape Fear Station – Multi Family 3 (Book 1610, Page 132);

Recreation 1 – Village Common Cape Fear Station (Book 1388, Page 1353);  
Single Family 1 Cape Fear Station (Book 1590, Page 290);  
Single Family 2 Cape Fear Station (Book 1590, Page 297);  
Single Family 3 Cape Fear Station (Book 1380, Page 707);  
Single Family 4 Cape Fear Station (Book 1590, Page 304);  
Single Family 5 and 7 Cape Fear Station (Book 1380, Page 714);  
Single Family 6 Cape Fear Station (Book 1862, Page 1159);



Single Family 8 Cape Fear Station (Book 1382, Page 241);  
Single Family 9 Cape Fear Station (Book 1380, Page 721);  
Single Family 10 Cape Fear Station (Book 1380, Page 1147);  
Single Family 11 Cape Fear Station (Book 1381, Page 98);  
Single Family 12 Cape Fear Station (Book 1604, Page 71);  
Single Family 13 Cape Fear Station (Book 1602, Page 410);  
Single Family 14 Cape Fear Station (Book 1435, Page 657);  
Single Family 15 Cape Fear Station (Book 1476, Page 1123);  
Single Family 16 – Shoals Watch Cape Fear Station (Book 1733, Page 763);  
Single Family 17 Cape Fear Station (Book 1372, Page 269);  
Single Family 18 Cape Fear Station (Book 1372, Page 263);  
Single Family 21 Cape Fear Station (Book 1979, Page 1227);

The Crescent (Book 2180, Page 1195);

The Crescent Cape Fear Station Multi Family 2 (Book 2075, Page 1220);

The Grove (Book 1261, Page 257)

**LESS AND EXCEPTING THE PROPERTIES COMPRISING FLORA'S BLUFF AND  
KILLEGRAY RIDGE.**

## **EXHIBIT C**

References in the Stage Two Secondary Covenants to sections of the Stage Two Primary Covenants shall mean and refer to certain sections of this Declaration as follows:

1. References to the "Protective Covenants" shall mean and refer to this Declaration.
2. References to the "Association" shall mean and refer to Bald Head Association.
3. All capitalized terms set forth in the Stage Two Secondary Covenants shall have the same meaning as specified therein, and if not so specified, shall have the meaning set forth in this Declaration.
4. References to "Common Property" shall mean and refer to "Common Area" as described in Section 1.8 of this Declaration.
5. References to "Paragraph 3 of the Protective Covenants" shall refer to Section 10.5(a) of this Declaration.
6. References to "Paragraph 4 of the Protective Covenants" shall refer to Article 7 of this Declaration.
7. References to "Paragraph 5 of the Protective Covenants" shall refer to Article 7 of this Declaration.
8. References to "Paragraph 6 of the Protective Covenants" shall refer to Article 5 of this Declaration.
9. References to "Paragraph 8 of the Protective Covenants" shall refer to Section 7.8(a)(3) of this Declaration.
10. References to "Paragraph 12 of the Protective Covenants" shall refer to Section 13.1 of this Declaration.
11. References to "Paragraph 19 of the Protective Covenants" shall refer to Section 7.8(b)(1) of this Declaration.

**EXHIBIT D**  
**(APPLICABLE TO BRAEMAR SUBDIVISION ONLY)**

All Lots within the Braemar Subdivision ("Braemar") depicted on the plat recorded in Map Cabinet Z, Page 386 in the office of the Register of Deeds of Brunswick County ("Plat") shall be subject to the following restrictions, which were previously set forth in the Stage Two Primary Covenants:

(A) The minimum square footage of heated, enclosed living space for each approved primary residential structure shall be 2000 square feet.

(B) No primary structure will be allowed to extend outward from any building plan shown on the Plat, and the construction of any improvement or structure extending outward from said building pad shall require approval of the Committee following an affirmative finding that said improvement or structure meets the standards contained in Article 7 and will not have a negative impact on adjoining Lots.

(C) Each Lot owner shall keep the grounds on his Lot and all structures located thereon in a clean, neat and sightly condition, and shall provide for the regular removal of all trash or refuse from the Lot.

(D) No animals, livestock or poultry of any kind shall be kept or maintained on any Lot except that no more than two (2) dogs or cats are allowed, and provided they are attended as required by the ordinances of the Village of Bald Head.

(E) In order to comply with the North Carolina Stormwater Regulations enacted by the Department of Environmental Management of the State of North Carolina, each Lot shall contain a maximum square footage covered by impervious surface (as defined by the Department of Environmental Management), which limitations are as set out as follows:

Maximum Impervious Area of 4,000 Square Feet: Lots 2251,  
2253, 2255, 2257, 2259, 2261, 2263, 2265

Maximum Impervious Area of 4,500 Square Feet: Lots 2052,  
2054, 2056, 2058, 2060, 2062, 2064, 2066

Impervious surfaces include structures, paved surfaces, walkways, patios of brick, stone, slate, and similar materials, and use of other materials that substantially negatively impact the ability of water to be assimilated into the soil. This provision is intended to insure continued compliance with stormwater runoff regulations and therefore this covenant may be enforced by the State of North Carolina. This provision runs with the land and is binding on all persons owning any Lot as shown on the Plat. No amendment of this provision shall be allowed unless consented to in writing by the State of North Carolina, Department of Environmental Management.

(F) The owners of Lots within Braemar shall be deeded by Declarant undivided interests in certain properties within Braemar, shown on the Plat, which shall be used by and made available only to those owners with an undivided interest therein. All owners with an undivided interest in such areas shall maintain such areas, and the improvements thereon, in a good, sightly and functional condition, with costs thereof, if any, being paid by said owners in properties to their undivided interests in such properties. Failure to do so shall permit the Association to take action and collect monies as allowed in Article 5 of this Declaration.

(G) Access to and from South Bald Head Wynd is limited to the area designated "Private Drive" on the Plat. Owners of Lots are prohibited from establishing driveways, walkways, or entrances of any kind along South Bald Head Wynd.

(H) No beach access or other structures, other than those constructed in designated access easements, shall be permitted south of the southernmost point of the designated building pad on each Lot.



## Bald Head Association

### ASSOCIATION CENTER POLICY

Orig. Approved 11/18/2000

Latest revision 6/9/2023

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We want members, non-members and their guests, to enjoy the use of the Association Center. The following rules are to help ensure that the Center remains a pleasant gathering space for our members for many years to come.

Thank you for using the Association Center for your event!

## PURPOSE OF ASSOCIATION CENTER

The Association Center is owned and managed by Bald Head Association (BHA), which is the largest property owners' association on Bald Head Island. The mission of the Bald Head Association is to provide leadership on behalf of members through community advocacy, communication with and for members and activities that sustain the values and attributes that make Bald Head Island unique.

In fulfilling the mission, BHA provides leadership to the community to create a vision for the long-term quality of life and the financial sustainability of Bald Head Island.

The Association Center serves the following purposes:

1. Administering the business of the Association. To this end, the building provides office space for BHA staff, as well as space for official Association meetings.
2. Providing an adequate gathering space for functions that benefit the membership and individual member needs and other on-Island entities. It is currently the only community center facility on Bald Head Island.

## ROOM RESERVATION GUIDELINES

- Suggested capacity arrangements/equipment follows this policy in Appendix B.
- Only adult members of the Bald Head Association in good standing may reserve the rooms of the Center or utilize its services at the member rate. Good standing indicates that the member is not in violation of any Covenant provisions and is not overdue in payment of Association fees, fines or dues.
- Non-members may also lease space in the Association Center at a non-member rate and by providing a security deposit of \$500 plus a valid credit card number.
- Members have first priority for reservations. Members may reserve space up to fifteen (15) months prior to an event. Non-members may reserve space up to nine (9) months prior. All are encouraged to reserve rooms as early as possible.
- First time users of the building should give sufficient notice in order to allow time prior to their event to meet with the designated Association Center staff person and review the room and equipment restrictions.
- Business events, such as seminars and meetings, are strongly encouraged during normal business hours, instead of weekends or evenings when demand for social events may be high. In addition, due to demand for BHA facilities, members wishing to host commercial non-BHA sponsored activities will be limited to ten (10) days of use (8 hours per day) of BHA facilities per year.
- All events will be scheduled and concluded between 6:00 AM and 11:00 PM.  
**Important: Hours reserved for events must include appropriate time for set-up and clean-up.**



- *The Association Center's Generator Society Hall will automatically be reserved to accommodate the meetings of the Association Board of Directors and the Architectural Review Committee (ARC).*
- The reserving party may rely on the Association staff to offer instruction on using the audio/visual equipment and field questions on use of the Center's facilities. However, all other needs must be coordinated by the reserving party. The Association staff does not set up the room for the event (table, chairs, etc.).
- The kitchen included in the rental fee is a **finishing kitchen, not a cooking kitchen.** With the exception of 13 and 55 gallon trashbags and dish detergent, all supplies, including oven mitts, dish towels, cutlery, utensils, etc., must be provided by the renter or the renter's caterer.
- *The reserving party is expected to vacate the room promptly at the scheduled conclusion of the event and not delay subsequent meetings.* The reserving party is also expected to return the room, including the kitchen space and restrooms, to the original condition. Failure to do so may result in the loss of all or a portion of the security deposit.
- Renter signing the application is responsible for any damage that occurs as a result of their rental of the Association Center, other than normal wear and tear, including the facility and its furnishings. Damage to the building, grounds and equipment, or excess cleaning costs associated with the event will be invoiced within 14 days after the event. BHA reserves the right to retain a portion or all of the reserving party's security deposit as payment for documented damages.
- To receive the member rate, BHA property owners must lease the space for an event for themselves or their immediate family members – spouse, parents, children, siblings or grandchildren/parents.
- In case of hurricanes or tropical storms, if the state or local government issues a voluntary or mandatory evacuation order of Bald Head Island, the renter shall be entitled to a 100% refund of all rental fees paid.
- BHA reserves the right to accept or reject any request for use of the facility.

#### **BILLING/ADVANCE PAPERWORK/DOOR CODE ACCESS**

When the reservation is made, the renter will be sent a copy of the Association Center policy (if he/she does not already have one), a reservation application, a liability agreement and an invoice. The invoice will include a required security deposit (\$500 for members; \$500 and a valid credit card number for non-members) to cover damage and/or excess cleaning costs, an onsite assistance fee for events held during non-business hours (\$100/event for those events where alcohol is present).

The invoice must be paid in full within 30 days of reservation to hold the reservation. All reservations unpaid at the end of 30 days will be removed from the calendar. In the event

of cancellation, 50% of the reservation fee and the deposit will be refunded as long as at least 90 days' notice is given. The fee schedule for the room is attached as Appendix A. The Application and the Association Center Liability Agreement, Appendix C, should be returned with the rental fee, security deposit, onsite assistance fee and security fee, when applicable. Personal/corporate checks and credit/debit cards are accepted. Payment may also be made on the BHA web site (baldheadassociation.com).

Alcoholic beverages may be consumed at Association Center events, except from 5:00 AM to 12:00 PM on Sundays, out of respect for the Chapel services. All applicable laws regarding consumption of alcohol will be observed. Permission to have alcohol at events is a specification that may be removed from this policy if problems resulting in Center damage or property owner complaints result from this privilege. Those who reserve the Center are strongly encouraged to bear this in mind in planning for the administration of refreshments at their event.

Mandatory on-site assistance is provided for those events held outside of normal business hours and will be billed at the current rate of \$100/day.

**VERY IMPORTANT: Due to insurance restrictions, a copy of a certificate of liquor liability insurance or a special event policy in the amount of \$1 million with Bald Head Association named as an additional insured must be presented to the Association Center Coordinator prior to any event where alcohol will be served. Alcohol will NOT be permitted at events that do not provide this at least seven (7) days in advance of the event date.**

No overnight storage, including rental equipment, is allowed except when agreed upon by the Association Center Coordinator. BHA assumes no responsibility or liability for injury or loss/damage to personal property or for any items rented or brought in from an outside source.

The Association Center Coordinator will provide the necessary door code and security deactivation schedule to the facility before the event. Items for the event can be placed in the Center before the scheduled time of the event only with permission of the Coordinator.

## EVENT GUIDELINES

### During the Event

- A door code will be provided to allow access to the Association Center.
- The event should be contained within the boundaries of the Association Center property.
- Smoking is only permitted on the ground decking in front of parking area. No smoking is permitted in the Center, or on any of the building level decks or porches. **Fire is a very real danger on our forested Island – butts should be properly disposed of in the containers provided, not tossed on the ground or in the woods. Please make sure all guests are aware of this guideline.**
- Attendees are expected to utilize walkways and not damage the landscaping on the premises. Damage includes removal of flowers or vegetation from bushes, trees or plants.
- Fire
  - a) Indoors: Candles and sterno devices are permitted indoors for events. The reserving party should take special care to ensure the devices are monitored to prevent safety hazards.
  - b) Outdoors: No outdoor flame is permitted, including any flame luminaries, such as enclosed lanterns or candles (floating or non-floating). This also includes cooking methods. **Gas grilling and electric luminaries only are permitted. In addition, grilling is not allowed on the decking area and is only permitted on the paved area of the parking lot.** Please do not plan any type of outdoor luminary or outdoor cooking, other than electric luminaries or gas grilling, without checking with the Association Center Coordinator. **Your planner or catering company is NOT part of Bald Head Association, and cannot authorize these items.** It is better to be safe and check with the Association Center Coordinator, than to spend money on decorations or food planning that will not be permitted at the building! Use of outdoor flame in violation of this policy will forfeit your deposit. Please also note the Village of BHI assesses a \$500 fine for outdoor burning without a permit.
- No decorations may be fastened to the walls with materials that mark, puncture or otherwise deface the surfaces.

- Care should be taken in placement of tables and chairs; do not to drag these across the hardwood floor/carpet surfaces.
- All Brunswick County noise ordinances will be observed. Loud and disorderly conduct will not be permitted.
- Should the police respond to complaints from surrounding property owners with respect to the event, the event participants are to immediately comply with police direction. Refusal to do so may result in penalty beyond police citation, in which the Board may revoke sponsor's use privileges of the Center for a period of one year.
- **Children and teenagers must be supervised at all times.**
- Signage for Events Held at the Association Center - Temporary signs will be allowed for events held **by a public agency, non-profit or for the benefit of any civic, fraternal, religious or charitable cause**, under the following restrictions. [Note: This policy does **NOT** include private events such as wedding, family reunions, etc.]
  - Signs advertising only the name, time and location of the event may be placed in the rights-of-way of the Association Center property and the two entrances to Lighthouse Wynd, provided that all such signs shall be removed at the completion of the reserved time for the event. Signs for this purpose shall be erected no earlier than the beginning of the reserved time for the event.
  - Signs must be freestanding; they may not be attached, affixed or painted on any utility pole, tree, rock or other natural object, or placed in a vehicle where vehicle is parked for primary purpose of displaying the sign.
  - The maximum sign area shall be six square feet per sign (example: 2x3 poster) and stand no higher than five feet off the ground. No more than three such temporary signs shall be erected for each event.
  - Please note that Village ordinance also requires a sign permit be secured for the above. The reserving party is responsible for ensuring this requirement is met.
  - Temporary "on premise" informational/directional signs may be used on the decking and porches of the Association Center for an event as long as they are not attached to the building in a manner that damages the building surfaces. These do not require a Village permit.
- Parking for renters and their guests is provided in the paved parking lot only. Please do not park on grassy or landscaped areas or block entry to the complex or passage on Lighthouse Wynd.
- Function attendees should be aware of their noise level and how it affects others using the building. Functions that disrupt BHA staff activities or other member events are not allowed to use BHA facilities.

### Clean Up

The BHA employs a cleaning service to do a thorough weekly cleaning. However, to keep cleaning and reservation costs down, Generator Society Hall users are required to follow the cleaning directions, including, but not limited to, the following:

- The kitchen has two small 13 gallon trashcans and two indoor 55 gallon trash cans, as well as receptacles in the restrooms. A small amount of bags are provided. These containers may be used for trash collection during the event, but **all trash must be bagged at the conclusion of the event and taken off premises by the renter if the outside receptacle is full.** Contact Association Center staff for information on Island disposal options.
- For events where refreshments are served: A light sweeping/mopping must be done of the community room and bathroom floors to remove trash and foodstuffs. Mop, bucket, broom and cleaning supplies are provided in the storage room. A light wipe-down should be done of the kitchen/bath surfaces. For small conference room events, the table and counter surfaces should be wiped down and refreshment trash removed.
- For events spanning multiple days (conferences, etc.): The reserving party must make their own arrangements to keep the building, meeting space and restrooms clean during their event. Association staff only ensures that restrooms and kitchen are kept stocked with paper goods. Contact the Association Center Coordinator for a list of cleaning services on the Island if a professional service is desired to keep the building clean during the event.
- Renters are responsible for setting up and breaking down tables and chairs and properly returning them to the storage room **in accordance with the grid on the storage room door.** **The fire equipment must not be blocked!**
- All items brought in for the event should be removed at the conclusion of the event, unless other arrangements have been made with the Association Center Coordinator.

At the conclusion of events held in the reserved rooms, all equipment and interior lights should be turned off and all doors should be locked/checked.

### **APPROVAL OF POLICY/CHANGES TO POLICY**

The Board of the Bald Head Association reserves the right to amend this policy at any time, and to disapprove the use of the building for any purpose it feels does not serve the intent of the Center, the purposes of the Bald Head Association and/or the best interests of its membership.

# APPENDIX A

## FEE SCHEDULE

The Association Center is available for Member and Non-Member use (see Pg 2). When the reservation is made, an invoice will be sent out with a copy of this policy and reservation forms, as applicable. Payments are due within 30 days after reservation is requested, or the event will be removed from the schedule.

Private Events	Time	Member Rate	Non-Member Rate
Generator Society Hall (Private Events)	Less than 2 hrs	\$200	\$750
	½ day	\$400	\$1,500
	Full Day	\$600	\$2,500

\*Price includes use of the ‘finishing kitchen’ (complete with French door refrigerator, dishwasher, OTR microwave and convection oven/range with warming drawer), audio/video equipment (projector, screen and karaoke machine), 1000+ sq. ft. deck area, restrooms, 20 6’ rectangular tables, 10 5’ round tables (each comfortably seats 8), 96 heavy-duty plastic folding chairs and 12 parking spaces. \$500 security deposit required for members; \$500 security deposit plus a valid credit card number required for non-members. Contact Bald Head Association for specific arrangements.

Exempt Organizations/Events	Time	Member Rate	Non-Member Rate
Generator Society Hall	Less than 2 hrs	N/A	N/A
	½ day	N/A	N/A
	Full Day	N/A	N/A
Kitchen Cleaning Fee	Per use	\$25	\$25

### NOTES:

+ ½ Day events are defined as follows:

- + Events during the hours of 9:00 am – 4:00 pm that are not more than 4 hours in length, including set-up/breakdown time. If a morning event, set-up time before 9:00 am will not be counted toward the total hours.)
- + Events that begin after 4:00 pm, including set-up/breakdown time.



- + **Events held outside of normal business hours of 9am-4pm, Monday through Friday will be charged an on-site assistance fee for contract staff to be available during the event.**
- + **Full Day events are defined as follows:**
  - + Events during the hours of 9:00 am – 4:00 pm, including set-up/breakdown time, that are greater than 4 hours (If the event begins in the morning, set-up time before 9:00 am will not be counted toward the total hours.)
  - + Evening events that begin before 4:00 pm and exceed 4 hours, including set-up/breakdown time.
- + **Very Important: Fee structure counts set-up/breakdown time as part of total hours. For example, if your reservation form states you will be coming into the building at 4pm to start setting up for your evening event, you are charged for a half-day event. If you show up at 2pm instead, you may be charged for a full day event, AND/OR you may not be able to get into the building, because of an event scheduled prior to yours.**

## **Exempt from Reservation Fee**

Per action by the BHA Board on June 16, 2006, events held by the following organizations or for the following reasons are exempt from building fees/deposits, though subject to rescheduling if they compete with a significant paying event within a reasonable lead time. Reservation and liability forms are still required.

### On Island Organizations / Government

Village of BHI (includes Public Safety, Public Works, etc.)

Public Safety Auxiliary	Old Baldy Quilters
Village Chapel	Smith Island Art League
Friends of Music	Community Watch
Conservancy	BHI Garden Club
SILT	BHI Book Club
Old Baldy Foundation	BHI Artisans
Alcoholics Anonymous	BHI Chamber of Commerce
Bald Head Island Limited	

### Neighborhood Association and Sub-Association Meetings

Flora's Bluff/Killegray Ridge	Royal James Landing
Hammocks Association	Sabal Palm Cottages
Ibis Roost	Timbercreek
Lighthouse Landing	The Villas
Harbour Association	
Middle Island Property Owners Association	Marsh Harbour Inn

### Open Events Sponsored by BHA directly or through Committee

The types of events held by those on the list above symbolize "community" to our membership. **BHA reserves the right to charge organizations for use of the Association Center for events/meetings it believes are not official business. Organizations that repeatedly violate the intent of this policy may be removed from this list.** Organizations/events that believe they would qualify to be on this exempt list may apply to the BHA Board to be added. BHI organizations listed above may have access to additional audio/visual equipment.

# APPENDIX B

## FACILITY SPECIFICATIONS

The Association Center has three meeting rooms available.

### Conference Room Sizes

Room	Dimension (Sq Ft)	Length	Width	Height
Generator Society Hall	1115	32'	33'	19' 6"
Outside Deck	1043	35' 6 ½"	38' 3"	Open

### Room Set-Ups/Capacity

Room	Conference	U-shaped	Square	Classrm	Theater	Reception	Banquet
Generator Society Hall	22	29	28	54	98	125	90
Outside Deck	N/A	N/A	N/A	N/A	N/A	60	50

### Room Equipment

#### Generator Society Hall

##### *Audio/Visual Equipment:*

- Epson ProLite 1771W high definition video projector (has wireless computer/iPad/iPhone hook-up capability)
- Draper 120" Screen
- Karaoke machine

##### *Seating Equipment:*

10 5' round tables (each table comfortably seats 8)

96 heavy-duty plastic folding chairs

#### **Important Notes:**

- If needed, the use of BHA-provided tables and chairs is required; the use of third-party tables and chairs is prohibited, except at the discretion of the Executive Director.
- **All** tables and chairs moved outdoors for the event must be brought back indoors at the conclusion of the event.
- Dancing/music events with more than 50-60 people should employ a DJ or band rather than relying on the karaoke machine.
- Both 12-cup and 42-cup coffee urns are available for use; coffee/paper products are not supplied. Please inform the Association Center Coordinator if you will need this prior to your event.

- The outside deck is not covered and, therefore, provides no protection from weather. The reserving party is permitted to make arrangements for covering, as long as the canopy equipment does not damage the Association Center structure.
- The breezeway between the Association office and the Association Center is covered and provides a good spot to set up a buffet table in pleasant weather.

## APPENDIX C

### ASSOCIATION CENTER LIABILITY AGREEMENT

I do hereby confirm, understand and agree that:

- + I have read the Association Center Policy for the Bald Head Association and agree to abide by and comply with all provisions in their entirety as described in this guide.
- + I agree that I am responsible for all costs of all damages associated with events I hold. Damages include any associated damage and cleaning costs in excess of the \$500.00 damage and/or cleaning deposit.
- + I further understand that if a non-member, charges for damage caused in relation to my event will be charged to the credit card I provided at the time my application to rent the facility. If a member, these charges will be invoiced separately.
- + I understand that disregard of the requirements of this policy, even if not resulting in damages to the facility, could result in the Board's decision to curtail my use of the facility in the future.
- + A copy of a certificate of liquor liability or a special event policy in the amount of \$1,000,000 (either document is required to name the Bald Head Association as additional insured) will be provided to the Association Center Coordinator at least seven (7) days prior to my event if alcohol will be present at the event.
- + I am enclosing a \$500 damage and/or cleaning deposit. This deposit will be returned to me within 60 days after my event(s) upon satisfactory inspection by the Association Center Coordinator confirming no damage or cleaning costs were incurred by the Association as a result of my event. Corporations may reserve and use the Association Center and are subject to total compliance with the Association Center Administration Policy as outlined and the Association Center Liability Agreement. The Association Center Liability Agreement must be executed by an authorized representative of the reserving corporation.
- + I agree to indemnify and hold harmless Bald Head Association from any and all liability on account of injury to any person(s) or damage to any property growing out of, directly or indirectly, or resulting from my event.

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Applicant/Authorized Agent Signature

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Date

Member BHI Address: \_\_\_\_\_

☐ Generator Society Hall

**For Office Use Only:**

Total Amt Owed: \_\_\_\_\_

Check #: \_\_\_\_\_

Date: \_\_\_\_\_

Deposit Rec'd? \_\_\_\_\_

Refunded \_\_\_\_\_

**RESERVATION APPLICATION****Information (must be filled out completely to confirm reservation):**

Event Date \_\_\_\_\_ Event Time: From: \_\_\_\_\_ To: \_\_\_\_\_  
 \*\*\* (IMPORTANT: Include Preparation/Clean Up Time) \*\*\*

Description of Event: \_\_\_\_\_

\_\_\_\_\_ # Attendees \_\_\_\_\_

Will you need to use any of the Association Center's audio/visual equipment?

If yes, please explain and list on back.

☐ Yes

☐ No

**Please list on back any decorations, additional equipment or furnishings you will be bringing for your event.**

**Member Event**

Member Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State Zip: \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

**Non-Member Event**

Non-Member Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State Zip: \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax \_\_\_\_\_

Contact Phone \_\_\_\_\_

(please also include an island or cell phone # for time close to event date)

Email: \_\_\_\_\_

Credit Card Number: \_\_\_\_\_

**(REQUIRED FOR NON-MEMBER RENTAL)**

Name on Card: \_\_\_\_\_

Expiration Date: \_\_\_\_\_ Card Code: \_\_\_\_\_  
 (3-digit code on back of card)

Billing Address: \_\_\_\_\_



If you will be using audio/visual equipment provided by the Association Center, please list below the equipment you will need, using the list in Appendix B of this policy:

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Please list here any interior/exterior decorations, additional furnishings or equipment you will be bringing to your event or other comments of which we should be aware.

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**Important: Please indicate who will be in charge of the event on site (this person must be over 21 years of age).**

Contact Name: 

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Address: 

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Phone: 

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Please return this completed form, the signed reservation agreement form and check with room fee to:

Bald Head Association  
PO Box 3030  
Bald Head Island, NC 28461

**Checks should be made out to Bald Head Association, and must be received within 30 days of the date of invoice to hold the reservation.**



**AMENDMENT TO THE AMENDED AND RESTATED UNIFIED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE BALD HEAD ASSOCIATION**

This AMENDMENT TO THE AMENDED AND RESTATED UNIFIED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE BALD HEAD ASSOCIATION ("Amendment") is made on the date hereinafter set forth by Bald Head Association on behalf of its members.

**WITNESSETH:**

WHEREAS, the Amended and Restated Unified Declaration of Covenants, Conditions and Restrictions for the Bald Head Association (the "Declaration") is duly recorded in Book 4009 at Page 2006 in the Office of the Register of Deeds for Brunswick County, North Carolina (Except as otherwise noted, all capitalized terms shall have the same meaning and effect as specified in the Declaration); and

WHEREAS, Section 14.2 of the Declaration provides the Declaration may be amended by a vote of two-thirds of those present and voting in person or voting by proxy at a meeting of the Members; and

WHEREAS, Members representing a total of 503 Units voted in person or by proxy attended a duly convened meeting of the Members on January 25, 2020 (the "2020 Membership Meeting") in person or by proxy; and

WHEREAS, at the 2020 Membership Meeting, 471 Units voted to amend Section 10.5(a) of the Declaration as provided herein; and

WHEREAS, Members representing a total of 587 Units attended a duly convened meeting of the Members on January 29, 2022 (the "2022 Membership Meeting") in person or by proxy; and



WHEREAS, at the 2022 Membership Meeting, 537 Units vote to amend Sub-section 5.1(b), 532 Units voted to amend Section 5.7, 475 Units voted to remove Sub-section 7.1(c), 553 Units voted to amend Section 11.2, and 529 Units voted to add Section 17.3, all as provided herein.

WHEREAS, a certified copy of the resolution adopting the amendment which is signed by the President of the Association and attested to by its Secretary is attached hereto.

NOW, THEREFORE, the Declaration is amended as follows:

1. Sub-section 5.1(b) is amended and replaced in its entirety with the following:

5.1(b) Assessments. Creation of Assessments. The Association will, upon request, furnish to any Owner liable for any type of assessment a certificate in writing setting forth whether such assessment has been paid. Such certificate will be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

2. Section 5.7 is amended and replaced in its entirety with the following:

5.7 Due Dates of General Assessment. The Board of Directors will fix the amount of the General Assessments against each Unit at least thirty (30) days in advance of the due date. Written notice of each General Assessment will be sent to every Owner subject thereto. The due dates will be established by the Board of Directors. The Board of Directors will require the General Assessment be paid at least annually, but may require them to be paid more often. Special Assessments and Supplemental Assessments may be collected separately from the General Assessments and the Board may require that they be paid, annually, semiannually, quarterly, or monthly. The Association will, upon request, furnish a certificate in writing setting forth whether the General Assessment, Special Assessment, or a Supplemental Assessment on a specific Unit have been paid.

3. Sub-section 7.1(c) is removed.

4. Section 10.5 is amended and replaced in its entirety with the following:

10.5 Use Guidelines and Restrictions. The following Use Guidelines and Restrictions apply to all the Properties except for that real property owned by the Bald Head Island Club or the golf course at the time of the recordation of this Declaration, and except to the extent Subsection (a)(i) exempts particular lots from the single-family utilization restriction, subject to the conditions specified therein.

(a) Single Family Utilization. This Declaration will restrict all Units to use only for single family residential purposes unless an amendment to this Declaration is adopted in accordance with Section 14.2. No home or other structure constructed within the described area will be utilized for commercial purposes, except that home offices will be permitted as long as such offices do not induce traffic, require signage, require outdoor storage of equipment, inventory, vehicles, or include retail space. If otherwise approved





in accordance with the procedures and standards set out within this Declaration, nothing contained herein will prohibit or restrict the construction of any appurtenant structure to any residence, including, but not limited to, decks, walkways, crofter's cottages or cart storage facilities.

No dwelling, including any ancillary structure or annex to a Unit, will be utilized at any time for occupancy by more than one family or one family with guests. The Owner of a Unit is specifically prohibited from occupying an ancillary structure or annex located on his Unit while renting the primary residential dwelling, or from occupying the primary residential dwelling while renting the ancillary structure or annex, or from renting to two or more rental parties, the primary residence and the ancillary structure or annex.

(i) Notwithstanding the foregoing, each of these Lots shall be exempt from the single-family utilization restriction (but shall otherwise be subject to this Declaration), during the Village of Bald Head Island's ownership of such Lots, provided that the uses shall be subject to such regulations as the Board may adopt pursuant to this Section 10.5 and conditioned upon the Village constructing, utilizing, and maintaining the Lot in accordance with the final conceptual drawings, plans, and specifications approved by the Board. Any further changes to the final plans shall require written approval by the Board. This exemption is personal to the Village only and shall not be transferable or assignable to any other party.

(a) The Lot adjacent to the canoe and kayak storage and launch (described more particularly as Gazebo Tract 3 as shown on a plat of survey prepared by William W. Delaney, II, R.L.S., duly recorded in the Brunswick County Register of Deeds for Brunswick County, North Carolina, in Map Cabinet Z, Instrument Number 196), to be used for purposes of boat and kayak storage and parking;

(b) The unbuildable lot situated near the intersection of South Bald Head Wynd and Black Skimmer Trail (described more particularly as Lot 1319, Stage 1 of Bald Head Island, according to a map thereof duly recorded in Map Book 12 at Pages 1-9 of the Brunswick County Registry), to be used for purposes of a special needs beach access.

5. Sub-section 11.2 is replaced in its entirety with the following:

11.2 Responsibility of Owner. Each Unit Owner will maintain and preserve the grounds of the Unit, Living Unit, and all structures located thereon in a clean, neat, sightly and attractive condition; and will provide for the removal of all trash and refuse from the Unit. This removal will be consistent with the Community Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Declaration. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may, but is not required to, perform such maintenance responsibility and assess all costs incurred by the Association against the Unit and the Owner in accordance with ARTICLE 5. The Association will afford the Owner reasonable



notice and an opportunity to cure the problem prior to entry. Within certain subdivisions or communities depicted in EXHIBIT B, certain properties as shown on recorded plats of said subdivisions shall be owned by the Owner of more than one Lot, for the sole benefit and use of said Owners. For example, a common driveway may provide access to two or more Lots, or a common walkway may provide beach access or access to other areas to the Owners of two or more Lots. The Owners of such Lots shall have the primary responsibility for the maintenance and upkeep of such jointly-owned properties. However, to the extent that one or more of said Owners fail or refuse to maintain such properties in a good, useable and sightly condition, or to the extent that one or more of such Owners does not pay said Owner's pro rata share for the upkeep and maintenance of such facility, the Association shall have the full right and authority to go upon such property, and to bring such improvements located hereon into a good, sightly, useable condition, or to cause landscaping or maintenance to be undertaken to maintain the safety and sightly appearance of such property, and the Association shall have the right to assess, in the nature of a special assessment, without approval of any Owner, the cost thereof against any Owner not contributing said Owner's fair and pro rata share of the cost of such activities or improvements. Before the Association undertakes such action or expends any funds, the Association shall give a written notice to all affected owners, giving such Owners thirty (30) days in which to take the required action or to pay the required fees. Failure of the Owners to then so act shall give the absolute right to the Association to proceed as allowed herein, and to collect as part of the assessment an additional twenty percent (20%) of the cost of the work performed as an administrative and supervisory fee.

6. The following Section 17.3 is added:

**17.3 Amendment of Stage Two Secondary Covenants.** The Stage Two Secondary Covenants applicable to any particular community may be amended, by vote of two-thirds of those Members comprising the community, provided such amendment is approved by all of the Directors comprising the Board of the Association.

**Except as specifically amended herein, all provisions of the Declaration shall remain in full force and effect.**

(SIGNATURE PAGE FOLLOWS)





IN WITNESS WHEREOF, the undersigned have set their hands and seals this 27<sup>th</sup> day of May, 2022.



BALD HEAD ASSOCIATION  
A North Carolina Corporation

By: [Signature]  
Name: Alan Briggs  
Title: President

Attested by:

[Signature: Robert Drumheller]  
Name: Robert Drumheller  
Title: Secretary

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

I, Regina M. Hinson, a Notary Public in and for the State and County aforesaid, do certify that Robert Drumheller personally appeared before me this day and acknowledged that he is the Secretary of Bald Head Association, a non-profit corporation, and that by authority duly given and as the act of Bald Head Association, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and official seal this 20 day of May, 2022.

[Signature: Regina M. Hinson]  
Notary Public  
Print Name: Regina M Hinson

My commission expires: 10/22/2022

(seal)





**EXHIBIT A****RESOLUTION OF BOARD OF DIRECTORS OF BALD HEAD ASSOCIATION**

The Board of Directors of Bald Head Association, through its duly authorized President, and as attested to by its duly authorized Secretary, does hereby adopt the following resolution, following action taken at a duly called meeting of the Board.

WHEREAS, the Amended and Restated Unified Declaration of Covenants, Conditions and Restrictions for the Bald Head Association (the "Declaration") is duly recorded in Book 4009 at Page 2006 in the Office of the Register of Deeds for Brunswick County, North Carolina (Except as otherwise noted, all capitalized terms shall have the same meaning and effect as specified in the Declaration); and

WHEREAS, the Members voted to amend the Declaration, first at the January 25, 2020 meeting and again at the January 29, 2022 meeting; and

WHEREAS, the total votes in favor the proposed amendments exceeded the number required to amend the Declaration, as provided in Section 14.2; and

WHEREAS, at a meeting of the Board of Directors on May 13, 2022, the Board adopted the amendments.

WHEREAS, to be effective, an amendment to the Declaration must be recorded in the Brunswick County Registry and have appended thereto a certified copy of a Resolution of the Board of Directors, signed by the President, and attested to by the Secretary; and

IT IS THEREFORE RESOLVED that the Declaration is amended, as provided in the Amendment to which this Resolution is appended;

IT IS FURTHER RESOLVED that the Amendment shall be filed with the Office of the Brunswick County Register of Deeds.

(SIGNATURE PAGE FOLLOWS)



This action is taken this 27<sup>th</sup> day of May, 2022.



BALD HEAD ASSOCIATION  
A North Carolina Corporation

By: [Signature]  
Name: Alan Briggs  
Title: President

Attested by:

[Signature]

Name: Robert Drumheller  
Title: Secretary

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STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

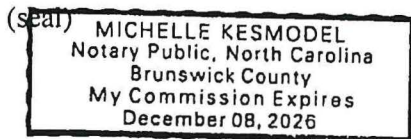
I, Michelle Kesmodel, a Notary Public in and for the State and County aforesaid, do certify that Robert Drumheller personally appeared before me this day and acknowledged that he is the Secretary of Bald Head Association, a non-profit corporation, and that by authority duly given and as the act of Bald Head Association, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and official seal this 8<sup>TH</sup> day of May, 2022.

[Signature]  
Notary Public

Print Name: Michelle Kesmodel

My commission expires: December 8, 2026



## Board Meetings

## SECTION V

Originally Approved July 19, 2002

The President of the Association or designated meeting chair is responsible for conducting the meeting in accordance with these procedures:

1. Every agenda item must be explained in sufficient detail in the agenda packet sent to the Board.
2. Any Association member or individual wishing to bring a matter to the Board for discussion or decision is encouraged to do so. Written supporting information on this matter should be submitted in time for inclusion in the agenda packet.
3. The agenda packet is sent out to the Board **seven days** in advance of the Board meeting to give the Board members the opportunity to perform a thorough review of items prior to the meeting. Items not received by this deadline will **not** be included on the meeting agenda. The President or meeting chair may choose to make an exception to this at his/her discretion. Otherwise, the item will be discussed at the next meeting.
4. Spontaneous member comments or questions from the floor are encouraged. If possible, they should be directed to come after the relevant agenda item is introduced. Each speaker should be limited to one statement of 5 minutes or less. Spontaneous comments unrelated to agenda items should be reserved for the end of the meeting or any appropriate time as determined by the President or meeting chair.
5. Issues on which the Board finds difficulty in reaching a consensus or which require extensive and lengthy discussion inappropriate to the available meeting time should be referred to a sub-committee of the Board appointed by the President or meeting chair. This sub-committee will investigate the issue and prepare a written recommendation to the Board in advance of the next meeting. The Board should avoid using meeting time trying to resolve controversial issues which have not been sufficiently studied and where pertinent facts have not been ascertained in advance.
6. Items not of public importance or which are time sensitive can be handled by Board email vote to decrease the agenda items at regular meetings. Results of such votes should be recorded and reported in the minutes of the next Board meeting.
7. The Executive Session Policy will guide the Board on the handling of closed meeting topics.

## **Executive Session Policy**

Originally Approved May 17, 2002

The Bald Head Association Board of Directors will call an executive session to discuss matters that fall under the following categories:

1. Legal matters
2. Personnel matters
3. Covenant Enforcement Issues
4. Business matters pertaining to the Association where public disclosure would place the Association at a competitive disadvantage.

The Board will adhere to the above policy, but retains the discretion to vote to call an executive session for matters that may not be defined by the above items, but which clearly require confidentiality to protect the overall interests of the membership.





BALD HEAD ASSOCIATION  
P.O. BOX 3030  
BALD HEAD ISLAND, N.C. 28461

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## **BALD HEAD ASSOCIATION 2023 BOAT PARK STORAGE LEASE AGREEMENT**

The Bald Head Association Boat Park is a facility provided for boat parking for Bald Head Island property owners in good standing with the Bald Head Association. Parking is provided on a first come, first serve basis and the BHA office staff will maintain a waiting list as needed.

The following constitutes the agreement between the Bald Head Association (“BHA”) and LESSEE.

This Agreement dated for the purposes of reference only this 1st day of January 2023 by and between BHA and LESSEE.

In consideration of the mutual promises and covenants set out herein, BHA does hereby let, permit and rent to LESSEE that certain unsecured parking area identified as Boat Storage Space# at the Timbercreek Mulch Site, Utility Tract 1, off of North Bald Head Wynd, Bald Head Island, North Carolina 28461.

1. **Rental.** LESSEE shall pay to BHA as rent for the term of this lease, the sum of \$750 per year due and payable in advance upon the execution of this Lease Agreement. Lease amount for new rentals shall be prorated for the remainder of the year as appropriate. If a LESSEE terminates the lease prior to the end of a calendar year, no refund of rent will be returned to the LESSEE. Annual rates are subject to change. Rate changes will be disclosed, and a billing notice will be sent thirty (30) days prior to the start of the new year.
2. **Term.** The initial term of this lease shall be for 12 months, commencing on the signing of this lease, and automatically renewing for successive terms of one (1) year each unless and until LESSEE gives written notice to BHA of LESSEE’s intent to terminate the Lease upon the expiration of the term. As this lease is automatically renewed, no notice of renewal or extension of the Lease Agreement shall be sent to the LESSEE.
3. **Use and Use Restrictions.** The parking space(s) leases hereby shall be utilized solely for the purpose of parking/storing one boat on a trailer. LESSEE acknowledges that, unless otherwise permitted, all boats stored at BHA’s Boat Park must meet the current restrictions of **17 feet in length and 75 horsepower** as regulated by the Village of Bald Head Island’s ordinances. The Boat will be identified as follows: [hereinafter “Boat”].

### **\*\*PLEASE FILL OUT BLANKS OR CORRECT INFORMATION BELOW**

Make/Model/Year of Boat: \_\_\_\_\_  
Make/Model/HP of motor: \_\_\_\_\_  
Trailer Type and Tag: \_\_\_\_\_  
Trailer Length/Width: \_\_\_\_\_  
Boat Length: \_\_\_\_\_  
**Boat Registration #:** \_\_\_\_\_  
Name of Titled Owner: \_\_\_\_\_  
Name of BHA Member: \_\_\_\_\_

On Island Address: \_\_\_\_\_  
Off Island Address: \_\_\_\_\_  
\_\_\_\_\_  
Cell phone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Driver License Number: \_\_\_\_\_

No other boat(s) and no other vehicles shall be permitted to occupy the parking/storage space. BHA will not unreasonably withhold permission for LESSEE to substitute a replacement Boat if said replacement is owned by LESSEE and will fit within the designated space.

No kayaks or canoes will be stored within the designated parking/storage space.

LESSEE grants permission to BHA to move boat/trailer(s) in the event of an emergency or at the time of a Board-approved improvement project.

LESSEE grants permission to BHA to remove boat cover if necessary, to verify engine HP.

LESSEE agrees to maintain boat in good condition with no ground debris in their designated space.

LESSEE agrees, per Village request, to ensure tight boat covers to prevent ponding and avoid mosquito larvae from developing. If ponding occurs, the village has the right to treat the standing water.

Non-authorized boat(s) or vehicle(s) placed in the designated space will be towed by BHA at LESSEE's expense. LESSEE agrees to center the Boat within the designated parking/storage space so as not to interfere with adjacent parking; to abide by the rules and regulations of BHA as promulgated from time to time; and to promptly remove the Boat and trailer upon the expiration of the Lease term if the LESSEE or BHA elects not to renew the agreement. **No fuels, oils or lubricants of any type shall be kept or stored in the parking/storage space other than those on board and in use on the Boat.** Violation of this provision shall be grounds for immediate termination of this Lease Agreement, at the option of BHA.

LESSEE visitors and guests may use the lot space if the BHA office receives prior notice from the LESSEE of the Boat make and model and the length of time the space will be utilized by the visitor/guest. The LESSEE is responsible for ensuring that the visitor/guest adheres to the requirements of this agreement.

4. Risk of Loss/Damage. The risk of loss of the Boat, its trailer, motor and its contents is solely a risk to LESSEE. BHA is not responsible for theft, damage or other loss to the Boat, its trailer, motor or its contents, or any part thereof. BHA is not responsible for any articles left in the Boat, nor will BHA accept possession or bailment of any such articles.
5. Insurance. BHA provides no insurance relating to parking/storage spaces nor to boats, motors, trailers or vehicles utilizing such spaces under this Lease Agreement or otherwise.
6. Remedies. Upon failure of LESSEE to remove the Boat and trailer from the parking storage space upon expiration of the Lease Agreement, or upon failure of LESSEE to pay rent, or upon failure of LESSEE to comply with any other terms or provisions of this Agreement, BHA may remove the boat and trailer from the parking/storage space and rent the space to a third party. Notice of such removal action shall be given by BHA to LESSEE's last known address, and



LESSEE shall be given ten (10) days to tender all monies owed to BHA for any outstanding rents and removal costs, plus the cost of storage, and in such event, the Boat and trailer shall be released to LESSEE. If LESSEE does not tender such payment within the time allowed, BHA shall be entitled to sell the Boat and trailer at a private or public sale, at its discretion, and to apply all proceeds to all amounts owed BHA for any purpose and shall further be entitled to deduct from such proceeds all costs of sale (including attorney's fees incurred), with the remaining balance, if any, being forwarded to LESSEE at LESSEE's last known address. LESSEE specifically waives any and all rights reserved to LESSEE as to notice, sale procedures or disposition of proceeds other than those specifically set out herein, including those rights reserved by any North Carolina General Statutes, including, but not limited to, the North Carolina Uniform Commercial Code.

7. Assignment. This Lease Agreement, and LESSEE's rights hereunder, may not be assigned, transferred or conveyed to any other person or entity, and any attempted assignment, transfer or conveyance shall be grounds for immediate termination of this Lease Agreement, at the option of BHA.

WITNESS our hands and seals as of the date herein first above written.

BALD HEAD ASSOCIATION:

By: _____	<u>Mailing address for rent and notices:</u>
Carrie Moffett	Bald Head Association
Executive Director	PO Box 3030
	Bald Head Island, NC 28461
	(910) 457-4676 x 21
Date: _____	Baldheadassociation.com

LESSEE:

Printed Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Rev. 1/27/2022



## 2023 Addendum to Boat Storage Lease Agreement

By signing below, you, the LESSEE, and Bald Head Association have mutually agreed to amend your existing Boat Storage Lease Agreement ("Lease") by adding the following terms. Your existing Lease will remain in effect, subject to the additional terms set forth in this Addendum. *(The form agreement has been recently updated. Rather than fill out an additional lease, BHA asks that you read the following changes and return this signed addendum to us).*

- All boats stored at BHA's Boat Park must be no longer than 17 feet in length and must not exceed 75 horsepower ("HP"), in keeping with an amendment to the Village of Bald Head Island's ordinance.
- LESSEE grants permission to BHA to remove boat cover if necessary, to verify engine HP.
- LESSEE agrees to maintain boat in good condition with no ground debris in his/her designated space.
- LEESSE agrees, per Village request, to ensure tight boat covers to prevent ponding and avoid mosquito larvae from developing. If ponding occurs, the village has the right to spray the standing water.

### BALD HEAD ASSOCIATION:

By:

\_\_\_\_\_  
Carrie Moffett  
Executive Director

Mailing address for rent and notices:

\_\_\_\_\_  
Bald Head Association  
PO Box 3030  
Bald Head Island, NC 28461  
(910) 457-4676 x 21  
Baldheadassociation.com

Date:

\_\_\_\_\_

LESSEE:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Approved 1/27/23



Printed Name

## Committee Membership Policy

Originally Approved 4/19/02

The Bylaws of the Bald Head Association describes the overarching purposes of the five standing committees of the Association and the Nominating Committee, as well as information relating to committee structure such as size and term limits. This policy details more specific responsibilities of committee members, and the responsibilities committee members may expect the Association Manager and Board members to provide.

### Power of Committees

Committees are not decision-making bodies with respect to Association policies, guidelines or Covenants. A committee may make a recommendation to the Board to adopt or change a policy or guideline, or pursue an amendment to Covenants, and the Board will consider that recommendation and provide feedback to the Committee on their decision on the recommendation in a timely manner.

### Committee member responsibilities

The volunteer time of committee members is deeply appreciated by the Board and the membership. Perhaps the most important responsibility of a committee member is to be certain they have the time and energy to devote to a committee before volunteering to be on it. Association committees perform a wide range of crucial tasks for the membership, but those tasks can only be accomplished if there are volunteers committed to making them happen.

### Association Manager's responsibilities to committees

Once the Board makes all appointments for a committee, the Association Manager will send out a communication to the continuing and new members, welcoming them and thanking them for their willingness to volunteer. This communication should be sent out within two weeks of the Board's appointment decisions for that committee if at all possible. The Board liaison will make initial contact with the chairperson during or directly after that time (see Board liaison responsibilities).

The Association Manager may be called on to assist the Committee Chair or Board liaison with any of the following administrative tasks relating to the committee. Other administrative tasks may be requested of the AM by the Chairperson, but these additional tasks may have to be prioritized with other responsibilities of the Association Manager, at the AM's discretion.

- Assist in coordinating meeting times through phone or email
- Provide background information, both verbal and from the Association files, for committee projects. This would include running copies of this information and mailing it out to members, as requested by the chairperson.
- Pay invoices for committee expenditures.
- Posting meeting times and upcoming event/project information as requested by the chairperson on the cable access channel, website or in the Island Report.

- The Association Manager also may, as time permits, help the committees with the preparation of flyers or other communications for projects.

#### Committee Chair

If at all possible, a committee chair should initiate a meeting with his/her committee within 30 days of appointment to the chairperson role.

Financial – the committee chair is authorized to employ vendors to assist in the committee's work as long as the cost is within the committee's budget. If it exceeds the committee's budget, it must be approved by the Board liaison prior to the purchase/work being done.

The committee chair schedules the regular meetings of the committee and conducts them. Like the Board liaison, a Committee Chair is asked to frequently reinforce the value of the volunteers participating.

The committee chair should appoint a vice-chairperson, the most likely person to take his/her place as chairperson when his/her term expires, or when he/she steps down, and someone who can conduct meetings if he/she should be absent.

Documentation – after each meeting, the chairperson is responsible for ensuring that meeting minutes are delivered to the Association manager prior to the next Island Report deadline, which is the 15<sup>th</sup> of the month. The Association Manager will put these minutes on file, and summarize them for the Island Report.

#### Board Liaison Responsibilities

The Board liaison should attempt to attend as many of the committee meetings as possible. This is crucial not only to stay aware of the issues the committee is facing in its attempts to accomplish the Board's directives, but also to give the committee a continuing idea of the Board's desires. The liaison is responsible for maintaining direct contact with the chair to follow the progress of the committee on its annual charges, and provide guidance when needed by the chairperson. The liaison is also responsible for delivering the statement of annual charges to the committee chair and ensuring those charges are understood. Most importantly, it is the liaison who conveys the value of their contribution to the Association to the committee members and the chairperson, and this should be underscored frequently.

It is the responsibility of the Board liaison to make first contact with the new chairperson each year, discuss the committee charges, and assist them in coordinating the first meeting of the committee.

The Board liaison will report on the status of the committee at each Board meeting, or as needed.



ARC Board Liaison Duties in relation to ARC Administrator Duties

Note: It is the duty of the ARC Administrator, who reports to the BHA Board President, to keep and communicate the official record of the ARC. This being the case, the Liaison performs in an ad hoc role, communicating supplemental information to the committee and the Board when required.

It is the duty of the ARC Liaison to uphold the tenants of the Covenants and Design Guidelines in all matters of communication with and for the Board:

1. Attend each meeting of the ARC.
2. Serve as a communications link between the BHA Board and the committee to provide the Board with supplemental information on committee decisions, recommendations, and other actions as previously reported by the ARC Administrator.
3. Serve as a conduit for Board questions, concerns, and requests to the committee.
4. Work with the Administrator and the Committee Chairman to help the committee stay on task, thus expediting reviews and confirming that the Design Guidelines and Covenants support the decision-making.
5. Deliver the statement of annual charges to the Committee Chairman. With the Administrator, help the committee set and evaluate yearly goals and objectives.
6. Outside of regularly scheduled meetings, work with the Administrator and/or other committee members to address any concerns or questions that may arise.
7. Reinforce Board appreciation for the work of the ARC.

Board Responsibilities to Committees

The Board provides the direction to the Committees. At the end of each year, the Board liaisons will gather feedback from existing committee members on the status of their existing charges - what may need to be completed in the coming year, or new goals to consider. The Board will consider that input when formulating the list of annual committee charges at their February meeting.

Before the end of the year, the Board liaison will discuss with the existing committee which, if any, existing members would be interested or willing to assume the chairperson role in the coming year. It is the responsibility of the President to appoint committee chairs. However, the feedback of the committee on this issue is very important. If no member is willing, and the existing chair is unwilling to continue in this role, it is the job of the liaison to develop a list of potential candidates, which includes contacting these candidates and determining their willingness before their name is submitted to the Board in January.



# BHA ARC Members Confidentiality

Approved via Board Email Vote 8/29/07

## Addition to Section VII, Committee Membership Policy

Past policy has been that ARC members may discuss submittals outside of the ARC meeting if they make it clear they are voicing their opinion as an individual/neighbor, and not as an ARC member or as a representative of the Association. In the current litigation environment, that distinction does not provide enough protection for legal consequences; therefore, effective as of August 17, 2007, ARC members should observe the following policy:

### *Architectural Review Committee*

**Because the ARC is authorized to make a certain amount of decisions as agents of the Board, and for the protection of the BHA membership, no ARC member is allowed to discuss ANY submittal (whether or not a conflict exists with respect to it) outside a committee meeting except with a BHA staff member, a fellow Committee member, the BHA President or ARC Board liaison. Questions or comments about a submittal should be referred to the ARC Administrator.**

The Directors and Officers' liability insurance carried by the Association covers Board members for actions they take in their capacity as Board members for the Bald Head Association (appeal decisions, fines, etc). General liability insurance also provides some coverage in the event of litigation brought against the Association due to Covenant enforcement. ARC members should be aware that having any type of discussion about a submittal outside of the parameters noted above can jeopardize this coverage in the event of a lawsuit. Further, violating this policy may harm legal efforts taken on the membership's behalf.

As much as the BHA Board values the tremendous contribution of its ARC members, if this policy is violated by an ARC member, that member may regrettably be asked to provide their volunteer services in another capacity.



Bob Porter, President

# F - BHA COMMON AREA POLICY

## **Introduction:**

The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Association (herein "Association" or "BHA") recorded in December 2017 ("the Covenants") state in Article 8.1:

8.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, will manage and control the Common Area and all improvements thereon (including, but not limited to, private roads, rights of way, furnishings, equipment, walkways, gazebos, master walkway and common landscaped areas); and will keep it in good, clean, attractive and sanitary condition, order and repair, consistent with this Declaration and the Community Wide Standard.

## **I. Purpose:**

The purpose of this document is to provide a statement of policy for the management and control of Common Area.

## **II. Definitions:**

Common Area is defined in the Covenants in Article 1.8 as "all real property and facilities owned by the Association for the common use and enjoyment of all Members of the Association, including greenways, recreational areas, dunes, beaches and roadways. It is intended that the Common Area will include all of the Subject Property except platted lots, Multi-Family Sites, and other Non-Residential Areas, the golf course, clubhouse sites and sites established for utility purposes. A map of the Common Area is available for viewing in the Association office."

Limited Common Area is defined in the Covenants in Article 1.15 as "those portions of the Common Area that serve only a limited number of Units and which may include, but specifically is not limited to, walkways, parking, buildings or areas serving only specified lots, and such other similar areas as may be designated by the Association. The Limited Common Area will be managed and maintained by the Association at the expense of only the Owners of Units served thereby. Service Areas, as defined herein, are included within the term Limited Common Area."

Limited Common Areas are those serving a specific neighborhood or complex. Examples of Limited Common Areas include Ibis Roost, Timbercreek, Royal James, Palmetto Cove, Surfman's Walk, Sumner's Crescent and Keeper's Landing. Their ownership, maintenance and use are restricted to owners of properties within the pertinent neighborhood or complex. Currently, all properties of this type are either privately owned by multi-family residences or are within the Common Area located within the property described in EXHIBIT B of the

6. Property owners whose property adjoins the Common Area may not have structures that encroach on the Common Area (i.e., setbacks must be followed). Exception: The Association has a specific policy pertaining to the construction of beach accesses for properties located on the beachfront. (See this Section IX, Dune/Beach.)
7. The Common Area is subject to easements for utility installation and cross-drainage as provided in the Covenants in Article 12.1 and 12.2.
8. The Association Center, the Surferman's Walk Gazebo, the Boat Park and the Community Garden can be rented consistent with existing Board policies or policies later amended or adopted by the BHA Board.

## **VII. Fairway: Use and requirements for the Fairway Common Area**

1. Natural: Fairway Common Area adjoined by and located between platted lots and the golf course must be left in its natural state unless permission is obtained from the BHA Board or its designated committee.
2. Landscaping:
  - a. A property owner whose property adjoins fairway Common Area can apply for permission to clear Common Area to achieve a golf course view by submitting in writing a proposed plan of clearing for consideration by the BHA Board or its designated committee. In order for the proposal to be approved, the property must fit the definition of a Fairway lot, noted under the Landscaping section of the Design Guidelines. No wholesale clearing of Common Area for a fairway view is allowed; rather, any proposed clearing must be done in a naturalized manner consistent with the standards set forth in the Covenants and the Guidelines, and the Village of BHI Zoning ordinance. Proposed plans must include a site plan indicating which trees/vegetation would be trimmed or removed; mitigation for removal of any trees; and, details regarding appropriate mulching and future care (i.e., watering). Please review the Landscape Section of the Design Guidelines for further guidance. New plantings are restricted to native plants. Use of herbicides/pesticides is prohibited without permission. The BHA Board has the discretion to decide whether or not to approve the proposal.
  - b. If the proposal is approved by the Board, the BHA shall proceed with the clearing with a contractor hired and controlled by the BHA. The BHA shall pay the contractor and bill and collect the amount paid the contractor from the property owner(s) whose property adjoins the Common Area and who submitted the proposal.
  - c. Requirements of a and b apply only to property that fits the definition of a fairway lot, identified in the Introduction regarding Common Area section of the Design Guidelines.
3. Utilization: See "Easements" (#4 below).

The Association may construct on Forest Common and Limited Common Areas such facilities as it determines are appropriate for the common use and enjoyment of the membership and in accordance with the Covenants and Bylaws of the Association.

1. Natural: Dune/Beach Common Area shall be left essentially in a natural state except for segments which the Association determines should be "improved" and utilized for the common use and enjoyment of the membership (see "Landscaping" and "Utilization" below).
2. Landscaping:
  - a. Stabilization Structures and Plantings: Beach front property owners may submit planting proposals which will be reviewed by the Resource Conservation and Beautification Committee and approved by the BHA.
  - b. Clearing for view is not allowed on the island except in the controlled area of clearing for Fairway lots or otherwise with approval of the BHA Board.
  - c. BHA approval is required prior to any clearing on Common Area.
  - d. In the interest of dune stabilization, the Association may, after evaluation, give permission to the Village of Bald Head Island for implementation of structures and plantings on Common Area on the waterfront.
3. Utilization: The Association may construct on Dune/Beach Common Area such facilities as it determines are required for the common use and enjoyment of the membership and in accordance with the Covenants and Bylaws of the Association.
  - a. Beach accesses are considered for waterfront homes only. Waterfront homes are defined as properties from which a straight line may be drawn at a 90-degree angle from the middle point of the water-facing elevation to the water's edge without crossing any portion of any adjoining lot.
  - b. Structural Requirements for Beach Accesses:
    - 1) Private Beach Accesses constructed after 01-01-2002 must adhere to the concept of "shared accesses for adjacent lots where possible." If it is possible to join to an adjacent access, a separate access for individual lots will no longer be permitted.
    - 2) The access will be constructed of pressure treated wood, 48 inches in width and at least 18 inches, but no more than 24 inches above grade. Railings or other constructs above or below the beach walk will not be allowed. Specifically, pavilions and permanent seating will not be allowed. The Beach walk will be raised on pilings sunk at least three, but no more than five feet in depth, so that only the pilings touch the dunes. Steps should be used only when necessary, rather the walkway should follow the grade of the dunes as much as possible. Accesses will not follow a straight course but will angle to follow the contour of the dune ridges. Sand walkways will not be permitted.
    - 3) Private accesses will extend from an ocean facing deck and terminate on the ocean side of the frontal dune. The person constructing the access will replace all disruptions of dune plantings immediately. In no case should an access way be permitted if it will diminish the dune's capacity as a protective barrier against flooding and erosion. If an existing access way should diminish the dune's capacity as a protective barrier against flooding and erosion, it will be corrected, closed or removed immediately.



## **Common Area Policy**

See Appendix in the Design Guidelines in the Policy Manual

### **Common Area Practices/Procedures**

**Approved 2/15/02**

**[Technical updates made 4/28/06 to allow for "designated review committee" and February 2007 to add Hold Harmless indemnity statement instructions]**

The purpose of this document is to define the practices and procedures applicable to administration of the BHA Common Area Policy. The document is structured consistent with the Common Area classification structure of the policy document.

#### **I. ALL COMMON AREA CLASSES**

1. Common Areas are the property of BHA members as a whole and the BHA Board or its designated committee must authorize any use. At all times, the Common Area use must meet all terms and conditions outlined in the Bald Head Association Common Area Policy.
2. Common Area projects justified on the basis of safety, aesthetics, environmental protection will be considered upon written notice to the Bald Head Association Board and under the terms and conditions outlined in the Bald Head Association Common Area Policy Section VI "All Common Area Classes". The Bald Head Association annual budgeting process will consider and budget expenses for potential hazard removal.
3. Common Area Use is outlined in Section V. "Use" of the Bald Head Association Common Area Policy. Proposed changes in use of any Common Area must be presented to the BHA Board in writing. Prior to review by the Board at the regularly scheduled Board meeting, the proposed change must be outlined in at least 2 issues of the association newsletter. The BHA Board will review the request, allow discussion and input by all property owners prior to acting on the proposal at a regularly scheduled meeting.

#### **II. FAIRWAY COMMON AREA**

Fairway Common Area is defined in the policy document as, "those tracts (i.e. of common area) which adjoin the golf course." Though some do, the majority of "fairway lots" do not adjoin the golf course, but rather they adjoin the Fairway Common Area which in turn adjoins the golf course. Enjoyment of the golf course view, therefore, depends on the lot owners' ability to create and maintain a view across Fairway Common Area.

##### **1. CLEARING**

Fairway lot owners (as defined by page 33 of the Design Guidelines) can apply for permission to view-clear Fairway Common Area within the boundaries outlined in Section VII.2.c of the policy document. Such clearing must be done consistent with the Village of Bald Head Island zoning ordinance as amended on

9/15/2001 and the Design Guidelines, particularly Page 33 of the Landscaping section. Additional guidelines are as follows:

**Removal of living or dead trees three (3) inches or greater at four (4) feet above ground level requires the approval of the Village Building Inspector, ARC approval, and the approval of adjoining property owners, as follows:**

Following the Building Inspector's approval, the initiator of the request to remove the tree(s) must get the agreement in writing of the adjoining properties bordering the affected common area.

In the case of disagreement as outlined in the preceding, the initiator who wishes to proceed must communicate the facts of the situation in writing to the designated review committee chairperson/contact with copy to the disagreeing party.

The designated review committee chairperson/contact will confirm that the disagreeing party has received the communication and, within 10 days of such confirmation, the disagreeing party will insure delivery to the designated review committee chairperson/contact of a written explanation of why they disagree. This latter communication will give a specific one or two word identification of each of the various factors leading to disagreement (e.g. aesthetics, vegetation endangerment, etc.) along with an elaboration on each.

The designated review committee chairperson/contact will, within 5 working days, review it with the initiator and give them an opportunity to withdraw the request.

If the request is not withdrawn, the designated review committee chairperson/contact will seek a review of each of the disagreement factors by an appropriate party (with a 10 working day time-to-complete objective).

The designated review committee chairperson/contact will then forward the results of the review to the 2 contending parties as well as to each member of the designated review committee and put the issue on the agenda of the next designated review committee meeting for decision.

NOTE: Should the disagreeing party fail to deliver a written explanation of their disagreement to the designated review committee chairperson/contact within the 10 day period noted above, the designated review committee chairperson/contact will notify the initiator in writing (cc the disagreeing party and NR&B members) that they may proceed with the tree removal.

## 2. OTHER LANDSCAPING

While the BHA Board or its designated committee can authorize any planting that they deem appropriate at any time, the general case regarding Planting in Fairway Common Area, is as follows:

In the case of flowers, shrubs, etc---not allowed.

In the case of trees that are not native to Bald Head---not allowed.

In the case of trees that are native to Bald Head---allowed if:



- a. Adjoining property owners are in agreement and that agreement as well as the rationale for why it should be allowed are in writing.
- b. There is a written positive recommendation for proceeding that is from a landscaping professional with multi-year BHI experience.

Note that it is the responsibility of the requesting party or parties to put the "package" together and to deliver it to the designated review committee chairperson/contact. The designated review committee chairperson/contact will assess completeness and either request additional work or distribute the data to designated review committee members and place the topic on the agenda of their next meeting for decision.

### 3. GOLF COURSE EASEMENT

The Common Area Policy grants to the golf course owner an easement over Common Area for golf course maintenance purposes. The easement is up to a maximum of 30 feet in depth measured from the regularly mowed area of the golf course. (That is the regularly mowed area of the property owned by the golf course owner.)

The Policy also grants an easement for ball recovery or play thus allowing access to Common Area to registered golfers who are not members of the Bald Head Association and who would, therefore, be guilty of trespass in the absence of such an easement.

The presumption is that the easement rights as described in the Common Area Policy Document will be exercised in a responsible manner by the golf course owner's representatives. Consistent with such exercise, the golf course owner will:

- a. may post, at appropriate intervals, "OUT OF BOUNDS" markers
- b. attempt to insure (e.g. via markers) that golf carts are not driven on Common Area
- c. notify property owners of Fairway Lots and the designated review committee chairperson/contact when planned golf course maintenance activities may introduce to the Common Area materials that represent a potential health hazard to people and/or domestic animals
- d. assume total responsibility for any incidents on Common Area property covered by this easement if the incident involves golf course use or maintenance.

### III. FOREST COMMON AREA

The use and requirements for the use of the Forest Common Area is governed by the Covenants and By -Laws of the Bald Head Association. The Bald Head Association Board or its designated committee is charged with ensuring that Section VIII "Use and Requirements for the Use of Forest Common Area" of the Bald Head Association Common Area Policy is diligently enforced.

#### **IV. DUNE/BEACH COMMON AREA**

1. Beachfront Common Areas will not be landscaped, planted, or cleared in any manner whatsoever except for erosion control plantings (i.e. Beach grass, sea oats). These plantings will be allowed only after review by the Village Beach Committee and approval by the BHA Board of Directors or its designated committee.
2. No constructions or improvements of any sort will be allowed on Dune and Beach Common Areas except Village-approved sand fencing, BHA Board (or designated committee)-approved structures deemed to be in the best interest of the general membership, or as delineated below.
3. Except for allowed beach accesses, occupying, or walking on Beach Common Areas is in violation of Village Ordinance.
4. Storage of boats or other watercraft on Beach Common Area between the frontal dune line and the mean high tide mark is not allowed. Boats or other watercraft may be drawn up upon the Beach Common Areas during Daylight hours only and must be removed before Sundown.
5. Easements for Public or Private beach accesses across Common Property will be allowed only by approval of the BHA Board of Directors or their designated committee. The application will include drawings of the proposed access, and plat maps/surveys showing precisely where the Beach walk will rest.
6. Private accesses will be permitted only on waterfront properties (Defined as properties from which a perpendicular line drawn from the midpoint of the water facing property line will reach the mean low tide line without crossing any portion of any adjacent lots). No other lot will be permitted a private beach access. Adjacent lots should share all future private accesses.

#### **V. PERMISSION TO CONDUCT WORK ON COMMON AREA**

When the Association grants permission for a property owner to conduct work on an adjacent common area property, such as clearing for a view, tree removal, installing a beach access, etc., in the absence of another document (such as a license agreement or easement that covers this issue), the property owner will be required to sign the following statement before the work may proceed, acknowledging their understanding and acceptance of these terms:

In exchange for Bald Head Association's agreement to permit you to remove vegetation from the common area, you agree to fully reimburse and indemnify, defend and hold harmless Bald Head Association and its directors, agents, and members from and against any and all of their losses, liabilities, damages, fines, severance or settlement amounts, deficiencies, costs or expenses (including without limitation, claims for bodily injury and property damage which you, adjacent property owners, or other third parties may suffer) as a result of your acts or omissions.



## Section VIII – APPENDIX A

Approved April 28, 2006

Below are general categories of common area matters, with some specific examples of cases the BHA has handled in the past. This list is of course not all-inclusive of the requests that could arise under these general categories.

As of April 28, 2006, the Natural Resources & Beautification Committee has been designated by the Board to review common area issues. This Appendix may be used by the Committee as a guide to what decisions must be recommended to the Board for final approval, and which decisions the Committee has the authority to make.

Next to each topic is indicated a “C” or “B”. “C” indicates a category for which the Committee is authorized to make the decision. “B” is a category for which the NR&B would review the situation and then make a recommendation to the Board for final approval at their next meeting.

Note regarding structures: When a request is made related to building a structure on a common area, the NR&B’s approval/recommendation shall be contingent on ARC approval for the structure. For example, if a request for a beach access across common area is made, the NR&B might review the request and agree that it can occur, but their approval to the owner would indicate the approval was contingent on getting ARC approval for the structure.

### Categories of Common Area Issues:

1. Easement/License/Permissions – Easements are more permanent and formal standing agreements, usually written by the attorney (usually for things involving other entities, like the Village, BHIL, etc.) License Agreements can be more easily revoked and usually for a more temporary amount of time (again, most often with other entities). Permissions are even more flexible, and are usually issued as part of an ARC approval process for something like clearing, etc for property owners.
  - C

 a. Property Owner Initiated
    - i. Landscaping – to plant beach stabilizing vegetation, or to clear common area for a better view, or to remove dead trees, vines, etc as an extension to the back “look” of their property. \*\*\*.
    - ii. Structures – walkways (beach/other), outdoor furniture, swings, etc. \*\*\*
    - iii. Temporary Access - for construction equipment to reach certain elevations of the home during construction
  - B

 b. Village
    - i. Easements for Stormwater Management – currently have a standing easement with the Village for stormwater management activity
    - ii. Easements for Deer Management Activities
    - iii. Utility Easements – already have a standing easement with the Village for utility related work, but there are some limitations to it that sometimes require them to

come to us for additional permissions, so not all utility-related activity is automatically covered under the existing easement. For instance, we granted a permanent easement to allow them to widen South Bald Head Wynd during the post-hurricane repairs.

- iv. Easements for Equipment Access during erosion/renourishment activity. This was before the first renourishing. There is the opinion that once the beach is renourished, the renourished beach belongs to the state at this point and any private or BHA property that existed before the renourishment is gone.

**B**

c. Other Entities

- i. Worked out an easement/license agreement with the Conservancy for the renovation and management of the current "wildlife" overlook.
- ii. The Club has an existing 30 foot maintenance easement, and this has in the past raised occasional encroachment issues that must be investigated. \*\*\*

**B**

2. Transfer Requests

a. Property Owner Initiated –

- i. Request to "buy" common area to add to the setback of their property; usually occurs for beach lots that need additional footage to build within CAMA limits

b. Entity Initiated

- i. When the Club Ownership transferred, we agreed to transfer some "bits and pieces" of common area along an access road to "clean up" the maps associated with the properties belonging to Club, BHI Limited and us.
- ii. BHIL asked us to "swap" a piece of Hammocks property with us in exchange for a piece of our common area to allow a permanent maintenance/construction access to the back of several Hammocks' units.

**B**

3. Conveyances

- a. In the past, the Board has done due diligence to review properties BHI Limited proposes to turn over to them for common area before accepting them, specifically issues related to the Utility equipment that remains on these properties.

**B**

4. Use of Common Area

- a. In the past, the Board and other designated committee (Communication, Education and Recreation) has reviewed the possibility of utilizing common areas, particularly some of the more significantly sized ones, for uses such as additional boat park space, additional cart parking space, and recreational facilities. To date, such efforts are usually met with great opposition by the property owners.
- b. We have a current effort in process to utilize one of our common areas as a site of historical significance. The potential plan is to clear some underbrush from a strip of this common area, install some signage and a boardwalk to draw visitor and resident attention to the historic importance of this site of Fort Holmes.

5. Limited Common Area

**C**

- a. Limited Common Area is Common Area that belongs to a neighborhood association (such as Timbercreek, Villas, etc.) but still falls under our Covenants. Structural and significant landscape changes would need to be approved by the BHA\*\*\*, but the BHA does not pay for the maintenance of these properties, as they are only available to the residents of those associations.

6. Beautification Projects or Clean Up

- B** a. Property Owner Initiated – these are usually requests for the BHA to shoulder the cost of cleaning up a common area that has storm debris issues or has become unsightly in some way. We have conducted clean ups of the dead trees at Lagoons on 14 and 15 that occurred as a result of flooding, dead trees at Black Skimmer destroyed by one of the hurricanes, etc. However, these are exceptions – there are pros and cons environmentally to removing dead vegetation, as we note in the Appendix C of the Design Guidelines and as you will note in our Common Area policies, the current philosophy is to allow common areas to be as “natural” as possible, as defined in those policies. But the two situations above were ones where the dead vegetation was very visible and the Board felt removal was appropriate.
- C** b. Committee Initiated – in the past, the NR&B has initiated and implemented plantings at different common area sites, such as the entrance to the Boat park. However, most of their efforts concentrated on the medians, which belong to the Village and are now handled by the Village, with NR&B input as appropriate. (C unless cost is significant)
- B** c. Entity Initiated – The Club has suggested in the past they would like to see the BHA share the cost of cleaning up the lagoons. They also asked the BHA to help fund the Kimley-Horn lagoon report to understand what was causing flooding problems and the Board had to consider that request.

#### 7. Policy Work

- B** a. The Board has asked the NR&B in the past to improve the current common area policies, specifically to develop a more comprehensive definition of the word “maintenance” as it applies to the BHA’s philosophy of managing common areas. Their current effort is in the Common Area Policy in the Design Guidelines (Appendix H) under “Use”. The NR&B may recommend changes to the common area policy, including these appendices.

#### 8. Violations

- B&C** a. Investigations of unauthorized common area clearing or utilization, removal of trees, pumping of water onto the property from a private property, etc. and subsequent correspondence to the owner and recommendation of action to the Board as appropriate  
\*\*\* (C but B as well if fines/penalties involved)

#### 9. Miscellaneous

- B** a. The Board considered whether or not to join a lawsuit with other property owners against the Corps for loss of property with respect to the erosion that it is felt was caused by the Corps moving of the channel closer to the Island. The “loss of property” included BHI common area.
- C** b. Property owner asked BHA to investigate perceived problems with the drainage project installed by the Village on common area property (the Village was given an easement to do this but the PO had concerns)



## **Section VIII - Appendix B**

### **PROCESS FOR HANDLING COMMON AREA REQUESTS**

Step 1: Staff receives a common area request

Step 2: Staff refers the request with the appropriate background to the NR&B chair and liaison.

Step 3: NR&B meets to review common area request. It may be advisable for this committee to have a set meeting schedule, perhaps once a month, at which they will handle all common area requests received up to a certain deadline date before the meeting, as the ARC does.

Step 4: For decisions that may be made by the committee, the Association Manager will prepare approval/disapproval letters for the request, based on communication from the liaison or chairperson after the meeting. Minutes to the meeting should be provided to assist her in this process and for the BHA files. She will ask the liaison/chair to approve the letters prior to them being sent to ensure they accurately reflect the decision process of the committee.

Step 5: For recommendations to the Board from the Committee, the NR&B chair or liaison should provide the Association Manager the required information/recommendation to submit to the Board for their next Board meeting. This should be received at least seven days before the Board meeting so it can be included in the Board packets.

Step 6: After the Board meeting, the Association Manager will communicate the decision to the NR&B chair and then prepare the decision letter to send to the member who made the request.



## **Covenants Enforcement Rule**

**Last Amended and Approved by the Board 3-11-2022, Revised 6-9-2023**

Covenant Article 3.3, Enforcement, states :

The Association may impose sanctions for violations of this Declaration, the Articles, the Bylaws, or Rules and Regulations, including reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities or Amenities within the Common Area. In addition, the Association may exercise self-help to cure violations, and may suspend any services it provides to the Unit of any Owner who is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. The Board may seek relief in any court for violations or to abate nuisances. The Board may assess the reasonable monetary fines authorized by this Section as a Special Assessment authorized by ARTICLE 5 of this Declaration and may take any other action permitted by this Declaration for the enforcement of this Declaration, including those set forth in ARTICLE 15.\*

\*Except where it conflicts with current applicable law.

### *Purpose of Enforcement Action - Compliance*

The Covenants are the primary set of Rules that all BHA property owners are obligated to follow. In addition, the Covenants provide that the Board may pass Rules and Regulations that state more specifically what the BHA property owners must do to comply with the Covenants. For example, the Board has adopted a detailed set of Design Guidelines that set forth the specific rules that BHA property owners must follow in building, remodeling and landscaping their lots. Further the Board adopted specific Community Wide Standards that more clearly specify what BHA property owners must do to maintain the exterior of their homes and yards. These are examples of the Rules and Regulations adopted by the Board for BHA homeowners to follow.

### *Compliance*

A primary desire of the Board and the ARC is to assist the BHA homeowners to comply with the Covenants, Design Guidelines, Community Wide Standards and other Rules and Regulations in order to avoid violations.

### *Violations*

If a BHA member fails to comply with the Covenants, Design Guidelines, Community Wide Standards or other Rules and/or Regulations, this is a Violation.

*Agent of Compliance*

The Covenant Enforcement Agent (“CEA”) is authorized by the Board to identify, receive and initiate reports on potential violations of the Covenants, Design Guidelines, Community Wide Standards and the other Rules and/or Regulations. In most cases, this person coordinates notifications of Board/ARC decisions as appropriate and coordinates subsequent correspondence and action.

*Who decides if a condition or action constitute a Violation?*

Whether or not a condition or action constitutes a violation is determined by the Community Wide Standards Committee or the Association Executive Director in collaboration with the CEA.

*When a Violation Is Identified*

The CEA may proceed directly to Step 1 below. Or, in the discretion of the Association Executive Director and the CEA, the CEA may seek to resolve minor compliance situations with verbal communication between the CEA and member (or the member’s agent, such as a builder or architect), and never enter the written notification process, as delineated below. The CEA has the authority to make judgments on these matters and work with the member appropriately, consulting with the Association Executive Director as needed for guidance. If the CEA elects to try to resolve the violation this way and the situation cannot be resolved in this manner, the CEA will initiate the written notification process as follows:

Step 1: This first violation letter to the member should be sent by (1) regular mail (2) and e-mail, if the e-mail address is on record with the BHA. The letter should state substantially as follows:

- 1) The Covenant provisions, Design Guideline(s), Community Wide Standard or other Rule or Regulation that has been violated.
- 2) The time period in which compliance must be achieved which will be no less than 15 days.
- 3) That failure to comply within the specified time period may result in further action, including a fine, costs to remedy the situation, any of which could constitute a Special Assessment as denoted under Article 5 of the Covenants.
- 4) The letter will be sent to the property owner. The letter will include a specific statement that it is the member who is ultimately responsible for activities on his or her property, including, without limitation, compliance with the Covenants, Design Guidelines and Community Wide Standards.
- 5) If appropriate, other parties may be contacted about the violation, such as the Village of Bald Head Island, a builder, realtor, architect, contractor or partner.

Step 2 : If compliance is not achieved by the required date, a second letter will be sent by (1) certified mail and (2) e-mail, if the email address is on record with the BHA. The letter should state substantially as follows:

- 1) A fine of up to \$100 per day, per violation ( along with the costs to remedy a situation) may be assessed by the Board as authorized by the Covenants and the Planned Community Act Chapter 47F of the NC General Statutes. Only the Board can decide whether a fine will be imposed. The letter shall include reasonable detail as well as a summary of both the factual basis of the potential sanction and the corresponding covenant provision or other Rule or Regulation that may have been violated.
- 2) The member has the right to request a hearing and opportunity to be heard before the Board prior to a decision being made. In order to request such hearing, the member shall notify the BHA Executive Director within 5 days of receipt of this second notification letter. Action will be postponed no longer than 30 days to schedule this hearing.
- 3) That if the Board should impose a fine, a fine of an additional amount up to \$100 per day, per violation may also be imposed and will commence no sooner than five days after the hearing date, and may continue until the violation is remedied or as otherwise ordered by the Board.
- 4) Appropriate parties may be copied on this letter, but the member, as the party held ultimately responsible for the cost/fine, is the primary addressee.
- 5) If the member does not exercise his or her right to an appeal and hearing, the Board will make a decision and the decision will be communicated to the member by the CEA.

Step 3: If a hearing is requested by the Board, the hearing will be scheduled within 30 days of the request and heard as soon as reasonably practicable. The member will be given the opportunity at the hearing to be heard and present evidence regarding the violation being considered by the Board. The Board will then make its decision regarding whether it finds there is a violation and, if so, what, if any, sanction is appropriate.

Step 4: Criteria to be Applied by the Board in Deciding how Penalties for Violations Are Determined.

Factors which should be considered by the Board in deciding whether or not to assess a fine on violations, include, but are not limited to: the context in which the situation occurred, the perceived significance of the violation, the intentions of the parties involved, and past history with these parties. The Board may consider reducing or waiving a penalty if the member in violation demonstrates an appropriate cooperative spirit and respect for the intention of the Covenants and the property values of neighbors that these restrictions protect. The cost of bringing a property into compliance, as appropriate, should be taken into consideration when determining a fine for violations.

In addition, the Board should consider that the overall purpose of fines is to encourage compliance. The intent is not to raise money for the general revenue of the BHA although the funds once generated may be used for the general revenue or however the Board directs.

Step 5: The Board and the CEA shall use good faith and diligent efforts to communicate the Board's determination to the member in writing within seven days of the hearing. If the Board has imposed a fine, the decision letter will include the following information:

1. The fine must be paid to the Bald Head Association office no later than Net 30 days from the date of this hearing notification letter.
2. The Covenant violation must be remedied by a deadline specified by the Board, but this date will be no earlier than five days past the date of the hearing. If the Covenant violation is not remedied by the required date, a fine schedule of up to \$100/day, per violation may be initiated on that deadline date and may continue until the violation is remedied as determined by the CEA. This fine schedule will be invoiced to the member with a Net 30 due date, unless other arrangements are agreed upon (see #3). Unpaid fines may be filed as a lien against the property in accordance with Article 5 of the Covenants and the Association may thereafter take such action as may be necessary to enforce its rights.
3. The Association Executive Director (Contact number provided) may be contacted to discuss a payment schedule, although ultimately the Association has no obligation to accept any particular payment arrangements the property owner proposes.
4. It will be noted that failure to pay the fines can result in judicial foreclosure.
5. The Association may also seek payment from the member for attorney fees in the amount authorized by law.
6. The member should also be notified that in the event they have a dispute with the BHA, they have the right to initiate mediation as provided in North Carolina General Statutes Section 7A-38.3F and the BHA is unable to provide any member legal advice of any kind.

Step 6: Member requesting reduction of Fines. The overall purpose of a fine is to encourage compliance. If a Member has been assessed a fine for a violation and cured the violation, the Member may request the Board to reduce the fine in whole or in part.

1. Once the request has been made to the Board, the Board has the full and complete discretion to reduce the whole fine, or in part or not.
2. The factors that should be considered by the Board in deciding whether or not to reduce the fine and, if so, how much, include but are not limited to:
  - a. the context in which the violation occurred,
  - b. the perceived significance of the violation,
  - c. the intention of the parties involved,
  - d. the impact, if any, the violation had on the island neighbors,
  - e. the economic and personal situation of the member

f. the level of cooperation, if any, the Member reflected in working with the BHA staff to bring the violation into compliance and any and all other factors the Board believes appropriate to consider.

*ARC Decision Appeal Process versus the Covenant Violation Policy Process*

The Design Guidelines provide an ARC Appeal Process for members wishing to contest ARC decisions pertaining to their submittals. For the most part, this is separate from the process for handling Covenant violations. However, if the ARC decision relates to correcting an unapproved alteration/change, or if an ARC decision is appealed to the Board under the Design Guidelines Appeal Process and the member refuses to abide by the Board's final decision, the member may be subject to a fine until compliance is achieved, which would then apply to the process noted here.

*Conflict*

This policy is intended as a support document to the Covenants. Any conflict between the two documents is unintentional and the Covenants will control except where applicable law supersedes these provisions.



# DESIGN GUIDELINES (STANDARDS & RULES)

FOR BALD HEAD ASSOCIATION MEMBERS  
*26<sup>th</sup> Edition*

August 2022



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# INTRODUCTION

## Purpose of the Design Guidelines (Standards & Rules)

The Bald Head Association Covenants were drafted and adopted by the property owners of Bald Head Island. Within these Covenants the property owners created the Design Guidelines and the Architectural Review Committee to support their goal of “enhancing and protecting the value, desirability and attractiveness” of the Bald Head Island properties and maintaining the environment in which they exist. These Design Guidelines contain basic requirements that support the intention of the Covenants to promote a harmonious community aesthetic and a conservation consciousness. These Design Guidelines also contain a uniform review process of clear expectations and design requirements for obtaining approval of the Architectural Review Committee.

- **The members of the Bald Head Association (hereafter referred to as BHA) have the right to amend the language of the Covenants and the Bald Head Association Board of Directors has the responsibility to amend, interpret and enforce the Design Guidelines based on current community standards.**
- **No Architectural Review Committee decision or existing house design on Bald Head Island shall be considered a precedent.**
- **All submittals for review by the Architectural Review Committee must be in compliance with the most current version of the Bald Head Association Design Guidelines.**
- **All materials submitted for Architectural Review Committee consideration become property of the Bald Head Association and shall be subject to the Association’s documents retention and destruction protocol. Please retain duplicates of any documents you submit to the Architectural Review Committee for your records.**
- **The property owner is responsible for compliance with the Covenants and Design Guidelines and assuring compliance fulfillment by their designees.**
- **ARC approval does not ensure approval by the Village of BHI or any other entity.**

# Applicability of the Design Guidelines

These Design Guidelines apply to the properties that are subject to the BHA Amended and Restated Declaration of Covenants, Conditions and Restrictions, recorded December 2017 (hereafter referred to as “the Covenants”). Cape Fear Station properties must abide by the general BHA Design Guideline requirements. If there is a conflict between the two, Cape Fear Station Lot Designations will take precedent. Please refer to Appendix C for further details.

Some areas in BHA have “neighborhood” associations with restrictions specific to their community. Permission for changes must be granted by both the neighborhood association and the Bald Head Association’s Architectural Review Committee (hereafter referred to as “ARC”). Members must obtain approval from their neighborhood association before submission for ARC approval. A letter verifying the neighborhood association approval is required for ARC review. Any conflict between the restrictions of the neighborhood association and the Bald Head Association will be resolved by applying the more stringent restriction.

The areas in the Bald Head Association membership with “neighborhood” associations are:

The Hammocks	Flora’s Bluff/Killegray Ridge	Royal James Landing
Ibis Roost	Lighthouse Landing	Sabal Palm Cottages
The Villas	Timbercreek	

These aforementioned neighborhoods are communities with common areas in which many of the homeowners do not own the land around their homes. (There are some individual exceptions in Flora’s Bluff/Killegray Ridge; please refer to the individual deed for clarification.) It is important to note in most cases, the “neighborhood” association is responsible for landscape maintenance and must approve any trimming, planting and tree removal. Additionally, in accordance with BHA Covenants, **any exterior changes** including but not limited to landscaping and tree removal must also be approved by the BHA ARC.

## Harbour Association

A Master Association subject to its own Covenants, Design Guidelines, Bylaws and Urban Code, that in 1999 voluntarily subjected the Harbour Association properties to Membership of the BHA subject to provisions of Articles 2, 5 and 9 of the Amended Bald Head Association Covenants (recorded in 2000).

## Service Areas

All other neighborhoods within the BHA area are identified as Service Areas. Each Service Area may have amenities, services, fees or guidelines unique to those areas.

## East End Neighborhoods

Palmetto Cove, Palm Court, Cedar Court, Muscadine Grove, Braemar, Braemar Extension, Braemar Highlands, Loggerhead Beach



## Cape Fear Station

Please refer to the Cape Fear Station “Lot Designation Sheet” at the beginning of the Cape Fear Station Section under Bald Head Architecture.

### *Cape Fear Station Multi-Family Communities* (without a neighborhood association)

Sumner’s Crescent, Keeper’s Landing, Surfman’s Walk  
Land outside drip line (Common Area) is owned by the BHA.

### **Multi-Family Communities** (Drip-line Neighborhoods)

Setbacks for Multi-Family projects are site dependent. Structures shall meet all building code separations from property lines and existing adjacent structures. Setbacks shall be enforced that allow the rebuilding of all existing Multi-Family structures, to match the previously existing structures and impervious coverage limits (including square footage), should they be destroyed by storm or fire. In the case of adding to/or renovating an existing Multi-Family structure, no portion may extend beyond the existing drip line or exceed original square footage limits or impervious coverage. No ground clearing or vegetation removal is permitted without BHA/ARC approval.

“Drip-line” neighborhoods without a sub-association are Keeper’s Landing, Surfman’s Walk and Sumner’s Crescent. These are areas where property owners own structures: houses, garages, and crofters and the ground under these structures to the drip line where water dripping off the roof would land. They also own and must maintain walkways, decks, stairs, fences and lights, which are beyond the drip line, and are built for their use only, as opposed to the use of the entire neighborhood. They do not own the land under decks, walkways and stairs or any land around or in the vicinity of their houses. Any structures, unapproved landscape changes, or gas tanks for individual use on these common areas is prohibited.

**Under or above ground propane gas tanks, and structures benefiting individual properties are not to be installed on BHA land.**

## Common Area

These guidelines also apply to Common Areas owned by the Bald Head Association. Common Areas typically are the buffer areas between Units and golf course property and Units and the beach, between neighborhood properties and, sometimes, between Units. No clearing, landscaping or improvements of any type may occur on these properties without the permission of the Bald Head Association Board of Directors or its designated Committee. Please refer to Appendix F of these Guidelines for further details.

## Function of the Architectural Review Committee

The Architectural Review Committee (ARC) was established within Article 7 of the Covenants to administer the Design Guidelines and to review all applications for new construction and renovations on any of the properties. ARC approval is required prior to undertaking any new construction, exterior renovations or site work. When reviewing a submitted set of plans, the ARC may require compliance with requirements that, although not itemized specifically, are supported by sections of the Design Guidelines and the Covenants.

# What Requires ARC Approval

Section 7.1(a) of the Covenants provides: “No structures, buildings, improvements or construction, which shall include within its definition, clearing, grading, excavation and other site work, will be commenced, erected, or maintained upon any Unit or the Properties, nor will any exterior addition, change, alteration or change of color be made, except in compliance with this ARTICLE, the Design Guidelines and until the plans and specifications showing the nature, kind, shape, heights, materials and location of the same will 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 Committee according to the provisions of Section 7.2.

Structures, buildings and improvements shall include, but not be limited to any dwelling, garage, fence, wall, sidewalk, hedge, mass planting, change in grade or slope, drainage pipe, drainage canal, ditch, swale, catch basin, swimming pool, tree house, playhouse, sign, flagpole, exterior illumination, monument or marker, outdoor statuary, exterior lights, security lights, storm door, well utility facility, mailbox, patio, deck, screening for outdoor trash cans or other purposes (ex. HVAC, generator units, outdoor showers, boats, etc.), sprinkler system, driveway, outdoor decorative objects, shrubbery or landscaping.”

## GENERAL LANDSCAPING CONCERNS

ARC review and approval is required before the removal of trees 3 inches in diameter measured 48” along the trunk from ground level, tree limbs of 3 inches (Note: the Village Ordinance is 5” or more, does it need to be consistent?) or more in diameter, clustered growth vegetation 2 square feet or more at ground level, regardless of branching habits or diameter of the branches. Within the understory, ARC approval is also required to remove vegetation 1 inch or greater in diameter measured 48” along the trunk from ground level. Removal of understory and ground cover in naturalized areas on existing home sites is prohibited. As a barrier island, understory and ground cover are critical elements to control erosion and protect birds and other wildlife.

**No activity/utilization is allowed on a vacant lot** (see exceptions noted on page ten (10) in Section – Unimproved Properties for Construction or Sale).

## GOLF COURSE LOTS

Private lots outlining golf course property fall into two categories:

1. Lots that border directly on the open space of the course, with the property line being contiguous to the open space of the golf course property or lagoon
2. Lots that have a Common Area vegetative buffer between the property line and the open space of the golf course property or lagoon

A golf course view is a controlled area of clearing that allows visual access to the golf course from the home, and the following restrictions apply:

- a) Approval to clear a golf course view must be obtained from the ARC.

- b) Cutting and thinning should be kept to a minimum. Typically, maintenance does not entail major trimming of trees, clearing understory 1 inch or larger, or removing branches that are not impinging on structures.
- c) All **approved** clearing and/or thinning shall be done in a naturalized manner. The practice of tree topping is not permitted.
- d) Additional plantings of native plant material and mulching may be required by the ARC as mitigation.

The following special restrictions also apply to all properties abutting, adjoining or lying contiguous to the golf course or Common Areas surrounding the golf course property:

- a) Owners of such properties will not engage in any activities that would detract from the playing qualities of the Bald Head Island Golf Course or from the Properties and its attractive overall landscaping plan for the entire golf course area.
- b) Swimming pools may only be considered on golf course lots when the pool is obscured from the golf course by the main structure and must be an integral part of the overall design. A pool must be located on the away side of the property and not visible from the golf course.
- c) Land between the lots and the open space of the golf course is Common Area owned by the Bald Head Association and is governed by the BHA Common Area Policy as outlined in Appendix F of these Design Guidelines.
- d) **Approval to make any changes to BHA Common Areas for any reason** including golf course views must be obtained from the BHA Board of Directors or their designated committee prior to any work being done. All work for a golf course view is coordinated by the Board of Directors at the owner's expense.

## UNIMPROVED PROPERTIES FOR CONSTRUCTION OR SALE

Changes in landscaping, trimming and/or plant removal are not allowed on unimproved (vacant) properties except as specifically detailed in this section. Check BHI Village ordinance for required approvals.

**Lot clearing for survey or staking:** Some clearing of understory trees and shrubs may be required to prepare a site for survey or to stake the proposed building site. Permission to clear such understory trees and shrubs shall not be required by the ARC for the purpose of surveying, but clearing shall be limited to vegetation less than a 1 inch in diameter at 48 inches as measured along the trunk from ground level or any tree limb less than 3 inches in diameter. Any vegetation larger than this or any vegetation that exists as clustered growth or having horizontal branching habits must be approved for removal regardless of size of diameter. Exception: It is understood that when surveying to establish the property lines of a lot, vegetation may impede the ability of the surveyor to establish a sight line. Any vegetation directly in the sight line less than 3 inches in diameter at 48 inches as measured from the base at ground level may be removed. ARC approval must be granted to remove any vegetation 3 inches or greater in the sight line. Violations of this requirement are subject to mitigation and fines.

**For Maintenance / Sale:** Clearing of the entire understory or clearing for the sole purpose of selling a lot is **not** permitted. **ARC APPROVAL IS REQUIRED before clearing any vegetation** on all unimproved properties but for those being prepared for survey or staking (a proposed building site). There is one exception to this ARC approval mandate. In order to provide ease of access, a path of 36 inches in width may be cleared as long as no trees, tree limbs or clustered growth subject to ARC approval is disturbed. Such a path, if cleared, shall be mulched to minimize the potential effects of erosion. Any violation because of more extensive clearing will be subject to fines and/or mitigation.

**Lot clearing for approved new construction projects:** Some clearing of understory trees and vegetation may be allowed within the approved construction area as defined by the limits of construction fencing noted on the approved site plan. New construction projects must avoid damaging naturalized areas outside the limits of construction fencing. If during the construction process damage to a naturalized area occurs, the area must be restored to its native state. Clearing of understory is **NOT ALLOWED** in setbacks except as reflected in the approved site plan or landscape plan. For example, an approved site plan may include some clearing within a setback to allow driveway access.

# REVIEW PROCESS

## New Construction Review Process

The primary purpose of all reviews is: (a) to assess and confirm conformance with the Covenants and these Design Guidelines (including the NCDNR Storm Water Permit Regulations), and (b) to assess the impact of requested deviations and approve or disapprove such in the context of the stated objectives of the Covenants and these Design Guidelines. The review procedure for new construction projects is typically a three-step process wherein the property owner receives Draft, Preliminary and Final Reviews. The typical new construction project review process takes a minimum of three months. The property owner is solely responsible for compliance with the Covenants and Design Guidelines and assuring compliance fulfillment by their designees of the approved plan.

Bald Head Association employs a liaison between the Committee and property owners, the ARC Coordinator. This person will assist applicants with the approval process, review submittals, and complete site management and final required inspections. For submittal requirements or questions, contact the Bald Head Association to reach the ARC Coordinator.

The following will ensure a smooth review process:

1. Submittals must fulfill all requirements designated in the Review Process before the ARC will consider them. Plans must be **clear and detailed**.
2. It is strongly recommended that applicants engage architects and designers who are familiar with the standards of Bald Head Island coastal construction and the environmental requirements of Bald Head Island. This helps to assure an appropriate level of competency and aesthetic desirability to maintain compatibility in this unique building environment.
3. The architect/designer is required to visit the site prior to his/her first submittal of a new construction or major renovation plan to the ARC.
4. While additional recommended items are not necessarily required for approval, their incorporation into the plan's design is **strongly** encouraged. When reviewing a specific set of plans, the ARC can require compliance with requirements that, though not itemized specifically, are supported by sections of the Design Guidelines and the Covenants.
5. Pile driving, material deliveries or other construction activity are not permitted without written final approval by the ARC, a site management meeting with the ARC Coordinator, and an executed Pre-construction Site Management Compliance Form.
6. The owner should begin the review process early in the planning stages to accommodate the process and any unforeseen delays. Deadlines: All Draft submittals intended for the ARC agenda must be received by 1:00 pm, 14 days prior to the scheduled ARC meeting date. Preliminary and Final submittals intended for the ARC agenda must be received by 1:00 pm, 21 days prior to the scheduled ARC meeting date. Draft and Preliminary

submittals must include one full-size printed copy and an emailed PDF copy. All Final Reviews require two full-size printed copies, an 11 x 17 printed copy, and an emailed PDF copy. Once approved, one of the full-size copies will be stamped and available for pick-up at the ARC office by the property owner or their designated builder.

7. Submittals received after the deadline or incomplete submittals will be deferred to the following meeting. Copies of submittal applications are provided in the Forms Section for reference, copying and use by the applicant.
8. **Fees:** Fees related to the Submittal Process may be found in Appendix A. Any submittal requiring a fee must include the fee in order to be considered complete. All fees are subject to annual review and update by the Board of Directors.
9. **Notifications:** Property owners will be notified in writing of all approvals (or disapprovals) granted by the ARC as soon as possible following each meeting, but no later than 45 days following the meeting. For the owner's convenience and to speed delivery, email notification may be requested.

## Steps in the New Construction Review Process

- |                   |  |
|-------------------|--|
| <b>Step One</b>   | Review the Covenants and these Design Guidelines to determine if further restrictions are applicable to your property. Article 7 of the Covenants specifically addresses Design Guidelines (see Appendix G). Contact the ARC Coordinator with any questions.   |
| <b>Step Two</b>   | Employ a registered surveyor to obtain a complete survey as required and described within the Preliminary Review Section. This survey must be dated 2 years or less from the date of the submittal and must include existing vegetation and approximate tree canopy.   |
| <b>Step Three</b> | Discuss plans and visit the site with your architect/designer.   |
| <b>Step Four</b>  | <u>Draft Review:</u> A draft plan submittal is required. This step will enable the ARC to consider the design aspects of the house and site. Revisions at this stage can save many hours of production time needed to meet preliminary submittal requirements. Submit one full-size printed copy and one emailed PDF copy by 1:00 pm, 14 days before the regularly scheduled ARC meeting. The review fee is due with this submittal. |
| <b>Step Five</b>  | <u>Preliminary Review:</u> Submit one full-size printed copy and one emailed PDF copy for Preliminary approval after schematic design development by 1:00 pm, 21 days before the regularly scheduled ARC meeting.  |
| <b>Step Six</b>   | <u>Final Review:</u> Revise as required indicating each change with a "revision cloud" and a written description attached to the Final application specifying all changes made and include a Scaled Landscape and Paint Application. Submit two full-size printed copies, one 11x17 printed copy and one emailed PDF copy by 1:00 pm, 21 days before the regularly scheduled ARC meeting.  |



**Step Seven** Project approval by the ARC is valid for 24 months from the date of approval. If the Village of Bald Head Island building permit has not been issued ARC approval expires. If ARC approval expires before the project has been and on-site construction has not begun within the 24-month approval period, the started, the construction deposit will be returned.

**Note:** If an owner wishes to proceed with an expired, approved project, the project will be subject to the New Construction review process based upon current Design Guidelines, Fees, and Deposits.

## Steps in the New Construction Project Management and Completion Process

**Step One** As the representative of the property owner\*, the builder must schedule and meet with the ARC Coordinator prior to any work being performed or any materials being delivered to the site to review and execute the Pre-Construction Site Management Compliance Form. The designated builder, as the property owner's representative, is responsible for contacting the ARC Coordinator to begin the Pre-construction site management process.

**Note:** A forest lot requires the use of 36" high black silt fence for limits of construction fencing. A non-forest lot requires the use of 48" high wooden sand fence for limits of construction fencing.

**Step Two** A copy of the 'As-Built' survey and Certificate of Occupancy, as required by the Village of Bald Head Island, must be submitted to the ARC Coordinator within 15 days of the Certificate of Occupancy issuance date and no later than two (2) days before scheduling a final on-site project inspection with the ARC Coordinator.

**The final on-site project inspection with the ARC Coordinator must be scheduled by the builder or property owner's representative and conducted within 30 days of the Certificate of Occupancy issuance date. Non-compliance may result in fines.**

**Step Three** Once the Certificate of Occupancy is issued, any request to delay completion of the landscaping plan must be submitted in writing and approved by the ARC. Steps for addressing damages due to construction must likewise be addressed in writing at this time.

**Step Four** Once the final inspection by the ARC Coordinator is complete and there are no violations, the Construction Deposit will be refunded. Please refer to the five (5) conditions listed under the Violations section on page 26. These conditions must be satisfied before the construction deposit may be returned.

**\*The responsibility for the accuracy and execution of the building site plan and design during the construction process belongs to the property owner. The BHA site management and final inspection processes help to verify compliance with the Design Guidelines but does not guarantee the accuracy of implementation and construction of the site plan or overall design.**

## Requirements of the Submittal Process

1. Complete application submittals must be received by 1:00 pm, 14 days before a meeting for Draft Submittals and 21 Days before a meeting for Preliminary or Final Submittals.
2. Application submittals received after this specified deadline will be included on the agenda for the next regularly scheduled ARC meeting.
3. **Incomplete application submittals will not be included on the ARC agenda.**

## Draft Review

This required first step has been established to give overall consensus on the general project plan. The architect/designer is highly encouraged to attend this session and is welcome to attend any additional reviews.

1. The Review Application for New Construction and the Architectural Questionnaire completed.
2. The appropriate Review Fee must be included with the application for the submittal to be considered complete.
3. Schematic Drawings:
  - a) Site Plan with basic dimensions and noted setbacks
  - b) Floor Plans at minimum  $\frac{1}{4}" = 1'0"$  These should include each floor, mezzanine and ground level plan.
    - 1) room uses labeled
    - 2) all walls shown
    - 3) all windows and doors shown
    - 4) all overhangs of floors or roofs above shown as dashed lines
    - 5) dimension overall limits of plans
  - c) Elevations at  $\frac{1}{4}" = 1'0"$ . One for each major exposure including all accessory structures
    - 1) Conceptual drawings should establish proportion, fenestration, size and mass
    - 2) Roof lines with minimum pitches, steps and porches shown

## Preliminary Review

The Preliminary submittal will reflect the development stage of an architect's/designer's design. This important step in the Review Process allows revision and responses to the comments and requests received from the ARC at the Draft Review. Unless an additional detail page is required, the schematic drawings should consist of approximately seven to nine pages, depending upon the number of floor levels proposed. Any additional drawings, beyond what is required, may be included only in the emailed PDF copy.

A Preliminary Review submittal has the following requirements:

1. The Review Application for New Construction and the completed Architectural Questionnaire.
2. The Review Fee was previously paid with the Draft submittal.

3. A survey that must be signed and sealed by a registered North Carolina surveyor at a scale of 1" = 10' and must provide:
  - a. property lines with dimensions and bearings
  - b. existing contours at one-foot maximum intervals, each indicating elevation above sea level
  - c. existing tree location of every tree with a minimum caliper of 3 inches in diameter measured 48" along the trunk from ground level and clustered growth vegetation 2 square feet or more at ground level, regardless of branching habits or diameter of the branches
  - d. a north arrow
  - e. setback limits
  - f. the survey must include the required sightline setback calculations for oceanfront properties (see Sightline Setback requirements page 129)
  - g. survey must be dated 2 years or less from the date of the submittal.
  - h. identify any existing underground gas tanks
  - i. identify base flood elevations, and if applicable, 404 wetlands and CAMA lines
4. Schematic Drawings:
  - a. **Site Plan at 1" = 10' 0" scale.** This page should include:
    - 1) a north arrow
    - 2) property lines with dimensions and bearings
    - 3) existing and proposed contours
    - 4) the location of all trees to be removed that measure 3 inches in diameter at 48" along the trunk from ground level and clustered growth vegetation 2 square feet or more at ground level
    - 5) roof plans, including any accessory structures, shown to size at same scale
    - 6) indicate first floor elevation (FFE), virgin low (VL), and average grade around the perimeter of the structure
    - 7) setback limits shown
    - 8) the building accurately located from property line
    - 9) the dwelling to be indicated as ground level or first floor plan if less than 6' above grade, with entry areas and all stairs delineated
    - 10) overhangs indicated with dashed lines
    - 11) the location and dimensions for drives and walks
    - 12) the location of exterior showers, HVAC, and trash enclosures
    - 13) indicated exterior lighting locations and styles, honoring the Lighting Section directives of these Design Guidelines that prohibit exposed lights and require down shielding
    - 14) FEMA Zone designation and indicated Base Flood Elevation
    - 15) specified limits of construction line (fencing) beyond which no grading, clearing or thinning, construction traffic or storage of materials will be permitted. **Please note:** A forest lot requires the use of 36" high black silt fence for limits of construction fencing. A non-forest lot requires the use of 48" high wooden sand fence for limits of construction fencing.
    - 16) the location of the Village YES/NO garbage tag (see specific guidelines)

- 17) concrete or paver driveway apron at road edge
- 18) a data block added to the side of the plan that includes the following calculations: lot size, total impervious site coverage breakdown, total building coverage for all structures above 30 inches, heated square footage breakdown and calculations pertaining to the 50 percent rule, (if applicable) revealing the footprint and volume of each level

**NOTE:** The heated (finished) square footage of each level is the sum of the heated (finished) areas on that level measured at the floor level to the exterior finished surface of the outside walls. The heated square footage calculation is based on the American National Standards Institute's (ANSI) method for calculating heated (finished) square footage for single-family residences. This standard applies to all projects.

**b. Floor Plans at minimum  $\frac{1}{4}" = 1'0"$  scale**

These pages should include for each floor and ground level plan:

- 1) Labeled room uses
- 2) all walls, windows and door openings shown and dimensioned
- 3) all windows and doors with swings shown, including the style of windows and doors selected
- 4) all overhangs of floors and roofs above labeled and shown as dashed lines on first and second floor plans
- 5) overall limits of plans of first and second floors with complete floor plan dimensions
- 6) the ground level plan indicating driveway location, stairway, garage, boat storage concealment plan and grade level screening for trash, HVAC and outdoor shower enclosures

**c. Roof Plans at  $\frac{1}{4}" = 1'0"$  scale**

This page should include the roofs of the house and all accessory buildings:

- 1) all slope dimensions
- 2) all overhang dimensions indicated with a dashed line and measurements

**d. Elevations at  $\frac{1}{4}" = 1'0"$  scale**

There should be two pages, the first showing the North and West exposures and the second showing the South and East exposures. These pages should provide the following information for the house and accessory buildings elevations:

- 1) how the building relates to ground level
- 2) the grade level screening type, design details and location
- 3) materials and design details for the exterior of the proposed structure
- 4) the overall height from the virgin low point at the house footprint perimeter to ridge of roof
- 5) the dimensions of the eave and rake overhangs
- 6) the primary and secondary roof pitches
- 7) the relationship of finished first floor to FEMA flood elevation
- 8) the exterior lighting details

**e. Wall Sections at  $\frac{3}{4}" = 1'0"$  scale**

This page should include for the house and accessory building sections:

- 1) typical wall from ground to roof ridge details at a minimum scale of  $\frac{3}{4}" = 1'0"$
- 2) overhang measurements
- 3) typical decks and railing details
- 4) typical screened porch details

**f. Detail Plans at  $\frac{1}{4}" = 1'0"$  scale**

This page should include the house and accessory building's details and indicate the materials, dimensions and design for:

- 1) the HVAC enclosure
- 2) trash enclosure
- 3) fencing, if applicable
- 4) columns
- 5) railings
- 6) walkways and driveways, if these details were not included on the site plan
- 7) brackets, if applicable
- 8) lighting fixtures
- 9) grade-level screening
- 10) window and door trim
- 11) garage doors
- 12) other

**g. Electrical plans at  $\frac{1}{4}" = 1'0"$  scale**

This page should include the location of all house and accessory building exterior lighting fixtures. The site plan must include the location of all pathway lighting. Specifications must be included for all proposed exterior lighting fixtures including lumens, source to baffle measurements and color temperature per the Design Guidelines.

**NOTE: At the time of the Preliminary Review submittal, the corners of the house must be staked on the lot in the proposed locations. Trees to be removed must be flagged with surveyor's tape.**

# Final Review

A Final Review submittal has the following requirements:

1. The Review Application for New Construction and the Architectural Questionnaire in completed final form
2. The construction deposit and Property Owner's Agreement
3. The completed Roof / Paint / Color Application Form
4. The completed scaled Landscape Plan
5. Final Drawings:

- a. **Site Plan**

- 1) the location of non-stacked guest parking for two carts within setbacks
- 2) the location of the electric meter, including any necessary platforms or steps (cannot be located in setback)
- 3) specify lay-down area for material storage
- 4) the location Village address bollard(s)
- 5) the location of the Village YES/NO garbage tag (see specific guidelines)

Revised as required by the Preliminary Review indicating each change with a "revision cloud"

- b. **Floor Plans**

Revised as required by the Preliminary Review indicating each change with a "revision cloud"

- c. **Roof Plans**

Revised as required by the Preliminary Review indicating each change with a "revision cloud"

- d. **Elevations**

There should be two pages, the first showing the North and West exposures and the second showing the South and East exposures. These pages should provide the following information for the house and accessory buildings elevations:

- 1) how the building relates to ground level
- 2) the grade level screening type, design details and location
- 3) materials and design details for the exterior of the proposed structure
- 4) materials and design details for the trash, HVAC and outdoor shower enclosures (including access platform and stairs if required for HVAC/electric)
- 5) the overall height from the virgin low point at the house footprint perimeter to ridge of roof
- 6) the dimensions of the eave and rake overhangs
- 7) the primary and secondary roof pitches
- 8) the relationship of finished first floor to FEMA flood elevation
- 9) the exterior lighting details

Revised as required by the Preliminary Review indicating each change with a "revision cloud"



e. **Wall Sections**

Revised as required by the Preliminary Review indicating each change with a “revision cloud”

f. **Details Plans**

This page should include the house and accessory building’s details and indicate the materials, dimensions and design for:

- 1) the HVAC enclosure
- 2) trash enclosure
- 3) fencing, if applicable
- 4) columns
- 5) railings
- 6) walkways and driveways, if these details were not included on the site plan
- 7) brackets, if applicable
- 8) lighting fixtures
- 9) grade-level screening
- 10) window and door trim
- 11) garage doors
- 12) other

Revised as required by the Preliminary Review indicating each change with a “revision cloud”

- g. **Electrical plans at ¼” = 1’0” scale** This page should include the location of all house and accessory building exterior lighting fixtures. The site plan must include the location of all pathway lighting. Specifications must be included for all proposed exterior lighting fixtures including lumens, source to baffle measurements and color temperature per the Design Guidelines.

Revised as required by the Preliminary Review indicating each change with a “revision cloud”

h. **Landscape Plan**

- 1) Date of plan preparation, project name, address and name of property owner, North arrow, graphic scale (the required scale is 1” = 10’)
- 2) The site plan must include variety, size and location of plant material and dimensions of hardscape.
- 3) Type and limits of seeded/sprigged area (dune areas)
- 4) Plant list with quantity, botanical name, common name, size and special specifications.
- 5) Detail drawings showing specifications for hardscaping—such as grill pads, planters, extra parking areas, pathways, decking, pavers, steppingstones, fences, arbors, notation of irrigation components, etc.
- 6) Location for mitigation trees and clustered vegetation, as appropriate, if mitigation is required
- 7) Calculation for any impervious surface square footage that the Landscape Plan will add to the existing site impervious coverage totals - including retaining walls, pavers and the use of other hardscape details.
- 8) Calculations for the percentages of plant material designated BHI native, North Carolina native and non-native. These percentage calculations are based on the total number of gallons of proposed plant material.

# Changes during New Construction Review Process

The ARC acknowledges that changes to an approved plan may need to occur during the construction process. Any such changes to the approved plan, however insignificant, must be submitted for ARC approval, prior to implementation in the field.

1. All Preliminary Review requirements apply.
2. The location of any change should be indicated with a “revision cloud” on the same page as the originally approved drawing.
3. Each proposed change should be indicated with a “revision cloud” on any subsequent drawings.
4. Submittals should include the following:
  - a. Change application
  - b. Applicable review fee
  - c. one full-size printed copy of plans
  - d. one emailed PDF copy of plans
5. Deadline: complete submittals must be received by 1:00 pm, 14 days before the regularly scheduled ARC meeting in order to be placed on the agenda.

# Renovation Review Process

**There are different types of renovations. Please qualify your submittal and include the appropriate fee. See page 30 for current fee schedule. Submittals without a fee are not complete.**

As noted in Appendix G, the Covenants require in Article 7.4 that **“No construction or improvements, as defined in Section 7.1(a), will be commenced, erected, placed or maintained on any Unit; nor will any exterior addition, change or alteration be made thereto, until the plans and specifications (“Plans”) will have been submitted to and approved by the Committee.”** Renovation Review applies to any building additions, any exterior alterations or any improvements enumerated in the Covenants. A submission for review of the proposed renovations must contain:

1. The Major or Minor Renovation or Change Application Form including a description of the renovations and coordinating questionnaire. A letter of intent may be included.
2. Site plan elevations and detailed drawings of proposed renovations to scale. The ARC may require an up-to-date site plan or “As Built” survey.
3. For oceanfront properties, a submittal for an oceanside addition must contain an ‘As Built’ survey that includes the required sightline setback calculations for oceanfront properties (see Sightline Setback requirements page 129).
4. A submittal to expand, replace or add an accessory structure must include the height of the existing main structure. See accessory structure guideline requirements.
5. A Site Management Plan specifying limits of construction fencing and designating a location for the materials lay-down area, the dumpster and the portable restroom, as well as the location of proposed installation of protective measures for existing vegetation.
6. Material and color samples
7. A completed Paint Application Form with manufacturer’s chips attached
8. The appropriate Review Fee
9. Complete Major Renovation Submittals for Categories I or II (see below for the appropriate category) must be received 21 days prior to the meeting date; Minor Renovations must be received 14 days prior to the meeting date.

## **Major Renovations:**

**Category I**— Additions of 1000-1599 heated square feet; or nonheated space of 1200 or greater square feet.

(**Note:** Renovations involving 1600 heated square feet or more; or 50% of the existing structure to be removed or revised are subject to new construction fees and guidelines.)

**Category II**—Additions of 250 -999 heated sq. ft; or 500-1199 unheated sq. ft.

**Category III**—Additions of less than 250 heated sq. ft, or less than 500 unheated sq. ft.

### **Plan Requirements for Major Renovations:**

- Two scaled full-size printed copies
- One 11 x 17 printed copy
- One emailed PDF copy
- Completed Major Renovation Application
- Fee (see page 30)

Major Renovations typically involve additions of heated space. If an ‘As Built’ survey is not on file at the ARC Office, submittals for a new accessory structure or additions in close proximity to the setback lines must include an ‘As Built’ survey as part of a complete submittal (see additional survey requirements for oceanfront properties). **After a new accessory building or addition is complete, an ‘As Built’ survey — including the new structure — must be submitted to the ARC Office within 30 days of receiving the Village Certificate of Occupancy. Non-compliance may result in fines.**

**Minor Renovations:** There are 2 categories of Minor Renovations.

**Category I** - Additions of less than 250 unheated sq. ft., landscaping changes and other changes not categorized.

**Category II** - Replacement of an existing feature. e.g. garage door, front door, single window, etc.

### **Plan Requirements for Minor Renovations:**

- One scaled full-size printed copy
- One 11 x 17 printed copy
- One emailed PDF copy
- Complete Minor Renovation Application
- Fee (see page 30)

Minor Renovations typically do not involve heated space. They do not alter the form or significantly change elevations. However, the ARC Coordinator may determine, based on the size of a non-heated space project, that a higher review fee should be assessed.

If there is a question whether a change qualifies as a Minor Renovation, or Major Renovation, the ARC Coordinator will consult with the ARC Chair. The change review fee must be submitted with the application. The site plan and elevations of proposed improvements may be provided by the applicant rather than an architect/designer if these submittals are presented professionally and drawn to scale. Major Renovations in Category I or II may also be subject to the application requirements detailed under New Construction Review Process.

**Any change to the approved plan, however insignificant, must be submitted for ARC approval.** The location of any change should be indicated with a “revision cloud” on the same page as the originally approved drawing. Each proposed change should be indicated with a “revision cloud” on any subsequent drawings. If the approved renovation on-site construction has not begun within the 24 months after the date of the approval, the ARC approval expires.

Major Renovation projects may require the property owner or the builder, as their representative, to meet with the ARC Coordinator prior to any work being performed or any materials being

delivered to the site to review and execute the approved Pre-Construction Site Management Compliance Form. The builder or the property owner is responsible for contacting the ARC Coordinator to begin the Pre-Construction Site Management process. Completion of the site management process is required and the property owner or designated representative (builder) is responsible for completing this process. The property owner is solely responsible for assuring all construction and improvements are in compliance with the approved plan.

## Relocation Review Process

Although the homeowner will not be charged a new construction fee, the relocation of a house will be treated as a new construction application. The applicant must contact the ARC Coordinator to begin this review process.

Pile driving, material deliveries or other construction activity is not permitted without written final approval by the ARC, a site management meeting with the ARC Coordinator and an executed Pre-construction Site Management Compliance Form.

## Existing Structure Demolition Review Process

The applicant must contact the ARC Coordinator to begin this review process. If existing structures including but not limited to the main structure are going to be demolished, ARC approval is required prior to the commencement of any site work.

The Demolition Review application must be completed and submitted for ARC review.

## Paint/Roof Color Review

If an approved Paint/Roof Color Review application is on file, no approval shall be required to repaint the exterior of a structure or apply a new roof of similar material with the originally approved color scheme. If an approved Paint/Roof Color Review application is NOT on file, one must be filed with the ARC for review and confirmation before proceeding to paint.

1. Changes to any exterior paint/stain or roof colors must be submitted to the ARC for a color review.
2. A Paint Review or Roof Color Review requires a Paint/Roof Color Application. A change of roof material requires a Minor Change application and fee.
3. An ARC Paint/Roof Color application must be completed, which includes authentic manufacturer's color chips. The Paint/Roof Color Application is available in the Forms section.
4. Once a painting project has commenced on a structure, it must be completed within three months (90 days). (Note: This includes power washing and prep work that has removed any exterior finish.)
5. Retaining siding in an unfinished state is not allowed unless the original approval from the ARC was for unfinished siding.

# ARC DECISIONS

## Notification of ARC Decisions

A letter will be sent to the applicant within 45 days following the ARC meeting at which the decision was made. Any contingencies that are cited as part of a decision will be supported in the letter by direct references to the relevant documentation in the Design Guidelines or Covenants to ensure a clear understanding by the applicant and the applicant's agents of the decision and contingencies.

In verbal or written communication of ARC decisions, it is the responsibility of the ARC to make it clear why a plan was disapproved or why approval is being based on specific contingency items. While the ARC may choose to recommend some options that will correct a disapproved feature or plan item, it is not the Committee's role to offer a solution.

## Approval Expiration

ARC project approvals, including new construction, renovation, landscape, etc., are valid for 24 months from the date of approval. After 24 months, the approval for any project is considered expired. Any variance granted by the ARC or Board of Directors in conjunction with the ARC project approval expires simultaneously with ARC project approval unless the ARC grants a project approval extension.

Property owners seeking to initiate a renovation or building project after their ARC approval has expired will be required to submit their plans as a new project and will be subject to the current Design Guidelines, current Review Fee Schedule and current Construction/Landscape Deposit.

## Time Limits on Building and Renovation Projects

- 3-month limit for painting projects beginning with the power washing or other prep work.
- 3-month limit on minor repairs that may not require ARC approval or Village permit.
- 6-month limit for minor renovation projects beginning when building permit is granted.
- 1-year limit for major renovation projects beginning when building permit is granted.
- 2-year limit on new home construction projects beginning when building permit is granted.
- The final ARC on-site project inspection to establish that the new construction project has been completed in compliance with the approved plans **must be scheduled** with the ARC Coordinator by the project builder and conducted **within 30 days of the Certificate of Occupancy** issuance date. Repairs and Renovations which do not require ARC approval are subject to the same Time Limits. Any exterior requirement such as dumpsters, material laydown, etc. for indoor or outdoor construction is subject to the same Time Limits.
- If the plan for curing a Community Wide Standards violation requires a submittal to the ARC, it is due by the end of the 60 days from the date of the notification letter. Time from receipt of the submittal, until the date of the response letter from ARC, is not counted toward the 150 days given to cure the violation.

**NOTE:** Adjustments may be considered by the ARC for inclement weather and extenuating circumstances. Violations have an urgent timeline and that may include ARC approval if the mitigation is not like/kind material, design, and footprint. (See Violations.)



# Appealing a Decision of the ARC

## **STEP ONE: DECISION REVIEW MEETING**

Any Bald Head Association member applicant disagreeing with a review decision of the ARC shall contact the ARC Coordinator to request a meeting before the ARC to review the reasons for the decision. This request may be made at any time within 15 days after the date of the ARC letter notifying the applicant in writing of the review decision. The ARC will meet with the applicant no later than the next regularly scheduled ARC meeting. The architect/designer and the applicant must be present at this meeting. If the architect/designer and applicant were present for the initial project submittal review meeting, the ARC may waive this step of the appeals process.

## **STEP TWO: NOTICE TO APPEAL**

If the Decision Review Meeting does not resolve the issues, the applicant may appeal this ARC appeal process conclusion to the Bald Head Association Board of Directors (BHA Board) by notifying the Executive Director of the Association verbally or in writing of this intent within 15 days after the date of the ARC letter notifying the applicant in writing of the result of the Decision Review Meeting. The ARC Coordinator will be notified by the Executive Director when a request for appeal is received.

## **STEP THREE: REVIEWING BODY**

The BHA Board may choose to refer the matter to an Independent Appeals Committee (IAC) for a recommendation or the BHA Board may elect to review the matter in-house. Any reviewing IAC shall be comprised of a minimum of three persons appointed by the BHA Board. These IAC appointees may not be current members of the BHA Board or the ARC.

## **STEP FOUR: MEETING NOTIFICATION**

The BHA Board or IAC will conduct a hearing within 30 days of the appeal notification. The ARC Chair, the ARC Coordinator and the applicant will be notified of the meeting time and date by Association staff.

## **STEP FIVE: DOCUMENTATION**

Prior to this hearing, the ARC will communicate in writing any additional information the BHA Board requests or any additional information the ARC deems necessary to explain its decision. The applicant also will communicate in writing any additional information the BHA Board requests or any additional information he/she deems necessary to state and support his/her case for appeal.

## **STEP SIX: THE HEARING**

Representatives of the ARC and applicant may be present at the appeal hearing to answer questions. The BHA Board or IAC has the right to speak with each party individually and privately during the course of the hearing. The BHA Board or IAC also has the right to proceed with the appeals hearing in the absence of either party. Each participant will be given adequate time to present final comments to the BHA Board or IAC. They then will be excused from the hearing.

## **STEP SEVEN: THE DECISION**

If an IAC is the reviewing body, it will present a written recommendation to the BHA Board and the supporting documentation upon which the recommendation is based. This documentation will include meeting minutes and any information provided by the parties during the hearing. The BHA Board will be informed if the IAC recommendation was not unanimous.

The decision of the ARC being appealed can be overturned by a two-thirds vote of the BHA Board. The appeal hearing decision will be mailed to both parties within 15 days of the hearing.

## **NON-COMPLIANCE**

If an applicant refuses to comply with the decision of the BHA Board, the BHA Board may avail itself of the avenues provided in the Covenants for violations. The BHA Board may set a time limit for compliance, if appropriate.

## **AMENDMENT OF PROCESS**

This appeals policy may be amended by a two-thirds vote of the BHA Board at any time when the BHA Board or an IAC is not involved in an active appeals process. ARC input will be solicited before the amendment is made.

## **LIMITATIONS OF PROCESS**

The appeals process is available at any step in the Review Process, but applicants are encouraged to delay its implementation until they receive the results of the ARC's Final Review decision, thereby ensuring that all appropriate effort is taken to resolve the matter at the ARC level.

## **Amendments.**

The ARC periodically may determine a need to amend the Design Guidelines. The ARC should prepare and approve by a majority vote of each ARC Section any proposed change. The Covenants state that any Design Guideline change must be approved by the BHA Board before implementation. If approved, the newly modified requirement will apply to plans under consideration at the time of the approval.

## **Variances.**

The ARC may authorize in its discretion reasonable variances or adjustments from compliance with any of its guidelines and procedures in order to alleviate practical difficulties and hardship in their enforcement and operation. Such variances may only be granted, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing; or (b) stop the ARC from denying a variance in other circumstances. Any such variances shall not violate the spirit or the intent of this document to create a subdivision of Units owned in fee by various persons with each such Owner having an easement upon areas owned by the Association.

The ARC shall determine whether a variance will be granted. This decision will be sent to the applicant in writing. Any variance granted by the ARC expires simultaneously with ARC project approval expiration.

**NOTE: ARC approval of a variance does not assure that a variance to Village ordinance, if required, will be granted by the Village of Bald Head Island Board of Adjustment.**

# Violations

The Covenants mandate ARC approval for all home building plans and improvements. Should construction not comply with ARC approved submittals, the Covenants authorize the ARC to have the violations corrected according to the approved submittals or, if no approval exists, to have the non-compliant construction removed. Applicants or their representatives must bring any deviations from exterior approved plans to the attention of the ARC Coordinator immediately upon discovery for the ARC to review the deviation and determine if it may be permissible or if other action will be recommended. Applicants must not assume automatic approval of a construction detail because it currently exists on the island.

Damages may be assessed, and fines imposed of up to \$100 per day per violation. These fines are authorized by the Amended Covenants of the BHA and the Planned Community Act Chapter 47F of the NC General Statutes. They become effective five days from the date of the notification of BHA Board's approval of the recommendations.

Any structural, design or color changes or renovations to existing properties must be approved by the ARC.

The ARC refers violations to the BHA Board for possible fines and mitigation.

In the normal and ordinary course, compliance by a homeowner with a Community Wide Standard violation (CWS) will not require ARC approval, as it is only maintenance. If, however, compliance with a CWS violation does require a structural, design or color change then approval by the ARC is required. The ARC application must be submitted with the plan by 60 days from the date of the notification letter. Time from the receipt of the ARC submittal until the date of the ARC response letter does not count toward the 150-day time limit.

The required Refundable Construction Deposit will be used to reimburse any administrative expenses, costs of repairing damage to Common Areas, fees, fines and penalties incurred during the construction process. It will be returned in full at completion of the project upon the following conditions:

1. the project has been completed in accordance with the ARC approved plans;
2. no Common Areas or right-of-way areas have been damaged by construction;
3. no Covenants or Design Guidelines have been violated;
4. no deficits are remaining from the landscaping plan;
5. the Final Project Inspection Form is completed satisfactorily.

Failure to satisfy these conditions may result in the loss of some or all the Construction Deposit, regardless of whether such failure is caused by the Owner, architect/designer, builder, their contractors or agents. Property owners are responsible for compliance with the Covenants and Design Guidelines and assuring compliance fulfillment by their designees. If the fine(s) exceed the amount of the Construction Deposit, the balance owed may be assessed as a lien against the Owner's property.

APPENDICES  
A - ARCHITECTURAL  
REVIEW COMMITTEE FEES  
& FORMS

# REVIEW FEES FOR SINGLE FAMILY RESIDENCES

## *NEW CONSTRUCTION*

**\$ 3,700** New Construction Review Fee for up to three reviews (this includes any combination of Draft, Preliminary or Final review submittals).

**\$ 1,000** New Construction Review Fee for an additional review

**\$ 10,000** Refundable Construction Deposit

## *MAJOR RENOVATIONS*

### *Category I:*

**\$3,000** non-refundable review fee for Heated space change of 1000-1599 sq. ft.; non-heated space 1200 sq. ft. or greater. (1600 heated sq. ft. and over, or renovations involving 50% of the existing structure to be removed or revised is subject to new construction fees and guidelines.)

### *Category II:*

**\$ 2,000** Heated space of 250-999 sq. ft.; non-heated space of 500-1199 sq. ft.

### *Category III:*

**\$ 1,000** Heated space of less than 250 sq. ft.; non-heated space of 250-499 sq. ft.

## *MINOR RENOVATIONS*

### *Category I*

**\$300** Non-heated space of less than 250 sq. ft., hardscape changes to a landscape and other renovations not categorized

### *Category II*

**\$200** Design change of an existing feature, such as a door, window, roof material and Decorative Items.

## *PAINT/ROOF COLOR CHANGE - \$125*

*PLANT MATERIAL CHANGE* - No charge for Plant Material Change. However, Landscape change plans including hardscape material such as gravel, exterior lighting, pavers, decking, etc. must fill out a Minor Change Application and include a \$300 fee.

## *DEMOLITION - \$300*

**Fees and complete submittals required in the office by the published deadline for each ARC meeting.**

## ADDITIONAL NOTES

Major Changes During Construction – Major Renovation Review Fee applies

Minor Changes During Construction – Minor Renovation Review Fee applies

ARC approval is required for all exterior changes and a submittal will not be placed on the ARC meeting agenda for review if it is incomplete. The appropriate review fee is part of a complete submission. If there is a question whether a change qualifies as a minor or major change, the ARC Coordinator will consult with the ARC Chair. Similarly, should a construction proposal not be addressed within one of the categories outlined above, fees will be assessed on a case-by-case and individual basis.

Damages may be assessed, and fines imposed of up to \$100 per day per violation. These fines are authorized by the Amended Covenants of the BHA and the Planned Community Act Chapter 47F of the NC General Statutes. Fines become effective five days after the BHA Board's approval of the recommendations.

## CONSTRUCTION DEPOSIT

The required Refundable Construction Deposit will be used to reimburse any administrative expenses, costs of repairing damage to Common Areas, fees, fines, and penalties incurred during the construction process. It will be returned in full at completion of the project upon the following conditions:

1. the project has been completed in accordance with the ARC approved plans;
2. no Common Areas or right-of-way areas have been damaged by construction;
3. no Covenants or Design Guidelines have been violated;
4. no deficits are remaining from the landscaping plan;
5. the Final Project Inspection Form has been completed satisfactorily.

Failure to satisfy these conditions may result in the loss of some or all of the Construction Deposit, regardless of whether such failure is caused by the Owner, architect/designer, builder, their contractors or agents. Failure to submit any appropriate Change Applications to the ARC during the construction process will result in a delay of the building deposit refund. If fines exceed the amount of the Construction Deposit, the balance owed may be assessed as a lien against the Owner's property. **Checks must be made payable to Bald Head Association and mailed to the ARC Coordinator: Architectural Review Committee, P.O. Box 3030, Bald Head Island, North Carolina 28461-7000.**



# ARCHITECTURAL REVIEW APPLICATION FOR NEW CONSTRUCTION

## BHA ARCHITECTURAL REVIEW COMMITTEE (ARC)

(Page 1 of 4)

PO Box 3030

Bald Head Island, North Carolina 28461-7000

[ARC1@BaldHeadAssociation.com](mailto:ARC1@BaldHeadAssociation.com) / 910-457-4676, ext. 23 / 910-457-9021 Fax

Please check one:

Date: \_\_\_\_\_

☐ Draft Review Application (not all fields required – see page 12)

☐ Preliminary Review Application

☐ \$3700 New Construction Review Fee

☐ Final Review Application

☐ \$10,000 New Construction Deposit

Lot # \_\_\_\_\_ BHI House # \_\_\_\_\_ BHI Street Name \_\_\_\_\_

Property Owner \_\_\_\_\_

Mailing Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Architect/Designer \_\_\_\_\_

Mailing Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Builder \_\_\_\_\_

Mailing Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Surveyor \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Landscape Designer \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

☐ Variance Requested (Describe on Architectural Questionnaire)

## NEW CONSTRUCTION ARCHITECTURAL QUESTIONNAIRE

**Form(s) to be completed, as required, by all architects/designers submitting documents for consideration at Draft, Preliminary and Final stages.**

1. Has the architect visited the site? ☐ Yes ☐ No  
Date of visit (required prior to submittal of major renovation or new construction) \_\_\_\_\_
2. Has the architect read the **current BHA Architectural Design Guidelines** and related **Protective Covenants** and designed the house accordingly? ☐ Yes ☐ No
3. Has the house been designed according to the State of North Carolina Residential Building Code, especially in regard to wind resistant construction? ☐ Yes ☐ No
4. Is the architect familiar with CAMA, FEMA and Village of Bald Head Island Zoning requirements for this site? ☐ Yes ☐ No
5. If applicable, what are the CAMA and FEMA restrictions for this property?  
\_\_\_\_\_
6. Are there 404 (regulated) wetlands on the property? ☐ Yes ☐ No
7. What is the FEMA Flood Zone for the Property? \_\_\_\_\_
8. Has the architect/designer attempted to minimize the amount of the site to be graded? ☐ Yes ☐ No
9. Has the architect/designer attempted to minimize the removal of, or damage to existing vegetation, especially plants of special concern? ☐ Yes ☐ No
10. Has the architect/designer taken views, orientation and location of adjoining buildings into consideration for the design of the house? ☐ Yes ☐ No
11. Has the house been staked out on the lot (required at Preliminary)? ☐ Yes ☐ No  
Date Staked \_\_\_\_\_ **(Trees to be removed must be tied with red surveyors' tape)**  

Type of lot:	Required setbacks:
<input type="checkbox"/> Corner	Front _____
<input type="checkbox"/> Deeded site-specific building pad	Side _____
<input type="checkbox"/> Estate	Rear _____
<input type="checkbox"/> Merged	Alley Easement _____
<input type="checkbox"/> Standard	Other _____
<input type="checkbox"/> Cape Fear Station	
12. Area of lot (sq. ft.) \_\_\_\_\_
13. Lowest natural point (virgin low) at perimeter of complete main structure (including stairs, decks, etc.) (MSL) \_\_\_\_\_
14. Average grade within main structure footprint \_\_\_\_\_
15. Height of main structure (highest roof ridge) above virgin low point (max. 35') \_\_\_\_\_
16. First floor elevation (FFE) \_\_\_\_\_  
**(Max of 2' above FEMA or 4' above average grade around perimeter of complete structure including stairs and decks, whichever is greater)**

17. Lowest natural point (virgin low) at perimeter of crofter/garage (including stairs, decks, etc.) (MSL) \_\_\_\_\_
18. Height of crofter/garage (highest roof ridge) above virgin low point \_\_\_\_\_
19. Crofter/garage top of ground floor (slab) \_\_\_\_\_
20. Total proposed building coverage \_\_\_\_\_  
 Total proposed impervious coverage \_\_\_\_\_  
 Maximum building coverage allowed for lot \_\_\_\_\_  
 Maximum impervious allowed for lot \_\_\_\_\_
21. Percentage of site to be graded \_\_\_\_\_  
**(This area should be kept to a minimum and generally include only the building pad, drive and walk area. A minimum of 60% of the lot should remain undisturbed. The required percentage of undisturbed area may be greater for larger lots (greater than 10,500 sq. ft.) and less for smaller lots typical in Cape Fear Station. (see Grade - Site Grading section for more details).**
22. Number of trees over 3" in caliper at 4' proposed to be removed \_\_\_\_\_
23. Roof pitch: Primary \_\_\_\_\_ Secondary \_\_\_\_\_
24. Eave overhang dimensions \_\_\_\_\_  
 Rake overhang dimensions \_\_\_\_\_
25. Total allowable heated square footage \_\_\_\_\_
26. Total square footage main structure (heated/non-heated) \_\_\_\_\_ / \_\_\_\_\_
27. Total square footage crofter/garage (heated/non-heated) \_\_\_\_\_ / \_\_\_\_\_
28. Heated first floor area (main structure) \_\_\_\_\_
29. Heated second floor area (main structure) \_\_\_\_\_
30. Heated third floor area (main structure) \_\_\_\_\_
31. Total sq. ft. of screened porch \_\_\_\_\_ Screen Material \_\_\_\_\_
32. Total sq. ft. of deck and balconies \_\_\_\_\_
33. Percentage of covered porch (8' deep min.) if in front of dune ridge — must be 15% of the linear footage heated wall space on the first floor \_\_\_\_\_
34. Percentage of covered porch (8' deep min.) in East End neighborhoods must be 20% of the linear footage heated wall space on the first floor \_\_\_\_\_
35. Covered porch per Cape Fear Station requirements Front \_\_\_\_\_ Rear \_\_\_\_\_
36. 50% rule calculation (if on or in front of dune ridge)  
 Area of grade level volume footprint (if usable) \_\_\_\_\_  
 Area of first level volume footprint \_\_\_\_\_  
 Area of second level volume footprint \_\_\_\_\_  
 Second level percentage of first level (50% max.) \_\_\_\_\_
37. Are any variances from Architectural Review Committee requirements being requested under this application? ☐ Yes ☐ No If yes, please attach a letter of explanation for request \_\_\_\_\_
38. Shutter material: Plastic \_\_\_\_ Vinyl \_\_\_\_ Wood \_\_\_\_ Other \_\_\_\_ Color \_\_\_\_\_  
 A physical sample must accompany any submittal that includes plastic or vinyl shutters.

39. Roof: Color \_\_\_\_\_ Type \_\_\_\_\_

For guidance, see roofing color and reflective properties guidelines.

40. Are there any existing fences bordering property lines? ☐ Yes ☐ No

(See fence guidelines)

41. Is there a concealment proposal on plans for storing a boat on the lot? (**Required** if owner intends to bring a boat to the island) ☐ Yes ☐ No

42. Location of YES/NO trash tag \_\_\_\_\_

43. **For Draft and/or Preliminary:**

Has the architect/designer submitted one full-size printed copy, one 11" x 17" printed copy and one emailed PDF copy? ☐ Yes ☐ No

**For Final Review:**

Has the architect/designer submitted two full-size printed copies, one 11" x 17" printed copy and one emailed PDF copy?

☐ Yes ☐ No

Has the architect/designer submitted an original signed and sealed topographical survey (less than two years old) by a registered land surveyor or civil engineer?

☐ Yes ☐ No (**Required at Preliminary Review**)

44. The survey and site plan include the required sightline setback calculations for oceanfront properties ☐ Yes ☐ No (**Required at Draft Review**)

45. If this property falls under the restrictions of a neighborhood sub-association, has a letter from that association, granting approval of the plan, been submitted with the application? ☐ Yes ☐ No

46. Does any portion of the proposed construction work involve work on property owned in whole or part by any person or entity other than the applicant property owner (*i.e.* an access easement to the ocean for which the walkway or structure is owned jointly with an adjacent owner or otherwise) ☐ Yes ☐ No

47. If the answer to question 46 is "yes", do you understand the written consent to the plans for any such construction work shall be required from that adjacent owner or other appropriate person before the ARC shall consider approval of any such work and it is the obligation of the Property Owner to obtain such written consent from the adjacent owner or other appropriate person and provide it to the ARC. ☐ Yes ☐ No

To the best of my knowledge, the foregoing statements are true.

\_\_\_\_\_  
Architect/ Designer signature

\_\_\_\_\_  
Date

Is this application in response to a violation?  
If so, please check the appropriate box below.

☐ Final Inspection

☐ CWS violation

☐ Other violation

# MAJOR RENOVATION APPLICATION ARCHITECTURAL REVIEW APPLICATION

(For new work on existing homes or design changes during construction,  
see guidelines related to major changes for further clarification)

## BHA ARCHITECTURAL REVIEW COMMITTEE (ARC)

(Page 1 of 3)

PO Box 3030

Bald Head Island, North Carolina 28461-7000

[ARC1@BaldHeadAssociation.com](mailto:ARC1@BaldHeadAssociation.com) / 910-457-4676, ext. 23 / 910-457-9021 Fax

Date \_\_\_\_\_ Category (see page 30) \_\_\_\_\_

Lot # \_\_\_\_\_ BHI House # \_\_\_\_\_ BHI Street Name \_\_\_\_\_

Property Owner \_\_\_\_\_

Mailing Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Architect/Designer \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Contractor/Representative \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Change Descriptions \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Please attach the required drawings. MUST BE TO SCALE. Refer to the Design  
Guidelines. May include existing elevations, floor plans, site plan and proposed changes.**

## MAJOR RENOVATION QUESTIONNAIRE

**This questionnaire must be completed by the Property Owner or their representative and accompany the Major Renovation application form. If the renovation exceeds 1599 heated square feet or 50% of the existing main structure utilize the New Construction guidelines and application/questionnaire.**

1. Are the proposed changes consistent with the **current BHA Architectural Design Guidelines** and related **Protective Covenants**? ☐ Yes ☐ No
2. Will the proposed changes impact existing vegetation? ☐ Yes ☐ No

If the answer to this question is yes, list changes in existing vegetation: If applicable, what are the CAMA and FEMA restrictions for this property? \_\_\_\_\_

3. What is the FEMA Flood Zone for the Property? \_\_\_\_\_
4. Existing height of main structure (highest roof ridge) virgin low point (max. 35') \_\_\_\_\_
5. If proposed changes include accessory structures (i.e. crofter) include footprint square footage \_\_\_\_\_, height from virgin low to roof ridge \_\_\_\_\_
6. Area of lot (sq. ft.) \_\_\_\_\_  
 Total proposed building coverage \_\_\_\_\_  
 Total proposed impervious coverage \_\_\_\_\_  
 Maximum building coverage allowed for lot \_\_\_\_\_  
 Maximum impervious allowed for lot \_\_\_\_\_
7. Additional percentage of site to be graded \_\_\_\_\_  
**(This area should be kept to a minimum and generally include only the building pad, drive and walk area. A minimum of 60% of the lot should remain undisturbed. The required percentage of undisturbed area may be greater for larger lots (greater than 10,500 sq. ft.) and less for smaller lots typical in Cape Fear Station. (see Grade - Site Grading section for more details).**
8. Roof pitch: Primary \_\_\_\_\_ Secondary \_\_\_\_\_
9. Eave overhang dimensions \_\_\_\_\_ Rake overhang dimensions \_\_\_\_\_
10. Type of lot: \_\_\_\_\_ Required setbacks: \_\_\_\_\_  
☐ Corner Front \_\_\_\_\_  
☐ Deeded site-specific building pad Side \_\_\_\_\_  
☐ Estate Rear \_\_\_\_\_  
☐ Merged Alley Easement \_\_\_\_\_  
☐ Standard Other \_\_\_\_\_  
☐ Cape Fear Station



11. Total allowable heated square footage \_\_\_\_\_
12. The proposed changes are in compliance with the designated porch requirements?  
☐ Yes ☐ No
13. The proposed changes are in compliance with the 50% rule calculation? ☐ Yes ☐ No  
If 50% rule applies, second level percentage of first level (50% max.) equals \_\_\_\_\_
14. Are any variances from Architectural Review Committee requirements being requested in this application? ☐ Yes ☐ No  
If yes, please attach a letter of explanation for request.
15. Has the architect/designer submitted one full-size printed copy, one 11" x 17" printed copy and one emailed PDF copy? ☐ Yes ☐ No
16. Do the proposed changes impact the required sightline setback calculations for oceanfront properties ☐ Yes ☐ No (If the answer is yes, an updated 'As Built' survey must accompany the submittal to assure compliance with the sightline requirements)
17. If this property falls under the restrictions of a neighborhood sub-association, has the required letter/notification from that association, granting approval of the proposed changes been included in the submittal to the BHA ARC? ☐ Yes ☐ No
18. Does any portion of the proposed construction work involve work on property owned in whole or part by any person or entity other than the applicant property owner (*i.e.* an access easement to the ocean for which the walkway or structure is owned jointly with an adjacent owner or otherwise) ☐ Yes ☐ No
19. If the answer to question 18. is "yes", do you understand the written consent to the plans for any such construction work shall be required from that adjacent owner or other appropriate person before the ARC shall consider approval of any such work and it is the obligation of the Property Owner to obtain such written consent from the adjacent owner or other appropriate person and provide it to the ARC. ☐ Yes ☐ No

To the best of my knowledge, the foregoing statements are true.

\_\_\_\_\_  
Property Owner or Representative signature

\_\_\_\_\_  
Date

Is this application in response to a violation?  
If so, please check the appropriate box below.  
  
☐ Final Inspection  
☐ CWS violation  
☐ Other violation

MINOR RENOVATION/CHANGE APPLICATION  
ARCHITECTURAL REVIEW APPLICATION

(For new work on existing homes or design changes during construction,  
see guidelines related to minor changes for further clarification)

**BHA ARCHITECTURAL REVIEW COMMITTEE (ARC)**  
PO Box 3030  
Bald Head Island, North Carolina 28461-7000  
[ARC1@BaldHeadAssociation.com](mailto:ARC1@BaldHeadAssociation.com) / 910-457-4676, ext. 22 / 910-457-9021 Fax

(Page 1 of 3)

Date

Category

Lot #

BHI House #

BHI Street Name

Property Owner

Mailing Address

Telephone

Email

Architect/Designer

Telephone

Email

Contractor/Representative

Telephone

Email

Change Descriptions

Please attach the required drawings. **MUST BE TO SCALE.** Refer to the Design Guidelines. May include existing elevations, floor plans, site plan and proposed changes.

## MINOR RENOVATION/CHANGE QUESTIONNAIRE

**This questionnaire must be completed by the Property Owner or their representative and accompany the Minor Change application form.**

1. Are the proposed changes consistent with the **current BHA Architectural Design Guidelines** and related **Protective Covenants**? ☐ Yes ☐ No
2. Will the proposed changes impact existing vegetation? ☐ Yes ☐ No  
If the answer to this question is yes, list changes in existing vegetation: \_\_\_\_\_
3. Type of lot: \_\_\_\_\_ Required setbacks: \_\_\_\_\_  
☐ Corner Front \_\_\_\_\_  
☐ Deeded site-specific building pad Side \_\_\_\_\_  
☐ Estate Rear \_\_\_\_\_  
☐ Merged Alley Easement \_\_\_\_\_  
☐ Standard Other \_\_\_\_\_  
☐ Cape Fear Station
4. Total area of lot (sq. ft.) \_\_\_\_\_
5. Total proposed building coverage \_\_\_\_\_  
Total proposed impervious coverage \_\_\_\_\_  
Maximum building coverage allowed for lot \_\_\_\_\_  
Maximum impervious allowed for lot \_\_\_\_\_
6. Do the proposed changes affect the percentage of covered porch or the 50% rule calculation (if on or in front of dune ridge) ☐ Yes ☐ No
7. Are any variances from Architectural Review Committee requirements being requested under this application? ☐ Yes ☐ No  
If yes, please attach a letter of explanation for request.
8. The submittal includes one full-size scaled printed copy, one 11" x 17" printed copy and one emailed PDF copy? ☐ Yes ☐ No
9. Do the proposed changes impact the required sightline setback calculations for oceanfront properties ☐ Yes ☐ No (If the answer is yes, an updated 'As Built' survey must accompany the submittal to assure compliance with the sightline requirements)
10. If this property falls under the restrictions of a neighborhood sub-association, has the required letter/notification from that association, granting approval of the proposed changes been included in the submittal to the BHA ARC? ☐ Yes ☐ No
11. Does any portion of the proposed construction work involve work on property owned in whole or part by any person or entity other than the applicant property owner (*i.e.* an access easement to the ocean for which the walkway or structure is owned jointly with an adjacent owner or otherwise) ☐ Yes ☐ No

12. If the answer to question 11. is “yes”, do you understand the written consent to the plans for any such construction work shall be required from that adjacent owner or other appropriate person before the ARC shall consider approval of any such work and it is the obligation of the Property Owner to obtain such written consent from the adjacent owner or other appropriate person and provide it to the ARC. ☐ Yes ☐ No

To the best of my knowledge, the foregoing statements are true.

\_\_\_\_\_  
Property Owner or Representative signature

\_\_\_\_\_  
Date

Is this application in response to a violation?  
If so, please check the appropriate box below.  
  
☐ Final Inspection  
  
☐ CWS violation  
  
☐ Other violation

Plant Material Change Application

**ARCHITECTURAL REVIEW APPLICATION**

(For vegetation changes on existing homes or changes made during construction)

**BHA ARCHITECTURAL REVIEW COMMITTEE (ARC)** (Page 1 of 1)  
PO Box 3030  
Bald Head Island, North Carolina 28461-7000  
ARC1@baldheadassociation.com / 910-457-4676, ext. 22 / 910-457-9021 Fax

Date \_\_\_\_\_

Lot # \_\_\_\_\_ BHI House # \_\_\_\_\_ BHI Street Name \_\_\_\_\_

Property Owner \_\_\_\_\_

Mailing Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Landscape Designer \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Descriptions \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**\*Please attach the required landscape plan and plant list.**

\* If you are planning to add or change hardscape (decking, pavers, gravel, lighting, etc.) in addition to softscape (plants, trees, shrubs, etc.) please fill out a Minor Change application. Include both hardscape and softscape specifics. A separate Plant Material application not needed.

**\*For guidance, see Landscape guidelines. It is required that a minimum of 70% of the new plant material be native to BHI. The use of NC native plant material is limited to 20% and up to 10% of the plant material may be non-native. Percentages are calculated by adding up the total number of gallons per plant. Only newly proposed plantings are calculated in these percentages, existing plants are not included.**

# DEMOLITION REVIEW APPLICATION

## ARCHITECTURAL REVIEW APPLICATION

(For demolition of existing homes)

### BHA ARCHITECTURAL REVIEW COMMITTEE (ARC)

PO Box 3030

Bald Head Island, North Carolina 28461-7000

[Arc1@BaldHeadAssociation.com](mailto:Arc1@BaldHeadAssociation.com) / 910-457-4676, ext. 22 / 910-457-9021 Fax

Proposed project completion time frame: \_\_\_\_\_

Lot # \_\_\_\_\_ BHI house # \_\_\_\_\_ BHI Street Name \_\_\_\_\_

Property owner \_\_\_\_\_

Mailing address \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Contractor \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

*As the official on-site designee of the property owner, the contractor accepts responsibility for maintaining the approved site management plan throughout the demolition process. The ARC Coordinator is granted on site permission and will make site inspections periodically throughout the process to ensure compliance with the ARC approved site management plan. The ARC Coordinator may authorize minor adjustments to the approved site management plan; major changes require resubmittal to the ARC for approval.*

*Damages may be assessed, and fines imposed of up to \$100 per day per violation for non-compliance. These fines are authorized by the Amended Covenants of the Bald Head Association and the Planned Community Act Chapter 47F of the NC General Statutes. They become effective five days after the Bald Head Association Board's approval of the recommendations.*

***The completed demolition review application must include the following documentation:***

\_\_\_\_\_ Verify that a new construction project has ARC approval and a Village issued permit for rebuilding the main structure on this site.

\_\_\_\_\_ If a new construction project is not currently ARC approved and/or Village building permit for the approved project has not been issued for this site, a landscape restoration plan is required.

\_\_\_\_\_ A copy of the proposed site plan including debris management plan.

\_\_\_\_\_ Include the planned protection of existing vegetation. The ARC Coordinator will determine if tree/vegetation protection is required before demolition begins.

\_\_\_\_\_ Limits of demolition fencing required. A forest lot requires the use of 36" high black silt fencing, and a non-forest lot requires the use of 48" high wooden sand fencing.

\_\_\_\_\_ Review fee.

Is this application in response to a violation?  
If so, please check the appropriate box below.

☐ Final Inspection

☐ CWS violation

☐ Other violation

## PAINT/COLOR APPLICATION

# ARCHITECTURAL REVIEW APPLICATION

PLEASE COMPLETE ALL PAGES

**NOTE: Must complete application prior to submittal (must include roof sample and paint chips)**

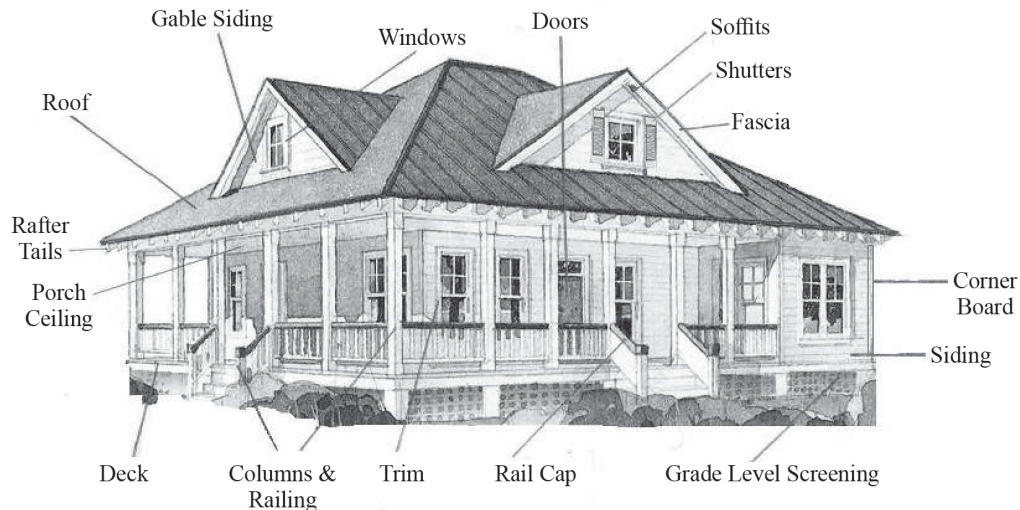
Date: \_\_\_\_\_

Lot # \_\_\_\_\_ BHI House # \_\_\_\_\_ BHI Street Name \_\_\_\_\_

Property Owner \_\_\_\_\_

Mailing Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_



## MANUFACTURER-PROVIDED ROOFING SAMPLE(S) REQUIRED

Roof:

Color/Number \_\_\_\_\_

Manufacturer \_\_\_\_\_

Material \_\_\_\_\_

Accent Roof:

Color/Number \_\_\_\_\_

Manufacturer \_\_\_\_\_

Material \_\_\_\_\_

*Note: For guidance, see roofing color and reflective properties guidelines.*



**MUST ATTACH MANUFACTURER-PROVIDED PAINT CHIPS BELOW**

Main body of the Bldg.:

Color/Number \_\_\_\_\_

Paint Mfg. \_\_\_\_\_

---

Rafters/ Soffits:

Color/Number \_\_\_\_\_

Paint Mfg. \_\_\_\_\_

---

Windows:

Color/Number \_\_\_\_\_

Paint Mfg. \_\_\_\_\_

---

Trim:

Color/Number \_\_\_\_\_

Paint Mfg. \_\_\_\_\_

---

Exterior Doors:

Color/Number \_\_\_\_\_

Paint Mfg. \_\_\_\_\_

---

Grade Level Screening:

Color/Number \_\_\_\_\_

Paint Mfg. \_\_\_\_\_

---

Porch Ceiling:

Color/Number \_\_\_\_\_

Paint Mfg. \_\_\_\_\_

---

Window Shutters

Color/Number \_\_\_\_\_

Paint Mfg. \_\_\_\_\_

---

HVAC Enclosure:

Color/Number

---

Paint Mfg.

---

---

Trash Enclosure:

Color/Number

---

Paint Mfg.

---

---

Shower Enclosure:

Color/Number

---

Paint Mfg.

---

---

Deck:

Color/Number

---

Paint Mfg.

---

---

Columns and Railing:

Color/Number

---

Paint Mfg.

---

---

Garage Doors:

Color/Number

---

Paint Mfg.

---

---

Other Accents (specify):

---

Rafter tails, cap rail, etc.

Color/Number

---

Paint Mfg.

---

**ATTACH SAMPLES BELOW**



**PLEASE SEND TO THE ARCHITECTURAL REVIEW COORDINATOR  
BHA ARCHITECTURAL REVIEW COMMITTEE (ARC)**

PO Box 3030

Bald Head Island, North Carolina 28461-7000

[ARC1@BaldHeadAssociation.com](mailto:ARC1@BaldHeadAssociation.com) / 910-457-4676, ext. 22 / 910-457-9021 Fax

Is this application in response to a violation?  
If so, please check the appropriate box below.

☐ Final Inspection

☐ CWS violation

☐ Other violation

# ROOF COLOR APPLICATION ARCHITECTURAL REVIEW APPLICATION

PLEASE COMPLETE ALL PAGES

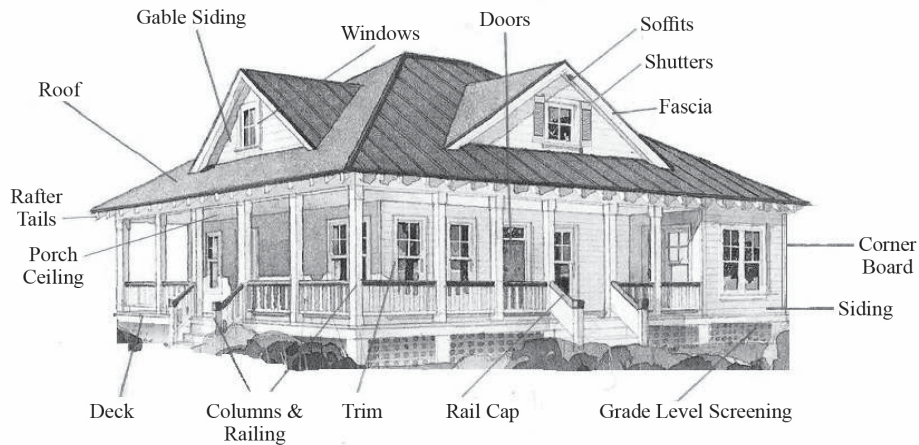
Date: \_\_\_\_\_

Lot # \_\_\_\_\_ BHI House # \_\_\_\_\_ BHI Street Name \_\_\_\_\_

Property Owner \_\_\_\_\_

Mailing Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_



## **MANUFACTURER-PROVIDED ROOFING SAMPLE(S) REQUIRED**

Roof:

Color/Number \_\_\_\_\_

Manufacturer \_\_\_\_\_

Material \_\_\_\_\_

Accent Roof:

Color/Number \_\_\_\_\_

Manufacturer \_\_\_\_\_

Material \_\_\_\_\_

*Note: For guidance, see roofing color and reflective properties guidelines.*

## PROPERTY OWNER'S AGREEMENT

- The original copy of the completed Property Owners agreement **must be submitted** with the Final Review application.
- The Property Owners agreement (all 4 pages) must be **completely** filled out and signatures notarized.
- The Property Owners agreement will be recorded at the Brunswick County Records Office and will transfer with the property.
- If the property is sold before the ARC final inspection has been successfully completed, the property owner of record at the time of the inspection is responsible for fulfilling the original agreement.
- Once the project is completed and the Property Owner agreement requirements are met, the Property Owner's Satisfaction Acknowledgement will be recorded at the Brunswick County Records Office and the construction deposit will be refunded to the property owner of record.

STATE OF NORTH CAROLINA

**AGREEMENT**

COUNTY OF BRUNSWICK

This Agreement is entered into the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_, \_\_\_\_\_ (collectively “Property Owner(s)”) and Bald Head Association, a North Carolina non-profit corporation (the “Association”).

**RECITALS**

WHEREAS, Property Owner is the owner of the property identified and described in Exhibit A hereto (the “Property”); and

WHEREAS, an Architectural Review Committee (ARC) exists pursuant to authority vested by the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Bald Head Association (the “Covenants”), for the purpose of administering Bald Head Association Design Guidelines and reviewing all applications for new construction, exterior renovations, or site-work on any of the properties which are subject to the Covenants; and

WHEREAS, ARC approval is required prior to undertaking any new construction, exterior renovation, or site work and for any change to an approved plan, however insignificant, to ensure compliance with the Covenants or the Design Guidelines set forth therein; and

WHEREAS, Property Owner wishes to commence construction on the Property.

**NOW THEREFORE**, in consideration of the foregoing and the releases, covenants, representations and warranties contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

1. Refundable Construction Deposit: Property Owner shall cause a construction deposit of \$5000 to be paid to the Association, for purposes of ensuring compliance with the Covenants and Design Guidelines and reimbursing any administrative expenses, costs of repairing damage to Common Areas, fees, fines, and penalties incurred during the construction process. The Association shall refund the deposit in full upon completion of the project if:

a) The construction project on the Property has been completed in accordance with the ARC approved plans;

- b) No Common Areas or right-of-way areas have been damaged or disturbed by construction;
- c) No Covenants or Design Guidelines have been violated;
- d) No deficits are remaining from the landscaping plan.
- e) The Final Project Inspection Form has been completed satisfactorily.

Failure to satisfy these conditions may result in the loss of some or all of the Construction Deposit, regardless of whether such failure is caused by the Owner, architect/designer, builder, their contractors or agents. If the fine(s) exceed the amount of the Construction Deposit, the balance owed may be assessed as a lien against the Owner's property.

2. Property Owner's Other Obligations: Property Owner shall:

- a) Become familiar with the requirements set forth in the Design Guidelines;
- b) Submit any changes to any proposed plans for the property to the ARC for review;
- c) Promptly remedy any violations of the Covenants or Design Guidelines;
- d) Permit architect/designer \_\_\_\_\_ to submit a proposal for work to begin on the property based upon a review of all drawings submitted for final review on \_\_\_\_\_, 20\_\_\_\_ and instructions to have the structure built as submitted if it is approved by the ARC;
- e) Submit a copy of the *required* as-built survey to the ARC Coordinator within thirty (30) days of the Certificate of Occupancy issuance date to ensure that the residence is built according to the approved set of drawings;
- f) Authorize Property Owner's architect/designer and builder to act in Property Owner's stead as Property Owner's representatives during the construction process;
- g) Be responsible for the actions of Property Owner's architect/designer, builder, and other agents as Property Owner's duly appointed representatives;
- h) Permit the ARC Coordinator on-site access throughout the construction process;
- i) Repair any damage to Common Areas or rights-of-way during the construction process;
- j) Remit any amount assessed by the BHA Board as damages or fines, understanding that damages may be assessed, and fines imposed of up to \$100 per day per violation.

3. Property Owner(s) understand and agree in the event any portion of the proposed construction work involves work on property owned in whole or part by any person or entity other



than the applicant property owner (*i.e.*, an access easement to the ocean for which the walkway or structure is owned jointly with an adjacent owner or otherwise) the written consent to the plans for any such construction work shall be required from that adjacent owner before the ARC shall consider approval of any such work. It shall be the obligation of the Property Owner to obtain such written consent from the adjacent owner or other such proper person and provide it to the ARC.

4. Transfer of Property: Should Property Owner sell the property before completion of the approved construction; Property Owner shall notify the purchaser of any ARC review process requirements and the existence of this Agreement. The Construction Deposit balance will be assigned to the new owner and will be subject to payment of any claims pre-dating the transfer of the property.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed effective the date specified above.

## **EXHIBIT A**

Lot # \_\_\_\_\_, BHA, Bald Head Island, North Carolina, more commonly known and identified by its street address of \_\_\_\_\_.

PROPERTY OWNER

\_\_\_\_\_(SEAL)  
Property Owner Signature

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public for the State of \_\_\_\_\_, County of \_\_\_\_\_, do hereby certify that \_\_\_\_\_ personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

PROPERTY OWNER

\_\_\_\_\_(SEAL)  
Property Owner Signature

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public for the State of \_\_\_\_\_, County of \_\_\_\_\_, do hereby certify that \_\_\_\_\_ personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

BALD HEAD ASSOCIATION

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County,  
North Carolina, do hereby certify that \_\_\_\_\_ personally came  
before me this day and acknowledged that she is \_\_\_\_\_ of  
Bald Head Association, a North Carolina corporation, and that by authority duly given and as the  
act of the corporation, the foregoing instrument was signed in its name by the duly authorized  
agent.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

PROPERTY OWNERS SATISFACTION  
ACKNOWLEDGEMENT  
**FOR INTERNAL USE ONLY**

STATE OF \_\_\_\_\_

ACKNOWLEDGMENT

COUNTY OF \_\_\_\_\_

Bald Head Association, a North Carolina non-profit corporation (the "Association") hereby acknowledges that all conditions of the Agreement recorded in Book \_\_\_\_ at Page \_\_\_\_\_, Brunswick County Registry, have been fully satisfied.

**IN WITNESS WHEREOF**, the Bald Head Association has caused this Agreement to be executed effective the date specified above.

BALD HEAD ASSOCIATION

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public for the State of \_\_\_\_\_,  
County \_\_\_\_\_ of \_\_\_\_\_, do hereby certify that  
\_\_\_\_\_ personally appeared before me this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

## **EXHIBIT A**

Lot # \_\_\_\_, BHA, Bald Head Island, North Carolina, more commonly known and identified by its street address of \_\_\_\_\_.



# FINAL INSPECTION CHECKLIST/REPORT

(FOR INTERNAL USE ONLY)

Owner \_\_\_\_\_ Architect/Designer \_\_\_\_\_

Builder \_\_\_\_\_ Lot # \_\_\_\_\_

Deposit Amount \$ \_\_\_\_\_ Date C.O. Issued \_\_\_\_\_

Date of inspection \_\_\_\_\_ 'AS BUILT' Survey submitted \_\_\_\_\_

Site Placement \_\_\_\_\_

Exterior Lighting \_\_\_\_\_

**Elevations:**

Trash Enclosure \_\_\_\_\_

Front \_\_\_\_\_

HVAC Screened \_\_\_\_\_

Back \_\_\_\_\_

Driveway \_\_\_\_\_

Left Side \_\_\_\_\_

Concrete Apron \_\_\_\_\_

Right Side \_\_\_\_\_

Walkways \_\_\_\_\_

Garage/Crofter \_\_\_\_\_

Stairways \_\_\_\_\_

**Fence:** Design \_\_\_\_\_ Location \_\_\_\_\_ Finished sides face out \_\_\_\_\_ Paint/Color \_\_\_\_\_

**Exterior Paint/Color:**

Body \_\_\_\_\_

Address Bollard (front) \_\_\_\_\_

Trim \_\_\_\_\_

Address Bollard (rear alley) \_\_\_\_\_

Doors \_\_\_\_\_

Landscaping \_\_\_\_\_

Accents \_\_\_\_\_

Lattice \_\_\_\_\_

Roof \_\_\_\_\_

\_\_\_\_\_ Damage to alley asphalt, sidewalk or street asphalt

Other (Describe) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

BHA ARC Coordinator

Date

**Deposit mailed:** Date \_\_\_\_\_ \$ \_\_\_\_\_

**SITE MANAGEMENT COMPLIANCE FORM**  
**ARC Coordinator, 910-457-4676 ext.22**

Date building permit issued: \_\_\_\_\_

**Lot # \_\_\_\_\_ BHI house # \_\_\_\_\_ BHI Street Name \_\_\_\_\_**

**Property owner** \_\_\_\_\_

Mailing address \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

**Builder** \_\_\_\_\_

Mailing address \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

*As the official on-site representative of the property owner, the builder accepts responsibility for maintaining this Site Management Plan throughout the building process. The ARC Coordinator is granted on site permission and will make site inspections periodically throughout the building process to ensure compliance with this Site Management Plan. The builder is responsible for contacting the ARC Coordinator to schedule required site visits and the completion of the three-step site management form. The ARC Coordinator may authorize minor adjustments to the approved site plan; major changes require resubmittal to the ARC for approval. Compliance with the approved plans will be itemized at final inspection prior to refunding the Construction Deposit. Failing to submit ARC Change Applications for changes as construction progresses will cause delays of the refund.*

***Damages may be assessed, and fines imposed of up to \$100 per day per violation for non-compliance. These fines are authorized by the Amended Covenants of the Bald Head Association and the Planned Community Act Chapter 47F of the NC General Statutes. They become effective five days after the Bald Head Association Board's approval of the recommendations.***

ARC Coordinator	Date	Builder	Date
-----------------	------	---------	------

**1<sup>ST</sup> SITE VISIT – SCHEDULED WITH ARC COORDINATOR BEFORE LAND IS CLEARED**

- \_\_\_\_\_ A copy of the approved site plan is attached.
- \_\_\_\_\_ The building corners are indicated by survey stakes, the trees are tagged for removal and the tree/vegetation removal is verified.
- \_\_\_\_\_ The approved site plan is reviewed and updated with required adjustments.  
This form is agreed to be the project Site Management Plan.  
Discuss protection of remaining trees.
- \_\_\_\_\_ The ARC Coordinator will determine if tree/vegetation protection is required before the land is cleared.

**NOTES:**

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_____	_____	_____	_____
ARC Coordinator	Date	Builder	Date

**2<sup>ND</sup> SITE VISIT – SCHEDULED WITH ARC COORDINATOR BEFORE PILINGS ARE INSTALLED**

- \_\_\_\_\_ The land has been cleared approximately 6 feet around the building pad.
- \_\_\_\_\_ The surveyor has set the final house corner stakes in preparation for piling installation.
- \_\_\_\_\_ Protective wood sand fencing has been installed 2 feet from and around the base of the trunk or vegetation to be protected per the site plan.
- \_\_\_\_\_ Review and update the Site Management Plan.

**NOTES:**

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_____	_____	_____	_____
ARC Coordinator	Date	Builder	Date

**Exception:** Tree protection that impedes the piling installation process will be noted on the Site Management Plan. Any delay of specific tree protection must be approved by the ARC Coordinator.

**3<sup>RD</sup> SITE VISIT - SCHEDULED WITH ARC COORDINATOR AFTER PILINGS ARE  
INSTALLED AND BEFORE OTHER MATERIALS ARE DELIVERED**

- \_\_\_\_\_ Limits of construction fencing have been installed.
- \_\_\_\_\_ A forest lot requires the use of 36" high black silt fence for limits of construction fencing.
- \_\_\_\_\_ A non-forest lot requires the use of 48" high wooden sand fence for limits of construction fencing.
- \_\_\_\_\_ The dumpster location has been designated.
- \_\_\_\_\_ The portable restroom location has been designated.
- \_\_\_\_\_ The Site Management Plan is reviewed and updated if necessary.
- \_\_\_\_\_ Although tree protection would be ideal if installed at the drip line of the remaining trees, it is recognized that this may not always be possible. On site, the ARC Coordinator will discuss with the builder any additional required tree/vegetation protection on a case-by-case basis when drip line is not possible.
- \_\_\_\_\_ The driveway has been stabilized and \_\_\_\_\_ material has been used.
- \_\_\_\_\_ The materials lay-down area has been determined and marked on the Site Management Plan.

NOTES:

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\_\_\_\_\_  
ARC Coordinator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Builder

\_\_\_\_\_  
Date

# B - BALD HEAD ISLAND ARCHITECTURE

## Overview and Requirements

Home designs built on Bald Head Island are intended to promote a homogeneous impression, an architectural appearance of each individual home “fitting” within the surrounding homes and neighboring environment. Bald Head Island Coastal Vernacular designs are a blend of the “shingle-style” and the “coastal cottage” style of architecture. Often the construction incorporates many of the “shingle-style” features and accentuates them with common elements of the “coastal cottage” design.

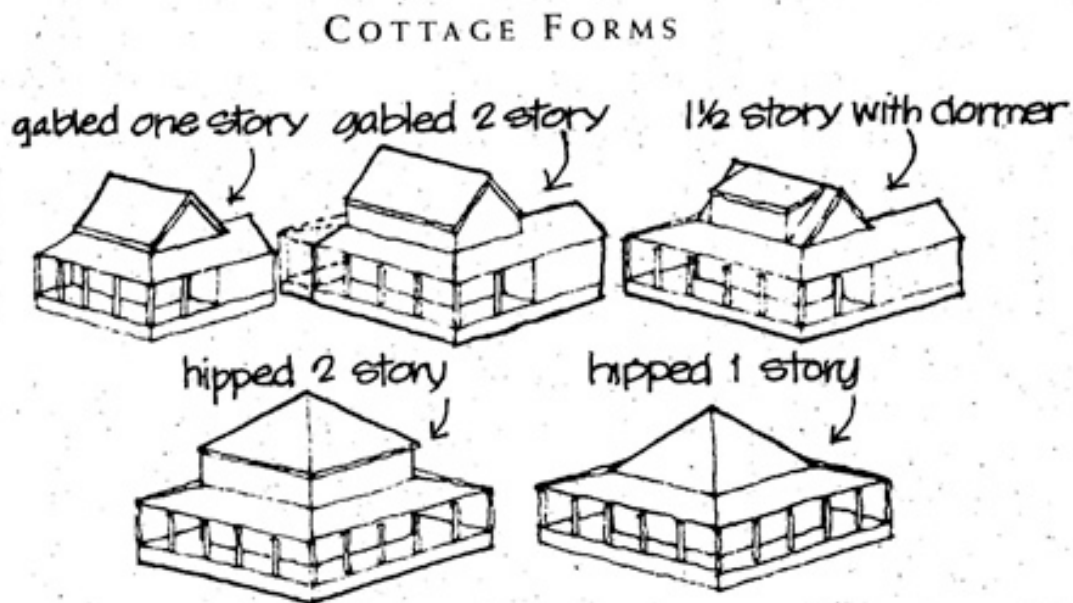
“Shingle-style” has been described as the “architecture of the American summer.” This architectural style is notably free in form and size and embraces the organic and natural island landscape, blending with the coastal environment and utilizing materials that display a natural appearance. Although “shingle-style” home designs may honor individual tastes, they share an appearance of rustic informality, minimal detailing, high gables, large vertical windows and inviting porches.

Other characteristics of this coastal architecture include steep roofs, cedar shakes, dormers, open rafter tails, large overhangs, minimal ornamentation and variation in overall shape and massing. Bald Head Island Coastal Vernacular may differ from the Coastal Vernacular of other places. Natural materials are strongly encouraged. Many homes feature expanses of decking and glass. Climate tempering is achieved with wrap-around porches to shade the summer sun, operable shutters to provide shade and admit breezes, lattice work and sunscreens to provide sun control on porch areas.

These Design Guidelines were created to aid architects/designers and property owners in developing home designs that merge individual tastes with the “shingle-style” and “coastal cottage” elements of Bald Head Island Coastal Vernacular architecture. These Design Guidelines also were created to encourage “good massing” —as exemplified by an orderly, well-proportioned composition of building forms and to discourage any home from having a box design. Designs should avoid the appearance of three-story structures. Homes with a higher first floor elevation that utilize grade level screening should not include details that give the appearance of grade level heated space. The final home design should correspond with the unique features of the lot and preserve the existing trees and vegetation.

ARC approval is required prior to undertaking any new construction or exterior renovations or site work. When reviewing a submitted set of plans, the ARC may require compliance with requirements that, although not itemized specifically, are supported by sections of the Design Guidelines and the Covenants.

The ARC does reserve the right to withhold approval for materials that do not support Bald Head Island’s architectural style or respect its sensitive and conservation-conscious environment.



## The 50% Rule (One and One-half Story Rule)

All Bald Head Island homes constructed on or in front of the primary dune ridge shall comply with the “50% Rule.” This rule was implemented to eliminate view blocking and three-story-box home designs, as well as uninterrupted three-story walls.

This rule is not applicable to home designs behind the primary dune ridge and in the forest where ocean views are less of an issue and vertical construction can help minimize tree removal. In these locations, a concerted effort is made to balance aesthetics with the equally important need to protect the island’s natural flora and fauna and its forest environment.

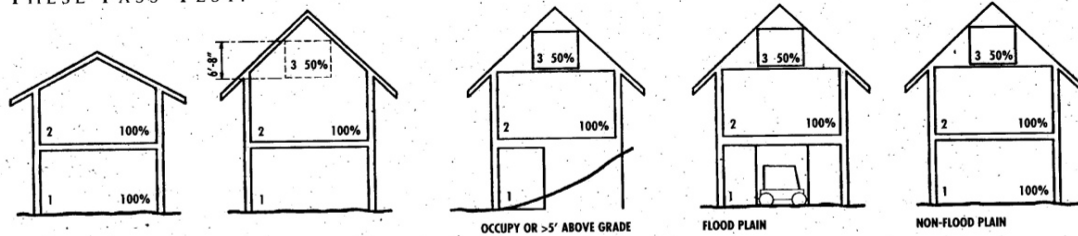
### REQUIREMENTS

1. The volume of any Bald Head Island home constructed on or in front of the primary dune ridge shall not exceed one and one-half story.
2. A submission meets the requirements of this rule if the footprint of the volume of its top story is less than or equal to one half of the footprint of the volume of the story beneath it (50% rule). The footprint of a story’s volume is the area of all covered space on the story having 6’ 8” of clear head-height. All space that meets this requirement shall be counted in the calculation,

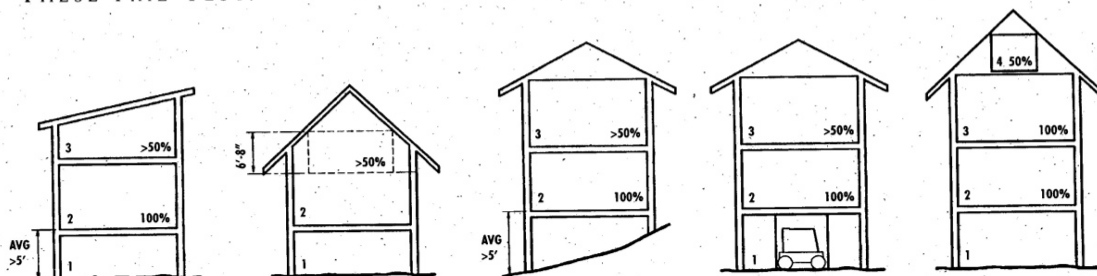
including unoccupied attic space, utility space, space that is part of a vaulted room below, covered porches and interior stairs for both floors. Overhangs are not counted.

3. The structure will not be required to meet the 50% rule if the first-floor elevation is five feet or less off average grade around the perimeter of the structure. The perimeter of the structure includes attached decks, porches, staircases, etc.
4. If the architectural program is separated into more than one detached building, the 50% Rule will be applied to the main structure(s).
5. When a property owner submits an addition on a home built prior to the implementation of the 50% Rule, the addition to the home must comply with the 50% Rule, even if the rest of the home does not.

#### THESE PASS TEST:



#### THESE FAIL TEST:





# C – CAPE FEAR STATION

## Introduction

Cape Fear Station is a Planned Unit Development (PUD), which is a method of development that allows for innovative uses of spaces and structures to achieve planning goals. A PUD provides the Developer the flexibility to address the need for mixed uses for buildings, changes in building setbacks, lot coverage, and mixed densities and encourages development that protects natural land features, conserves energy and provides for common open spaces. A PUD may deviate from standard zoning laws. Due to this, the master plan for Cape Fear Station had to be approved by the Village of Bald Head Island. Bald Head Island Limited created this PUD and based the typologies for homes to be built here on Form Based Planning.

## Form Based Planning:

Cape Fear Station was designed and developed employing Form Based Planning.

In a nutshell, Form Based Planning is an architecturally driven approach to land planning that reflects traditional American town making principles. It looks a little like zoning, but it is much more sophisticated in its goals and application.

The zoning and land planning of the 1950's through the 1990's widely abandoned the earlier methods of street and town-making, focusing on building *uses* and building *separation* as the primary means of controlling the built environment. These practices led to landscapes of detached, unrelated, individualistic buildings that had little aspiration to creating a larger collective expression. Rather than clearly defined streets, parks, common spaces and towns, we created vast suburban sprawl with little sense of place, little sensitivity to the environment and massive dependence on the automobile.

Form Based Planning is an antidote for this approach. It extends beyond the control of uses and building separation, envisioning a collective architectural order that makes beautiful public ways, streets and common spaces.

The Cape Fear Station's Form Based Codes are the rules that define each building's physical form, its relationships to its neighbors and to the public realm. Each building typology has its own set of requirements that uniquely address the environmental and architectural context of its location.

As we follow these Form Based Codes, we are each creating a small piece of the overall collective form. We are singing in harmony with our neighbors. Our individual voices join a unified chorus of a much greater melody.

# Cape Fear Station Exceptions/Differences

## **Accessory Buildings:**

In Cape Fear Station, there is no limit on the number of accessory buildings allowed per lot. All accessory buildings must be incorporated in the calculation of impervious coverage and the conditioned space. All accessory buildings must meet the requirements listed under Accessory Buildings in **Appendix D** section of this document. Colors must complement those of the primary structure. Unless otherwise designated, the garage and primary structure may be connected with arbors, decks, pergolas, open porches or breezeways. If the architectural program is separated into more than one detached building, the 50% Rule will be applied to the main structure(s). Accessory buildings and other permanent improvements shall not be considered, approved, or installed prior to the construction of the main building, unless otherwise approved by the ARC.

## **Beach Access:**

Properties where a pedestrian beach access is allowed are indicated in the Cape Fear Station typologies. In order to minimize dune crossings, beach accesses must be grouped with adjacent property owners as indicated. No beach access walkways or other structures, other than those constructed in designated access easements, shall be permitted south of the southernmost point of the designated building pad on each lot. All requirements listed under Beach Accesses in **Appendix D** section of this document must be met.

## **Garage/Parking:**

Two non-stacking parking spaces are required either outdoors or in a garage. Additional guest parking spaces are not required. On typologies that have a designated Garage area, garages/parking/crofters must be built within the designated area.

## **Roof/Overhangs:**

The minimum for overhangs, as stated elsewhere in this document, is 18” at the eaves and 12” at the rakes. The minimum standard for overhangs may not be sufficient for every design. The overall massing should be considered when designing overhangs.

## **Paint Colors:**

Due to the density of the housing in Cape Fear Station, the choice of colors is of the utmost importance. Colors not only need to be compatible with the island environment and chosen to emphasize the home’s design elements, but they also must be compatible with existing colors on adjacent homes.

1. Body color must be earth tones. Examples of these colors might include soft greens, grays and tans that are of subdued hue intensity and light to medium value. Natural weathering will also be considered.
2. All fences must be painted with Benjamin Moore “Superwhite” or an ARC approved equivalent.
3. Lattice/foundations must be subdued hue intensity of medium to dark values to aesthetically bring the building to the ground.
4. All other paint requirements in this document also apply to Cape Fear Station.

# Cape Fear Station Definitions

**404 line:** Wetland line referring to the Section 404 Permit Program of the Federal Governments Clean Water Act. This is an Army Corps of Engineers jurisdictional line.

**Accessory Building:** Any building that is subordinate and not connected/integrated into the main building and the use of which is incidental to the use of the main structure or the use of the land. Non-conditioned, conditioned, covered or latticed connectors (where allowed) will not be considered as incorporating the accessory building into the main structure. Examples: Crofter, Guest House, Studio, Garage. These buildings cannot have a working stovetop and cannot be rented as a separate unit from the house. (see Accessory Building section of this document).

**Accessory Structure:** Any non-conditioned structure subordinate to the main building on a property and not connected to the main building. Examples: Gazebo, Outdoor Shower, Garbage Enclosure.

**Alley Easement Area:** The area between the property line and the alley easement line.

**Alley Easement Line:** Line delineating the limit of the alley right of way.

**Architectural Typology:** A set of form-based requirements that collectively create a recognizable consistency and commonality of architectural organization and massing.

**Bay:** A subordinate, secondary form projecting outward from a primary perimeter wall.

**Bay, Stoop and Overhang Area:** An area between the façade line and the front or side setbacks where bays, stoops or overhangs may encroach on the setback.

**Beach Access:** Any built element or path that assists in non-vehicular access to the beach.

**Breakaway wall:** A non-structural enclosure below the floodplain as defined by Building Code and FEMA.

**Building Height:** Total Building Height is measured from the Virgin Low Point at the perimeter of the building to the highest point of the roof. The Virgin Low Point will be interpolated by the ARC using the required tree and topographic survey provided by a licensed NC surveyor at the time of submission.

**Bulkhead:** A vertical wall of any height designed or intended to retain earth at the edge of a wetland, marsh or water body.

**CAMA:** CAMA is the Coastal Area Management Act of the Division of Environmental Quality of the State of North Carolina.

**Conditioned space:** Any weather-tight, fully enclosed space that meets all the Building Code standards of occupied space that is habitable and is heated or cooled. The Board reserves the right to count such space absent conditioning equipment if it meets the standard in every way but equipment.

**Conditioned Square Footage:** The conditioned square footage of each level is the sum of the conditioned areas on that level measured at the floor level to the exterior finished surface of the outside walls. The conditioned square footage calculation is based on the American National Standards Institute's (ANSI) method for calculating conditioned square footage for single-family residences.

**Conservation Area:** A designated area of environmental preservation with restricted development due to the necessity of maintenance, stabilization, renourishment or dune reconstruction of the beach. Access to this area is only allowed for studies and the activities of beach care mentioned above.

**Development:** Any man-made change to a property, its land, its buildings or its existing structures.

**Facade Line:** A line for placing the primary front surface of the house. This line is very similar to the Frontage Line but is used for the Sideyard typologies.

**FEMA:** Federal Emergency Management Agency.

**FIRM:** Flood Insurance Rate Map.

**Flood Elevation:** The projected water level in a hundred-year flood as stipulated by the Federal Emergency Management Agency (FEMA) on their Flood Insurance Rate Map (FIRM).

**Frontage:** The line where the primary face of a building fronts on the public way, space or realm.

**Garage:** An accessory structure for parking carts with cart access. Some typologies have a designated garage area within which any garage and/or parking must be placed.

**Hardship:** A condition specific to or unique to a property where the ARC determines that a rule or guideline cannot be fairly or equally applied as intended without causing a disproportionate burden to the development of the property. Examples: Unusual topography or size of lot.

**Retaining Wall:** A vertical wall of any height designed or intended to retain earth.

**Setback:** An area created by offsetting a distance from the front, side and/or rear property lines. See the specifics of the property's location and the property's required building typology to determine the size of the setbacks and what built elements are permitted to encroach in the setbacks.

**Shear Zone:** The "shear zone" is the ocean-facing edge of maritime forest vegetation that is exposed to salt laden air. This vegetation is "sheared" by the salt spray causing it to grow at a slant, leaning away from the oceanfront. Historically it was thought that the slanted, or sheared, growth was caused by wind, but it has been proven to be the result of salt spray. The dunes, dune grasses and plants that are closer to the ocean protect the maritime forest by creating a layer of foliage that helps block the salt spray. Removal of any "shear zone" or oceanfront vegetation during construction opens holes that allow salt spray to penetrate—damaging plants that were previously protected.

**Sightline setback:** This setback applies to all new construction homes and oceanside additions to existing homes on the oceanfront lots. In all cases a new oceanfront house or addition shall be no closer to the waterline than the average of the houses on the three adjoining lots on both sides of the house. Oceanfront decks elevated higher than 18” above finish grade shall be no closer to the waterline than the average of elevated oceanfront decks on the three adjoining lots on both sides of the house.

If there are no houses on the first three adjoining lots on each side of the reference house, the location of the house or addition shall be unrestricted by this sightline setback. If there are no oceanfront decks on the first three adjoining lots on each side of the reference house, the location of the oceanfront deck for the reference house shall be unrestricted by this sightline setback.

**Stoop:** An uncovered stair and/or landing at the entry of a building.

**Tree Canopy:** The outermost perimeter of a tree’s leaves. The tree’s drip line.

**Virgin Low Point:** The low point before any grading or human manipulation occurs as shown on a topographic survey produced by a licensed NC surveyor.

## Cape Fear Station Lot Designations

Cape Fear Station is composed of several different lot types. The rules associated with each specific lot type follow, beginning with the lot designation sheet starting on this page. Rules for Cape Fear Station lot types have precedence over general Association rules.

**BEACH:** 4002, 4004, 4006, 4008, 4010, 4012, 4014, 4016, 4018, 4020, 4022, 4024, 4026, 4028, 4030, 4032, 4034

**COTTAGE:** 5015, 5114, 5136, 5138, 5218, 5228, 5230, 5231, 5232, 5233, 5234, 5321, 5701, 5731

**CREEK:** 6000, 6002, 6004, 6006, 6008, 6010, 6012, 6014, 6016, 6018, 6020, 6022, 6024, 6026, 6028, 6030, 6032, 6034, 6036, 6038, 6040, 6042, 6044,

**CREEK MANOR:** 6046, 6048, 6050, 6052, 6054,

**DUNE RIDGE:** 2596, 2597, 2599, 2601, 2603, 2605, 2607, 2609, 2611, 2613, 2615

**HOUSE:** 4205, 4207, 4209, 4211, 4213, 4215, 4217, 4219, 4302, 4304, 4306, 4308, 4310, 4312, 5001, 5003, 5005, 5007, 5029, 5100, 5102, 5104, 5106, 5108, 5110, 5112, 5116, 5118, 5120, 5122, 5124, 5126, 5128, 5130, 5132, 5134, 5323, 5325, 5327, 5329, 5331, 5333, 5335, 5337, 5339, 5341, 5343, 5345, 5347, 5349, 5451, 5453, 5455, 5539, 5541, 5543, 5545, 5630, 5632, 5634, 5636, 5638, 5640, 5642, 5723, 5725, 5727, 5729, 5808, 5901, 5903, 5905, 5907

**HOUSE ORCHARD:** 3150, 3152, 3154, 3156, 3603, 3605

**MANOR:** 3601, 5017, 5019, 5021, 5023, 5025, 5027, 5031, 5033, 5035, 5039, 5430, 5432, 5434, 5436, 5438, 5440, 5442, 5444, 5446, 5448, 5452, 5454, 5456, 5460, 5462, 5464, 5466, 5468, 5470, 5472, 5547, 5549, 5551, 5553, 5555, 5557, 5559, 5561, 5563, 5565, 5567, 5569, 5571, 5573, 5644, 5646, 5648, 5650, 5652, 5739, 5741, 5743

**MARITIME VIEW:** 4126, 4128

**MARITIME WATCH:** 4104, 4106, 4108, 4110, 4112, 4114, 4116, 4118, 4120, 4122, 4124

**SHOALS WATCH BEACH:** 3210, 3212, 3214, 3216, 3218, 3220, 3222, 3224, 3226, 3228

**SHOALS WATCH ESTATE:** 3230

**SHOALS WATCH MANOR:** 3211, 3213, 3215

**SIDEYARD:** 5703, 5705, 5707, 5709, 5717, 5719, 5721, 5802, 5804, 5806

**TOWNCENTER SIDEYARD:** 3704, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713, 3714, 3715, 3716, 3717, 3718, 3719, 3721, 3723

**VILLAGE COMMON:** 5220, 5222, 5224, 5226, 5301, 5303, 5305, 5307, 5309, 5311, 5313, 5315, 5616, 5614, 5612, 5610, 5608, 5606, 5604, 5602

**VILLAGE INTERIOR COMMON:** 5400, 5450, 5500

# Cape Fear Station Beach Lot

These rules apply to any residential lots with the “Beach (B)” designation.

## 1. Overall Size Restrictions:

**Coverage** - Total impervious coverage is designated in the recorded covenants as 5500 sq. ft.

**Square Footage** - Minimum heated square footage is 2,000. Maximum total heated square footage is 6,000.

## 2. All Building:

**Uses** - Single-family residence is the only permitted use.

**Setbacks** - See attached drawings for general information. See subdivision plat for specific designated setbacks.

**Front setback-** 35 feet minimum –80 feet maximum from front property line. Except for garage and accessory buildings (See Accessory Buildings/Garages section). The front façade must be 40% of lot width.

**Side setback-** 15 feet on South side  
10 feet on the North side

**Rear setback-** 20 feet off the conservation easement line

**1 ½ Story rule** - All homes in front of the shear zone must comply with the 1 ½ story rule.

### **Porches** -

**Length-** The porch requirement is for the first story porch on the West, South and East sides. The length of the required porch is a minimum of 50% of the total first floor conditioned wall at the building perimeter. (North side is allowed but not required. North side is in the perimeter calculation but does not count towards the 50% required.)

**Depth-** Required depth is 8 feet minimum. Bays are permitted to encroach up to 40% of the depth to a maximum of 50% of the overall porch length and still qualify toward the required length calculation. Bays must be built at least 24” from corner of structure.

**Height-** 1 story minimum

## 3. Sitework

**Walkways** - Walkways to beach are only permitted at the discretion of the ARC. The intent is to cluster walkways between lots and leave maximum open space between walkways. Walkways are to be placed within 10 feet of the adjoining lot line, paired up in the following manner: 4004 & 4006, 4008 & 4010, 4012 & 4014, 4016 & 4018, 4020 & 4022, 4024 & 4026, 4028 & 4030, 4032 & 4034. Lot 4002 walkway is to be placed within 10 feet of the south lot line.

**Fences** - Fences are required to follow along the front and side property lines up to frontline of the main structure. They will not be permitted in the conservation easement area. Please see the “Fence Section” of this document for additional specifications.



Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height-** 36 inches maximum.

**Trellises** -Trellises are permitted anywhere on the site except conservation easement areas. Heights shall not exceed 10 feet.

**Gazebos** - Gazebos are permitted 10 feet from the front and North side, 15 feet on the South side and 20 feet off the rear. Height from grade to the highest point of structure must not exceed 14 feet.

#### **4. Accessory Buildings/ Garages**

Accessory buildings/garages are allowed to encroach in the 35 feet main building setback on the street side as long as they meet a minimum setback of 10 feet from the street. The accessory building must be between a 10 feet minimum side yard and 40 feet maximum from the North property line. Garages are not allowed under the house. Accessory buildings may include garages, bedrooms, guest cottages, crofters, enclosed storage and workshops; however, the use must be associated with the main structure and may not be leased or rented separately from the main structure. Any accessory building may be attached to the main building by roof, deck or porch but the walls between the main building and the outbuilding may not meet. These walls must be separated by a breezeway or porch at least 8 feet minimum between the West sidewall of main structure and the East sidewall of the accessory building. The North end wall of the connecting porch or deck may be closed with windows, louvers, lattice or screen, but shall not be enclosed or air- conditioned.

**Uses** - all uses must be single-family uses in conjunction with the main structure.

**Setbacks** -

Front setbacks-10 feet

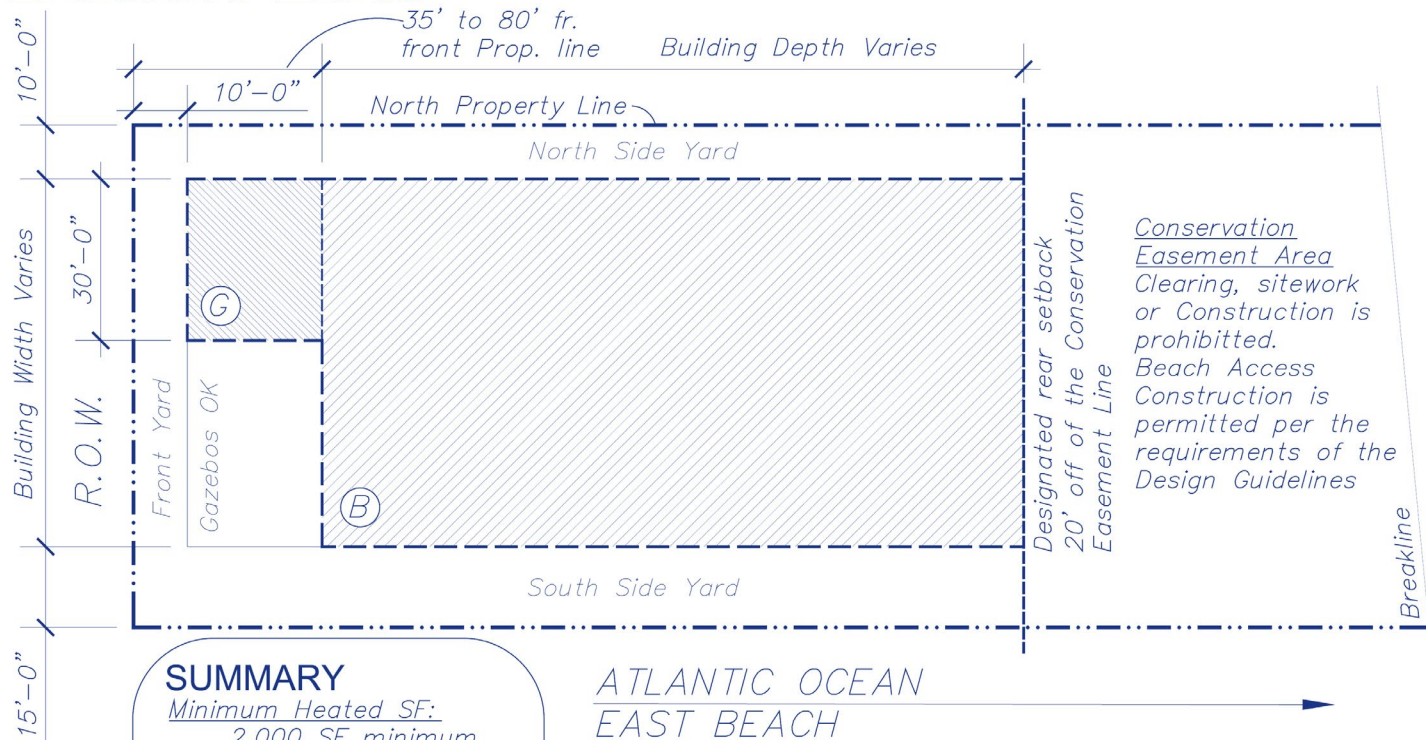
North side setback - 10 feet

South side setback - 40 feet from North property line

**Height** - Maximum 25 feet

**Porch** - If two story, the second story must have access porch on the South side, 50 % of length of the South wall and a minimum of 4 feet deep.

# Beach Lots



## SUMMARY

Minimum Heated SF:  
2,000 SF minimum

Maximum Heated SF:  
6,000 SF maximum

Frontage:  
40% of Lot width

Porch:  
50% of Perimeter of bldg. E/S/W sides only  
See Design Guidelines

Lot coverage:  
See Covenants

Fence Line:  
Along front and side property lines up to the front line of the main house.

GARAGE/OUTBUILDING AREA

MAIN BUILDING AREA



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Beach

# Cape Fear Station Cottage Lot

These rules apply to any residential lots with “Cottage (C)” designation.

## 1. Overall Size restrictions

**Coverage** - Total impervious coverage is designated in the recorded covenants.

Lot 5701 is allowed 3500 sq. ft. and Lot 5731 is allowed 3000 sq. ft.

All other Cottage Lots are allowed 2500 sq. ft. of impervious coverage.

**Square Footage** - Minimum heated square footage is 700. Maximum total heated square footage is 40% of lot area (up to 2,000 square feet).

## 2. Main building:

**Uses** - Single-family residence is the only permitted use.

**Setbacks** -

**Front setback**- 10 feet

**Side setback**- 5 feet (10 feet on corners)

**Rear setback**-10 feet off the property line or Alley easement line (whichever is more).

Houses with Alley easements in the side or rear shall use the easement line as their setback line. If Alley way is to the side, then 10 feet is side yard setback (alley side only) and 5 feet to rear. Garage parking area shall extend a maximum of 25 feet from Alley easement line where available or anywhere on the building area when alley access is not available.

**Porches** - A minimum porch of 100 square feet of one story, visible from the street is required.

## 3. Sitework

**Fences** - Fences shall follow property and easement lines. Please see the “Fence Section” of this document for additional specifications.

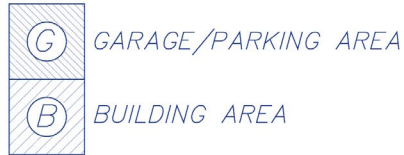
Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height**- 30 inches minimum, 48 inches maximum.

## 4. Accessory Buildings/ Garages

Parking/garages/crofters are allowed within the designated “Garage” area.

# Cottage Lots



## SUMMARY

Minimum Heated SF:  
700 SF

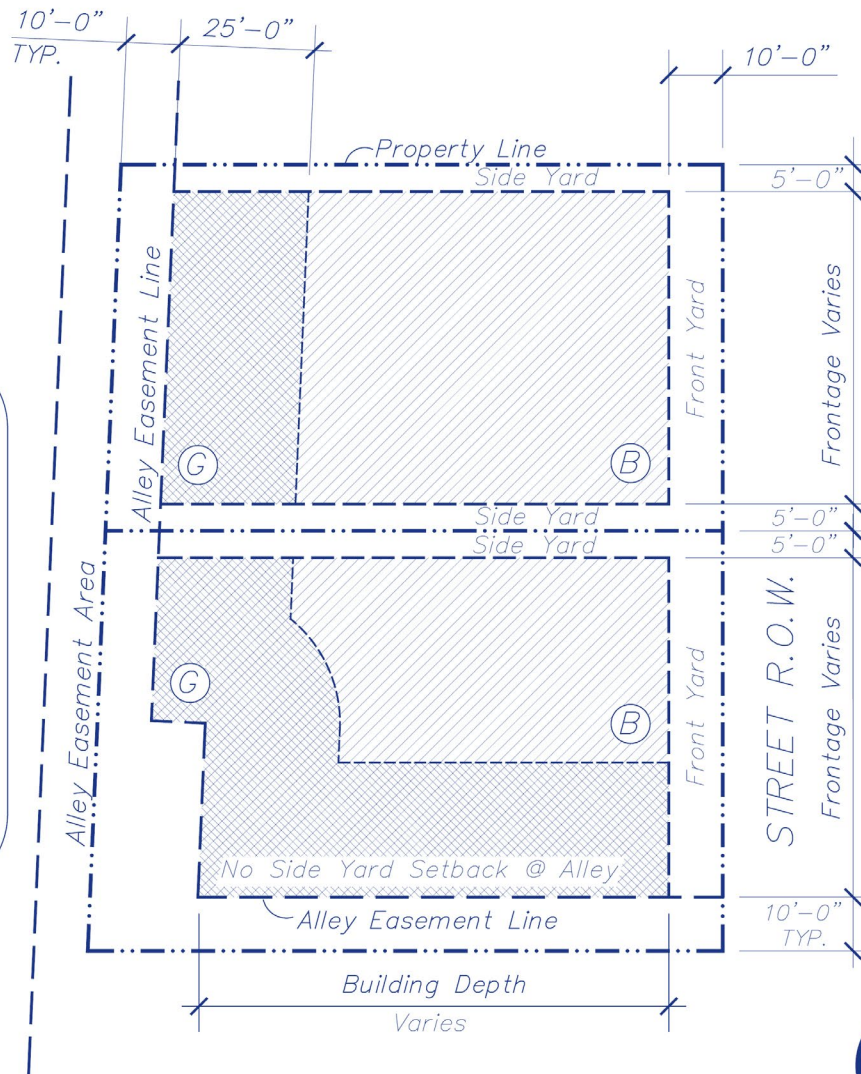
Maximum Heated SF:  
40% of lot,  
2000 SF Maximum

Frontage:  
None required

Porch:  
100 SF minimum.  
Visible from street

Lot coverage:  
See Covenants

Fence Line:  
Along Front and  
Side Property lines &  
Alley Easement line.



(C)

CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Cottage

# Cape Fear Station Creek Lot

These rules apply to any residential lots with the “Creek (CR)” designations.

## 1. Overall Size Restrictions

**Coverage** - Impervious coverage is designated in the recorded covenants.

Lot 6000 is allowed 3000 sq. ft

Even lots 6002-6026 are allowed 4000 sq. ft

Even lots 6028-6040 are allowed 4500 sq. ft

Even lots 6042-6044 are allowed 5000 sq. ft

**Square Footage** - Minimum heated square footage is 1,600. Maximum total square footage is 40% of the total lot (up to 3,500 square feet).

## 2. Main building:

**Uses** - Single-family residence only.

**Setback** - Front setback - 10 feet minimum, 40 feet maximum  
Side setback - 5 feet

**Required street frontage** - The building shall extend a minimum of 40% of the property line frontage (24 feet minimum). Frontage shall be perpendicular to side property line.

**Porches** -

**Length**-The porches shall extend along 60% of the required street frontage or 24 feet minimum.

**Depth**-Required depth is 8 feet minimum. Bays are permitted to encroach up to 40% of the depth to a maximum of 50% of the overall porch length as measured on the building wall and must be at least 2 feet from the corner of the porch.

**Height**-1 story minimum

**Enclosure**-The porch shall remain unheated but can be enclosed up to 50% of its total length. Permitted methods of enclosure are a) Insect screening, or b) Wood shutters, louvers or lattice

## 3. Sitework

**Fences** - Shall follow front property line and extend 50 feet on side property line. Additional fencing is allowed but not required. Please see the “Fence Section” of this document for additional specifications.

Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height**- 30 inches minimum, 48 inches maximum.

## 4. Accessory Buildings/Garages

Parking/garages, crofters etc. are allowed within the designated setback.



# Creek Lots



## SUMMARY

Minimum Heated SF:

1,600 SF

Maximum Heated SF:

40% of Lot area,  
3,500 SF maximum.

Frontage:

40% of lot frontage  
or 24' minimum.

Porch:

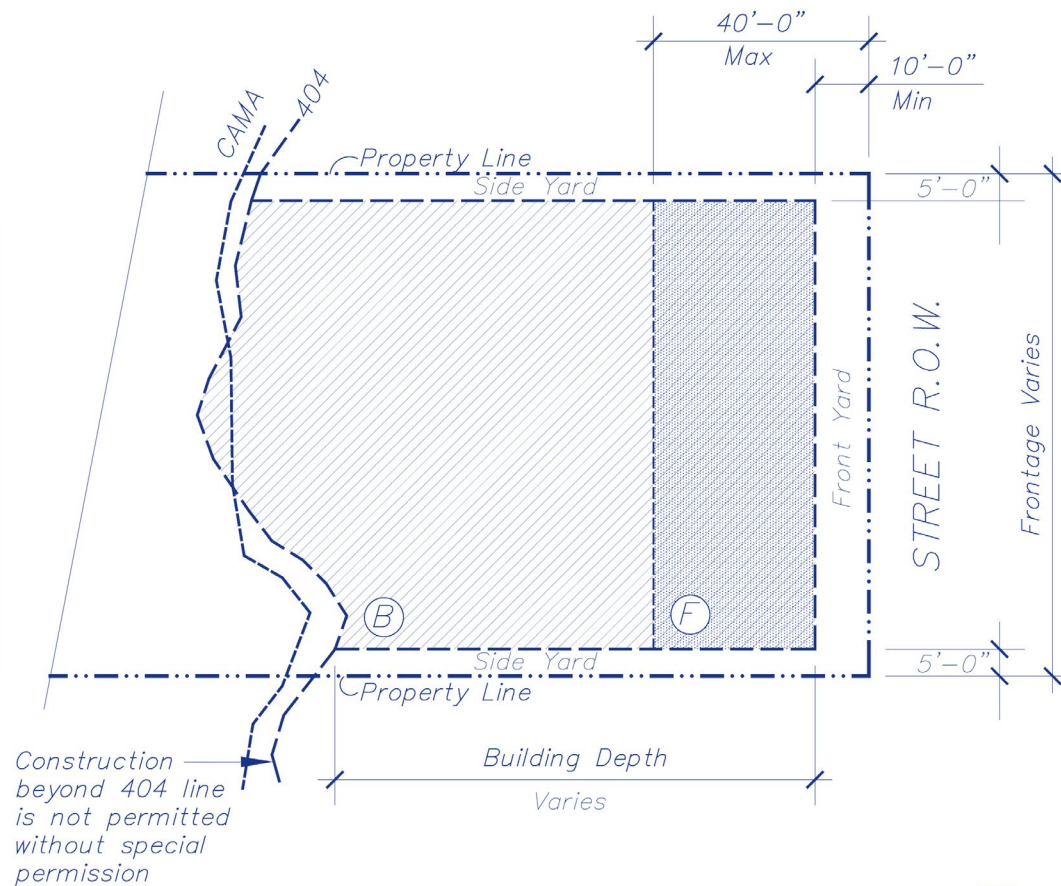
60% of the required  
frontage or 24'min.  
1 story.

Lot coverage:

See Covenants

Fence Line:

Front Property line &  
50' on side Property  
line



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Creek

# Cape Fear Station Creek Manor Lot

These rules apply to any residential lots with the “Creek Manor (CRM)” designation.

## 1. Overall Size Restrictions:

**Coverage** - Total impervious coverage is designated in the recorded covenants.  
All Creek Manor Lots are allowed 5500 sq. ft.

**Square Footage** - Minimum heated square footage is 2,000. Maximum heated square footage is 40% of lot area (up to 6,000 square feet).

## 2. All buildings:

**Uses** - Single-family residence is the only permitted use.

**Setbacks** - See attached drawings for general information. See subdivision plat for specific designated setbacks.

**Front setback**-see plat

**Side setback**-10 feet

## 3. Sitework

**Fences** - Fences shall be permitted at the discretion of the ARC. They will not be allowed to run along the perimeter of the property. The fence shall define and create space rather than define the edge of the property. Fences running along 50% or more of any property line are prohibited. No fences are allowed on front lot line or along the front 20' of side lot lines. Please see the “Fence Section” of this document for additional specifications. All fences are reviewed and approved by the ARC.

**Height**- 30 inches minimum, 48 inches maximum.

## 4. Accessory Buildings/Garages

Accessory buildings or garages are allowed anywhere within the designated setbacks.



# Creek Manor Lots



BUILDING AREA

## SUMMARY

Minimum Heated SF:

2,000 SF

Maximum Heated SF:

40% of Lot area,  
6,000 SF maximum.

Frontage:

None Required

Porch:

None Required

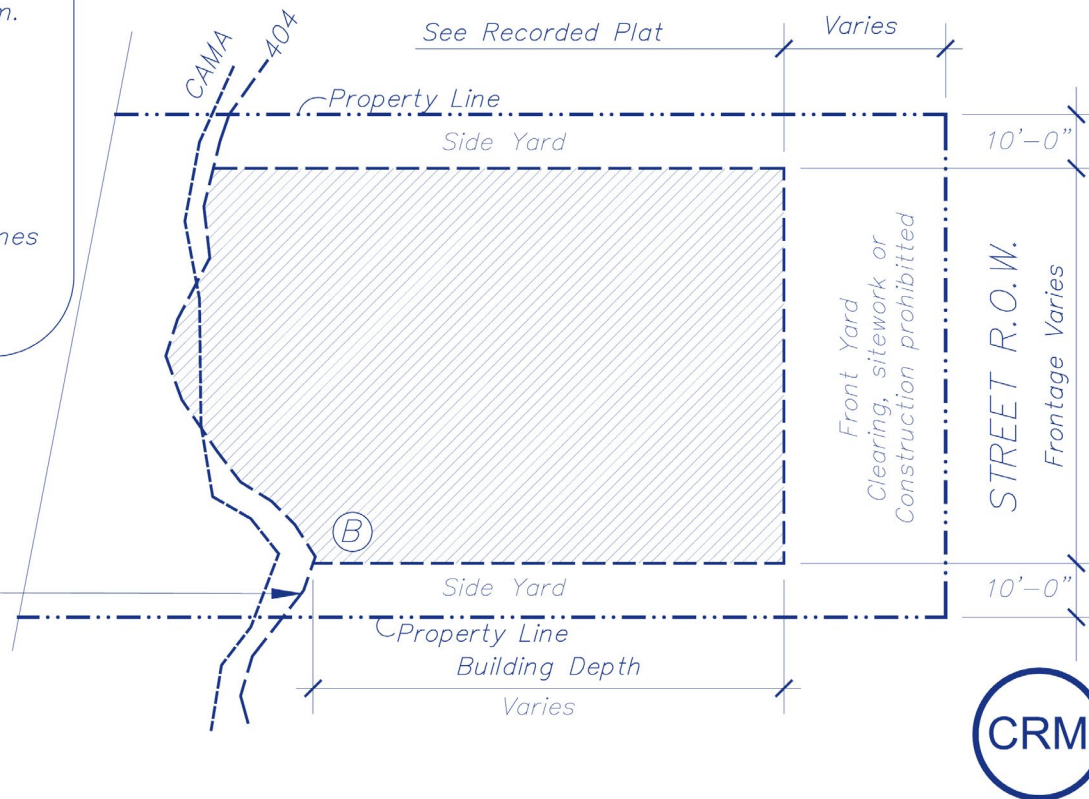
Lot coverage:

See Covenants

Fence Line:

See Design Guidelines

Construction  
beyond 404 line  
is not permitted  
without special  
permission



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Creek  
Manor

# Cape Fear Station Dune Ridge Lot

These rules apply to any residential lots with the “Dune Ridge (DR)” designation.

## 1. Overall Size restrictions

**Coverage** - Total impervious coverage is designated in the recorded covenants.

All Dune Ridge Lots are allowed 5500 sq. ft.

**Square Footage** - Minimum heated square footage is 1,800 sq. ft.

## 2. All buildings

**Uses** - Single-family residence is the only permitted use.

**Setbacks** - See attached drawings for general information. See subdivision plat for specific designated setbacks.

**Front setback**-See Village Zoning Ordinances, Chapter 32, Section 127, Table 1.

**Side setback**- See Village Zoning Ordinances, Chapter 32, Section 127, Table 1.

**Rear setback**- See Village Zoning Ordinances, Chapter 32, Section 127, Table 1.

### **Porches**

**Length**-The porch requirement is for the first story porch on the South and East sides. The length of the required porch is a minimum of 40% of the total first floor conditioned wall at the building perimeter.

**Depth**-Required depth is 8 feet minimum. Bays are permitted to encroach up to 40 % of the depth to a maximum of 50% of the overall porch length and still qualify toward the required length calculation. Bays must be built at least 24” from corner of structure.

**Height**-1 story minimum

**1 ½ Story rule** - All homes in front of the shear zone must comply with the 1 ½ story rule.

## 3. Sitework

**Fences** - Fences shall be permitted at the discretion of the ARC. The fence shall define and create space rather than define the edge of the property. Fences running along 50% or more of property line are prohibited. Please see the “Fence Section” of this document for additional specifications.

**Height**- 30 inches minimum, 48 inches maximum.

**Trellises** - Trellises are permitted anywhere on the site. Heights shall not exceed 10 feet.

## 4. Accessory Buildings / Garages

In order to fit structures within the unique topography and vegetation of these lots, auxiliary buildings are encouraged. These buildings may include garages, bedrooms, guest cottages, crofters, enclosed storage, studios and workshops; however, the use must be associated with the main structure and may not be leased or rented separately from the main structure. All structures must comply with the main structure setbacks.

**Uses**-All uses must be single-family uses in conjunction with the main structure.

**Height**- Maximum 25 feet

Lots are irregular in shape. No sample site plan.

# Cape Fear Station House Lots

These rules apply to any residential lots with “House (H)” designation.

## 1. Overall Size restrictions

**Coverage** - Impervious coverage is designated in the recorded covenants.

Odd lots 4205-4219, 5001-5007, lot 5455 and even lots 4306-4308 and lot 4312 are allowed 3500 sq. ft. **All other** House Lots are allowed 3000 sq. ft.

**Square Footage** - Minimum heated square footage is 1,000. Maximum total heated square footage is 30% of total lot area (up to 3,000 square feet), unless 30% of total lot area is less than 2000 sq. ft. and then the maximum is 2000 sq. ft.

## 2. Main building:

**Uses** - Single family residence only.

**Setback Zones** - Required

**Front setback** - 10 feet minimum and 20 feet maximum.

**Side setback** - 5 feet (10 feet at corners)

**Rear setback** - 10 feet off the property line or Alley easement line (whichever is greater).

**Required street frontage** - The building shall extend along a minimum of 40% of the property line frontage or 24 feet minimum.

**Front Porches** -

**Length** - The porches shall extend along a minimum 60% of the required street frontage (24 feet minimum).

**Depth** - Required minimum depth is 8 feet. Bays are permitted to encroach up to 40% of the depth to a maximum of 50% of the overall porch length as measured on the building wall and must be at least 2 feet from the corner of the porch.

**Height** - 1 story minimum

**Enclosure** - The required portion of the porch shall remain unheated and cannot be enclosed or screened.

## 3. Sitework

**Fences** - Fences shall be built along the front and side property lines as well at the Alley easement line. Please see the “Fence Section” of this document for specifications.

Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height** – 30 inches minimum, 48 inches maximum.

## 4. Accessory Building/Garage/parking area - Garage/parking area shall extend a maximum of 25 feet off the Alley easement line.

**Accessory buildings** – Guest houses/studios/gazebos etc. may be anywhere within the building area.

The diagram shows a rectangular lot divided into three horizontal sections. The top section is labeled 'G' and 'GARAGE/PARKING AREA'. The middle section is labeled 'B' and 'BUILDING AREA'. The bottom section is labeled 'F' and 'FRONTAGE AREA'.

Minimum Heated SF:  
1,000 SF

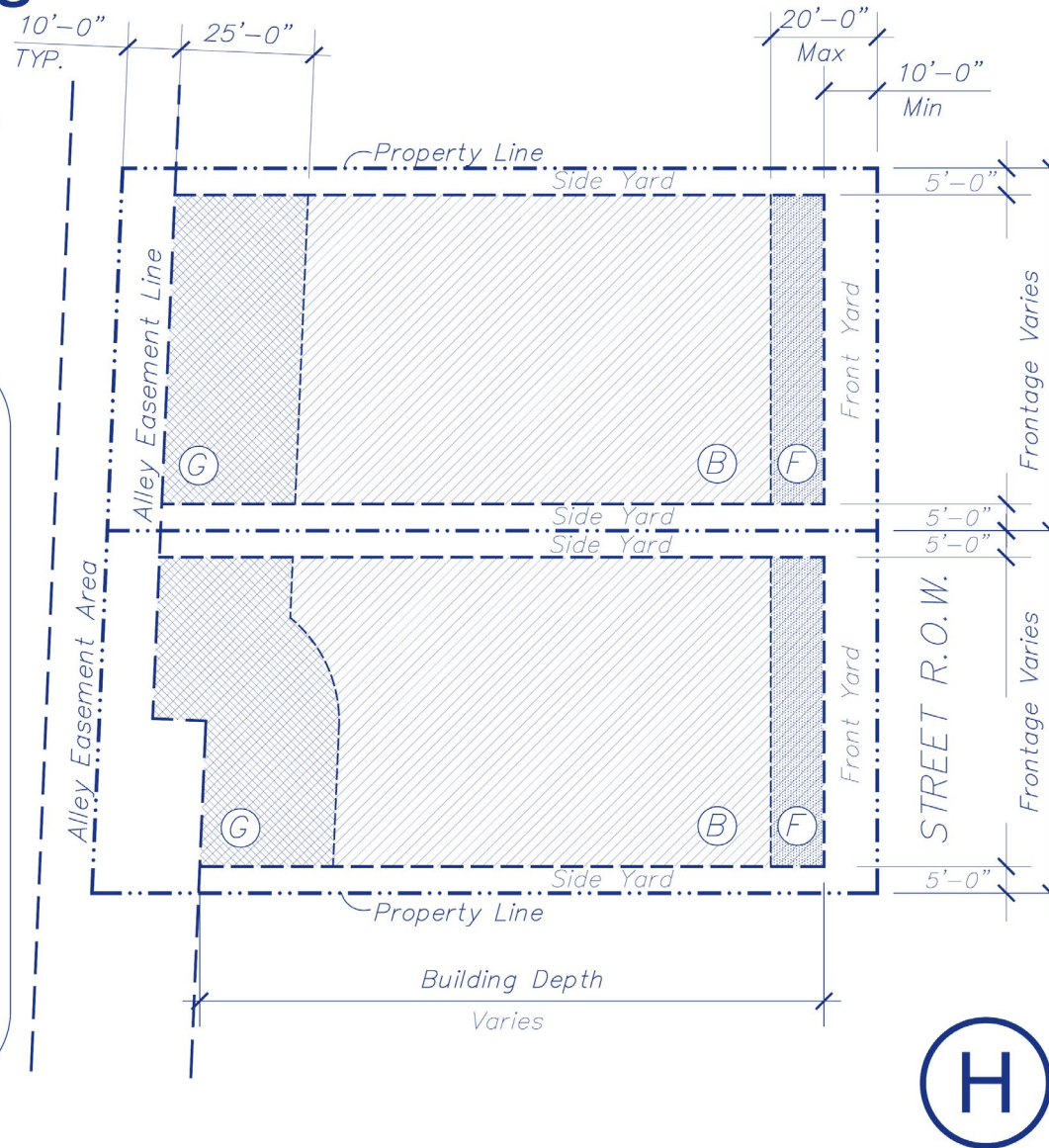
Maximum Heated SF:  
30% of Lot area, 3000 SF Max unless 30% of the total lot area is less than 2,000 SF, then the max is 2,000 SF

Frontage:  
40% of lot frontage or 24' minimum.

Porch:  
60% of the required frontage or 24' min.  
1 story.

Lot coverage:  
See Covenants

Fence Line:  
Along Front and Side Property lines & rear and/or side Alley Easement lines.



# CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

## SITEPLAN

## Lot Typologies

## Design Guidelines

House

# Cape Fear Station House Orchard Lots

These rules apply to any residential lots with “House Orchard (HO)” designation.

## 1. Overall Size restrictions

**Coverage** - Impervious coverage is designated in the recorded covenants.

All House Orchard Lots are allowed 3000 sq. ft.

**Square Footage** - Minimum heated square footage is 1,000. Maximum total heated square footage is 30% of total lot area (up to 3,000 square feet), unless 30% of the total lot area is less than 2,000 sq. ft., then the max is 2,000 sq. ft.

## 2. Main building:

**Uses** - Single-family residence only.

**Setback Zones** - Required

Front setback- 10 feet minimum and 20 feet maximum.

Side setback-5 feet (10 feet at corners)

Rear setback- 10 feet off the property line or Alley easement line (whichever is greater).

**Required street frontage** - The building shall extend along a minimum of 40% of the property line frontage or 24 feet minimum.

**Front Porches** -

**Length**- The porches shall extend along a minimum 60% of the required street frontage (24 feet minimum).

**Depth**- Required minimum depth is 8 feet. Bays are permitted to encroach up to 40% of the depth to a maximum of 50% of the overall porch length as measured on the building wall and must be at least 2 feet from the corner of the porch.

**Height**- 1 story minimum

**Enclosure**- The required portion of the porch shall remain unheated and cannot be enclosed or screened.

## 3. Sitework

**Fences** - Fences shall be built along the front and side property lines as well at the Alley easement line. For lots fronting on Kinnakeet Way, the front fences shall be built a minimum of 0’ - 4’ feet back from the front property line. Please see the “Fence Section” of this document for additional specifications.

Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height**- 30 inches minimum, 48 inches maximum.

## 4. Accessory Building/Garage/parking area - Garage/parking area shall extend a maximum of 25 feet off the Alley easement line. Accessory buildings – guest houses/studios/gazebos etc. may be anywhere within the building area.



# House Orchard Lots



## SUMMARY

Minimum Heated SF:

1,000 SF

Maximum Heated SF:

35% of Lot area, 3000 SF Max unless 35% of the total lot area is less than 2,000 SF, then the max is 2,000 SF

Frontage:

40% of lot frontage or 24' minimum.

Porch:

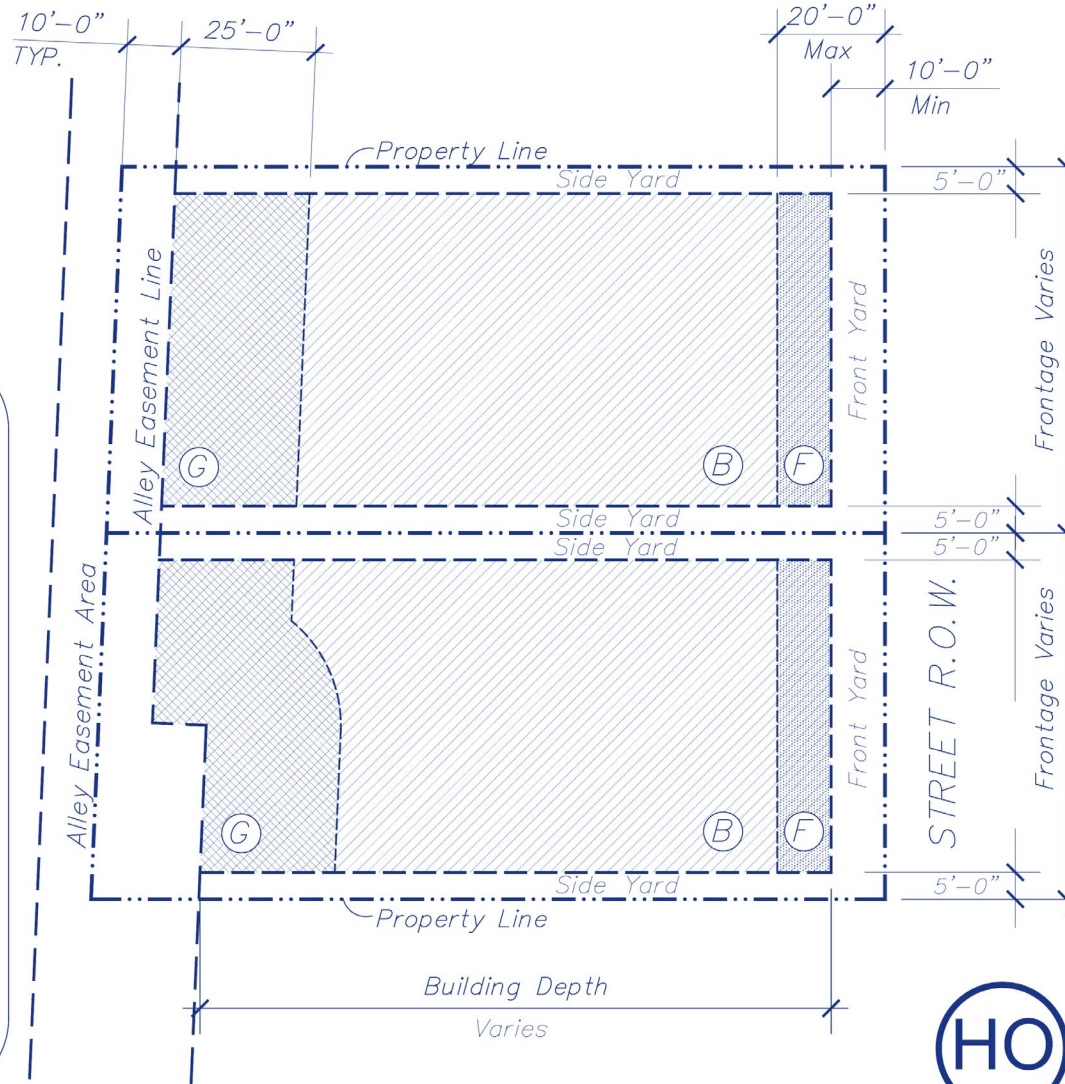
60% of the required frontage or 24' min. 1 story.

Lot coverage:

See Covenants

Fence Line:

Along Front and Side Property lines & rear and/or side Alley Easement lines.



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

House Orchard



# Cape Fear Station Manor Lot

These rules apply to any residential lots with the “Manor (M)” designation.

## 1. Overall Size restrictions

**Coverage** - Total impervious coverage is designated in the recorded covenants.

Lots 5569 and 5571 are allowed 2000 sq. ft.

Lots 5565 and 5567 are allowed 2200 sq. ft.

Lot 5573 is allowed 2400 sq. ft.

Lot 5563 is allowed 2700 sq. ft.

Lots 3601, 5027, 5454, 5470 and 5472 are allowed 3000 sq. ft.

Lots 5446, 5448, 5464, and 5468 are allowed 3800 sq. ft.

Odd Lots 5017-5025 are allowed 3950 sq. ft.

All other Manor Lots are allowed 3500 sq. ft.

**Square Footage** - Minimum heated square footage is 1,600. Maximum heated square footage is 30% of lot area (up to 3,500 square feet).

## 2. All buildings:

**Uses** - Single-family residence is the only permitted use.

**Setbacks** - See attached drawings for general information. See subdivision plat for specific designated setbacks.

**Front setback-** 20 feet. Bays, stoops, overhangs and porches may project up to 10 feet in front of this line.

**Side setback-** 10 feet

**Rear setback-** 10 feet from property line

## 3. Sitework

**Fences** - Fences shall be permitted at the discretion of the ARC. They will not be allowed to run along the perimeter of the property. The fence shall define and create space rather than define the edge of the property. Fences running along 50% or more of property line are prohibited. Please see the “Fence Section” of this document for additional specifications.

**Height-** 30 inches minimum, 48 inches maximum.

## 4. Accessory Buildings / Garages

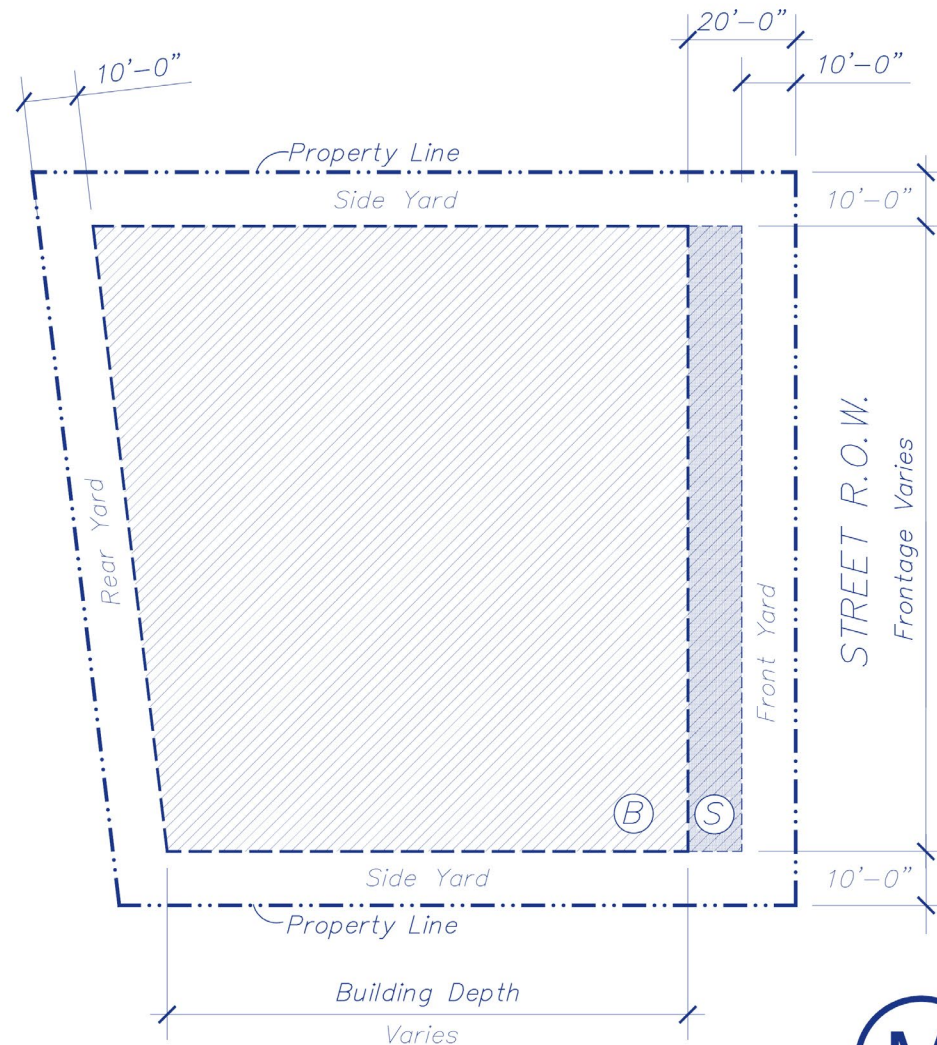
Accessory buildings or garages are allowed anywhere within the designated setbacks.

# Manor Lots



## SUMMARY

Minimum Heated SF:  
 1,600 SF  
Maximum Heated SF:  
 30% of Lot area,  
 3,500 SF Max.  
Frontage:  
 None Required  
Porch:  
 None Required  
Lot coverage:  
 See Covenants  
Fence Line:  
 See Guidelines



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Manor

# Cape Fear Station Maritime View

These rules apply to any residential lots with the “Maritime View (MV)” designations.

## 1. Overall Size Restrictions

**Coverage** - Impervious coverage is designated in the recorded covenants.

All Maritime View lots are allowed 3750 sq. ft.

**Square Footage** - Minimum heated square footage is 1,600. Maximum total square footage is 40% of the total lot (up to 3,500 square feet).

## 2. Main building:

**Uses** - Single-family residence only.

**Setback** -

**Front setback**- 10 feet minimum, 30 feet maximum

**Street Side setback**-10 feet minimum, 30 feet maximum

**Side setback**-10 feet

**Rear setback**-10 feet from the property line or the designated shear zone.

**Required street frontage** - The building shall extend a minimum of 40% of the property line frontage (24 feet minimum). Frontage shall be parallel to the street.

**1 ½ Story Rule** - All homes must comply with the 1½ story rule.

**Porches** -

**First Floor Porch Length**- The first-floor porch shall wrap the corner along the South East Beach Drive or Station House Way. See the attached site diagrams for required porch locations and dimensions. No other building can be built in front of this area.

**Depth**- Required depth is 8 feet minimum. Bays are permitted to encroach up to 40% of the depth to a maximum of 50% of the overall porch length as measured on the building wall and must be at least 2 feet from the corner of the porch.

**Height**- Required first floor.

**Enclosure**-The porch shall remain unheated but can be enclosed up to 50% of its total length. The front door cannot be screened. Permitted methods of enclosure are a) Insect screening or b) Wood shutters, louvers or lattice

## 3. Sitework

**Fences** -Shall follow entire perimeter on South East Beach Dr., Station House Way and between the lots. Fences are not allowed into the shear zone. Please see the “Fence Section” of this document for additional specifications.

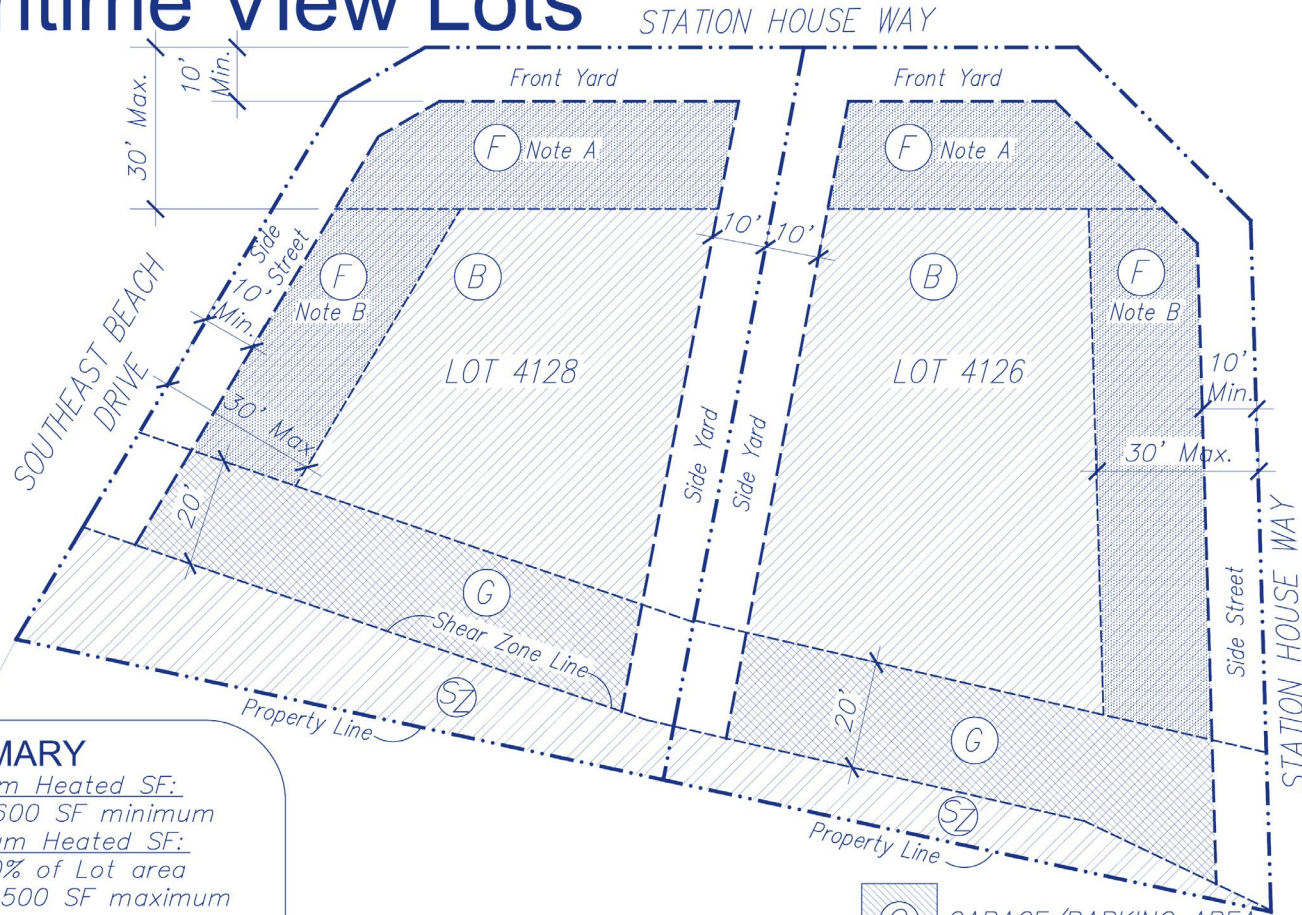
Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height** - 30 inches minimum, 48 inches maximum.

## 4. Accessory Buildings/Garages

Parking/garages, crofters etc. are allowed within the designated garage area as a separate building. See diagram for designated areas.

# Maritime View Lots



## SUMMARY

Minimum Heated SF:

1,600 SF minimum

Maximum Heated SF:

40% of Lot area

3,500 SF maximum

Frontage:

40% of Lot frontage

24' minimum

Porch:

See Design Guidelines

Lot coverage:

See Covenants

Fence Line:

See Design Guidelines

Note A: One Story wrap porch required in this area, minimum length of 24' and a minimum depth of 8'.

Note B: One story wrap porch required in this area, minimum length of 16' and a minimum depth of 8'.

G	GARAGE/PARKING AREA
B	BUILDING AREA
F	FRONTAGE AREA
SZ	SHEAR ZONE



## CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Maritime View



# Cape Fear Station Maritime Watch Lot

These rules apply to any residential lots with the “Maritime Watch (MW)” designations.

## 1. Overall Size Restrictions

**Coverage** - Impervious coverage as designated in the recorded covenants.

All Maritime Watch lots are allowed 3750 sq. ft.

**Square Footage** - Minimum heated square footage is 1,600. Maximum total square footage is 40% of the total lot (up to 3,500 square feet).

## 2. Main building:

**Uses** - Single-family residence only.

**Setback** -

**Front setback**- 10 feet minimum, 50 feet maximum

**Side setback**- 5 feet

**Required street frontage** - The building shall extend a minimum of 40% of the property line frontage (24 feet minimum). Frontage shall be parallel (within 15 degrees) to the street.

**Porches**

**Front Porch Length**- The first-floor porch shall extend along 25% of the required street frontage or 16’ feet minimum.

**Rear Porch Length**- The second-floor porch shall extend along 40% of the required street frontage or 24’ feet minimum.

**Depth**- Required depth is 8 feet minimum. Bays are permitted to encroach up to 40% of the depth to a maximum of 50% of the overall porch length as measured on the building wall and must be at least 2 feet from the corner of the porch.

**Height**- Rear porch required on second level.

**Enclosure**- The porch shall remain unheated but can be enclosed up to 50% of its total length. Permitted methods of enclosure are a) Insect screening or b) Wood shutters, louvers or lattice

## 3. Sitework

**Fences** - Shall follow front property line and extend to the building face as a minimum. Additional fencing is allowed but not required. Cannot extend into the shear zone. Please see the “Fence Section” of this document for additional specifications.

Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height** - 30 inches minimum, 48 inches maximum.

## 4. Accessory Buildings/Garages

Parking/garages, crofters etc. are allowed within the designated setback as a separate building. The structure must be detached and at least 3 feet away from the main structure.

# Maritime Watch Lots



(G) GARAGE/PARKING AREA

(B) BUILDING AREA

(F) FRONTAGE AREA

(SZ) SHEAR ZONE

## SUMMARY

Minimum Heated SF:  
1,600 SF minimum

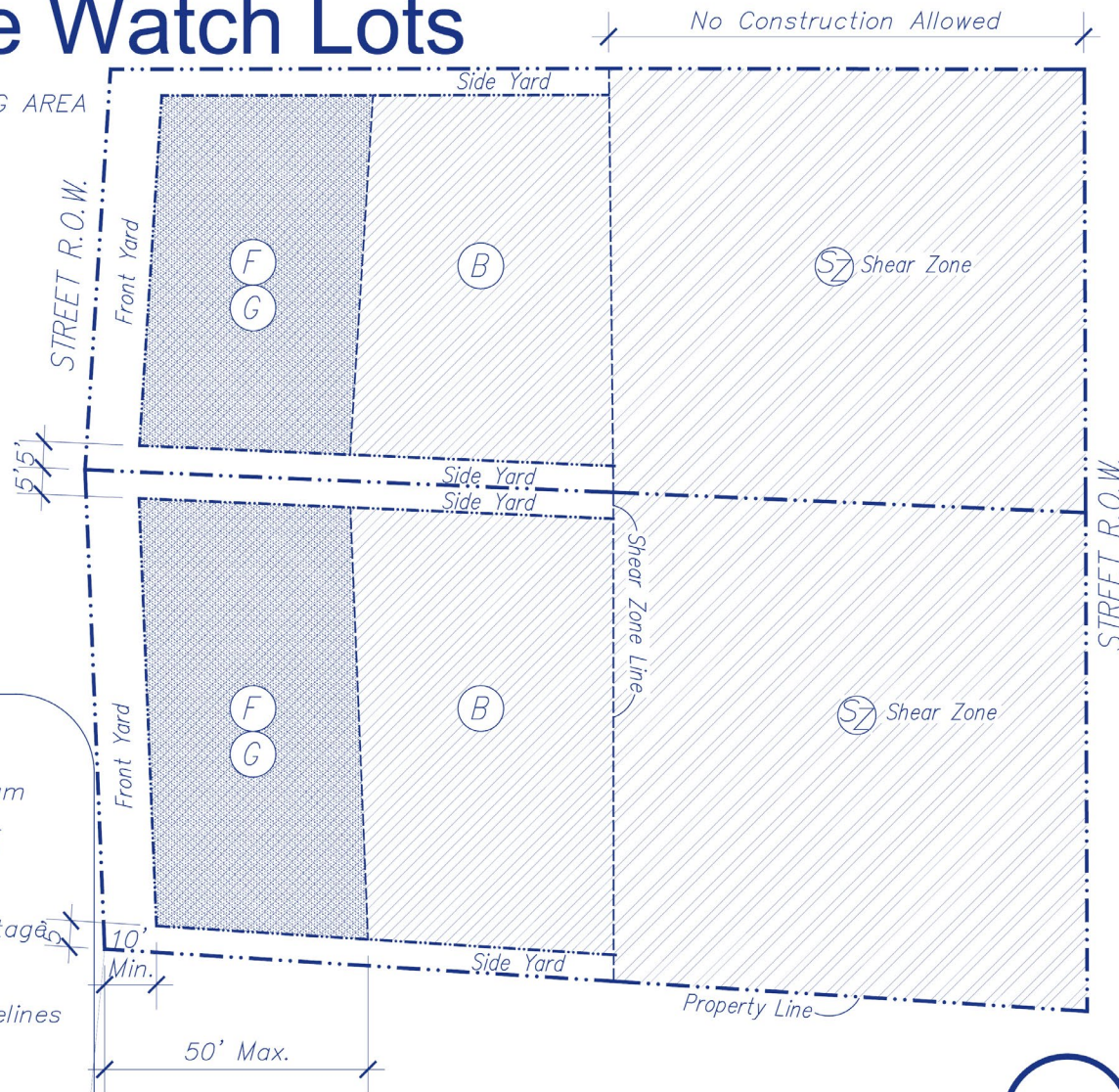
Maximum Heated SF:  
40% of Lot area  
3,500 SF max.

Frontage:  
40% of Lot frontage  
24' minimum

Porch:  
See Design Guidelines

Lot coverage:  
See Covenants

Fence Line:  
See Design Guidelines



## CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Maritime Watch

# Cape Fear Station Shoals Watch Beach Lot

These rules apply to any residential lots with the “Beach (WB)” designation.

## 1. Overall Size Restrictions:

**Coverage** - Total impervious coverage is designated in the recorded covenants.

All Shoals Watch Beach lots are allowed 5500 sq. ft.

**Square Footage** - Minimum heated square footage is 2,000. Maximum total heated square footage is 6,000.

## 2. All Building:

**Uses** - Single-family residence is the only permitted use.

**Setbacks** - See attached drawings for general information. See subdivision plat for specific designated setbacks.

**Front setback-** 30 feet minimum –80 feet maximum from front property line, except for garage and accessory buildings. The front façade must include a portion of the required first level porch.

**Side setback-** 15 feet on East side  
10 feet on the West side

**Rear setback-** Varies, see plat.

**Required street frontage** - At minimum, the building shall front 40% of the property line frontage. For purposes of this calculation covered porches as well as conditioned spaces will be included.

**1 ½ Story rule** - All homes in front of the shear zone must comply with the 1 ½ story rule.

### **Porches**

**Length-** The porch requirement is for a first story porch on the North, South and East sides. The length of the required porch is a minimum of 50% of the total first floor-conditioned wall at the building perimeter.

(West side is allowed but not required. West side is in the perimeter heated wall calculation but does not count towards the 50% required porch minimum.)

**Depth-** Required depth is 8 feet minimum. Bays are permitted to encroach up to 40 % of the depth to a maximum of 50% of the overall porch length and still qualify toward the required length calculation. Bays must be built at least 24” from corner of structure.

**Height-** 1 story minimum

## 3. Sitework

**Walkways** - Walkways to beach are only permitted at the discretion of the ARC. The intent is to cluster walkways between lots and leave maximum open space between walkways. Walkways are to be placed within 10 feet of the adjoining lot line, paired up in the following manner: 3210 & 3212, 3214 & 3216, 3218 & 3220, 3222 & 3224, 3226 & 3228. The joint walkway across easement, shared with neighbor, must attach to and not obstruct beach access.



**Trellises** - Trellises are permitted anywhere on the site except conservation easement area. Heights shall not exceed 10 feet.

**Gazebos** - Gazebos are permitted 10 feet from the front and North side, 15 feet on the South side, and 20 feet off the rear side up to the conservation easement. Height from grade to the highest point of structure must not exceed 14 feet.

#### **4. Accessory Buildings/ Garages**

Accessory buildings/garages are allowed to encroach in the 30 feet main building setback on the street side as long as they meet a minimum setback of 10 feet from the street. The accessory building must be between a 10 feet minimum side yard and 60 feet maximum from the west property line. These buildings may include garages, bedrooms, guest cottages, crofters, enclosed storage and workshops; however, the use must be associated with the main structure and may not be leased or rented separately from the main structure. Garages are not allowed under the main house structure. Any accessory building may be attached to the main building by roof, deck or porch, but the walls of heated space between the main building and the outbuilding may not meet. These walls must be separated by a breezeway or porch at least 8 feet minimum between North sidewall of main structure and the South sidewall of the accessory building. The West end wall of the connecting porch or deck may be closed with windows, louvers, lattice or screen, but shall not be enclosed or air-conditioned. Other auxiliary buildings are allowed on the site; however, they must not encroach on setbacks or the conservation easement.

**Uses** - All uses must be single-family uses in conjunction with the main structure.

**Setbacks** -

Front setbacks -10 feet

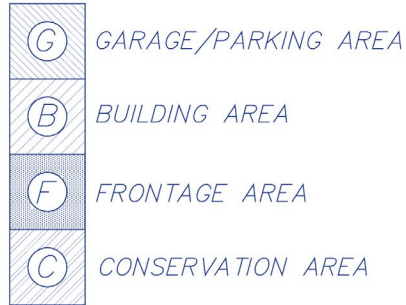
West Side setback - 10 feet

East Side setback - 40 feet from West property line

**Height** - Maximum 25 feet

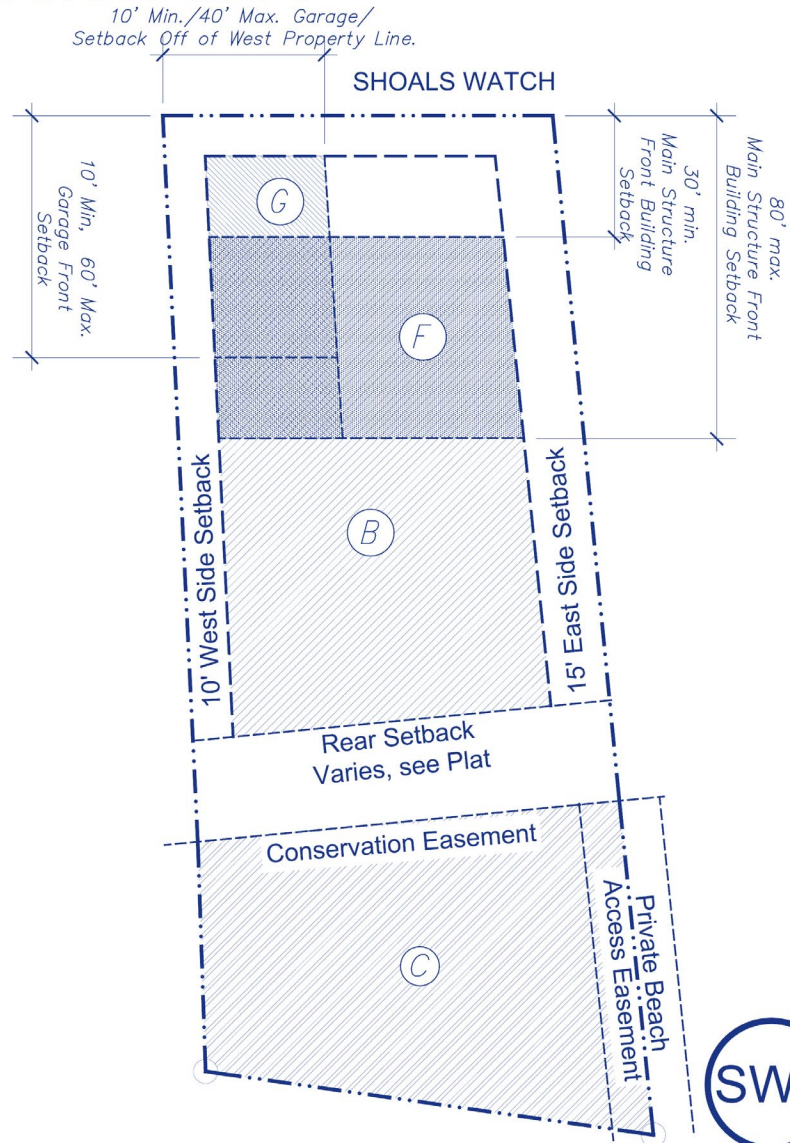
**Porch** - If two story, the second story must have access to the porch on the East side, be 50% of the length of the East wall and a minimum of 4 feet deep.

# Shoals Watch Beach Lot



## SUMMARY

Minimum Heated SF:  
 2,000 SF minimum  
Maximum Heated SF:  
 6,000 SF maximum  
Frontage:  
 40% of Lot frontage  
Porch:  
 See Design Guidelines  
Lot coverage:  
 See Covenants  
Fence Line:  
 See Design Guidelines



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Shoals Watch  
Beach Lot

# Cape Fear Station Shoals Watch Estate Lot

These rules apply to any residential lots with the “Estate” designation.

## 1. Overall Size Restrictions:

**Coverage** - Total impervious coverage is designated in the recorded covenants.

All Shoals Watch Estate lots are allowed 6500 sq. ft.

**Square Footage** - Minimum heated square footage is 2,000. Maximum total heated square footage is 6,000 for the primary structure and 3,000 for secondary structures.

## 2. All Building:

**Uses** - Single-family residence is the only permitted use.

**Setbacks** - See attached drawings for general information. See subdivision plat for specific designated setbacks.

**1 ½ Story rule** - All homes in front to the shear zone must comply with the 1 ½ story rule.

### **Porches** -

**Length**- The porch requirement is for the first story porch on the North, South and East sides. The length of the required porch is a minimum of 50% of the total first floor conditioned wall at the building perimeter. (West side is allowed but not required. West side is in the perimeter heated-wall calculation but does not count towards the 50% required porch minimum.)

**Depth**- Required depth is 8 feet minimum. Bays are permitted to encroach up to 40 % of the depth to a maximum of 50% of the overall porch length and still qualify toward the required length calculation. Bays must be built at least 24” from corner of structure.

**Height**- 1 story minimum

## 3. Sitework

**Walkways** - Walkways to the beach are only permitted at the discretion of the ARC.

**Trellises** - Trellises are permitted anywhere on the site except on the conservation easement area. Heights shall not exceed 10 feet.

**Gazebos** - Gazebos are permitted in the allocated gazebo area.

## 4. Accessory Buildings/ Garages

These buildings may include garages, bedrooms, guest cottages, crofters, enclosed storage and workshops; however, the use must be associated with the main structure and may not be leased or rented separately from the main structure. Garages are not allowed under the main house structure. Any accessory building may be attached to the main building by roof, deck or porch, but the walls of heated space between the main building and the outbuilding may not meet. These walls must be separated by a breezeway or porch at least 8 feet minimum between North sidewall of main structure and the South sidewall of the accessory building. The West end wall of the connecting porch or deck may be closed with windows, louvers, lattice or screen, but shall not be enclosed or air-conditioned. Other auxiliary buildings are allowed on the site; however, they must not encroach on setbacks or the conservation easement.

**Uses** - All uses must be single-family uses in conjunction with the main structure.

**Height** - Maximum 25 feet

**Porch** - If two story, the second story must have access to the porch on the East side, be 50% of the length of the East wall and a minimum of 4 feet deep.

# Shoals Watch Estate Lot

-  BUILDING AREA
-  CONSERVATION AREA
-  GAZEBO/DECK AREA

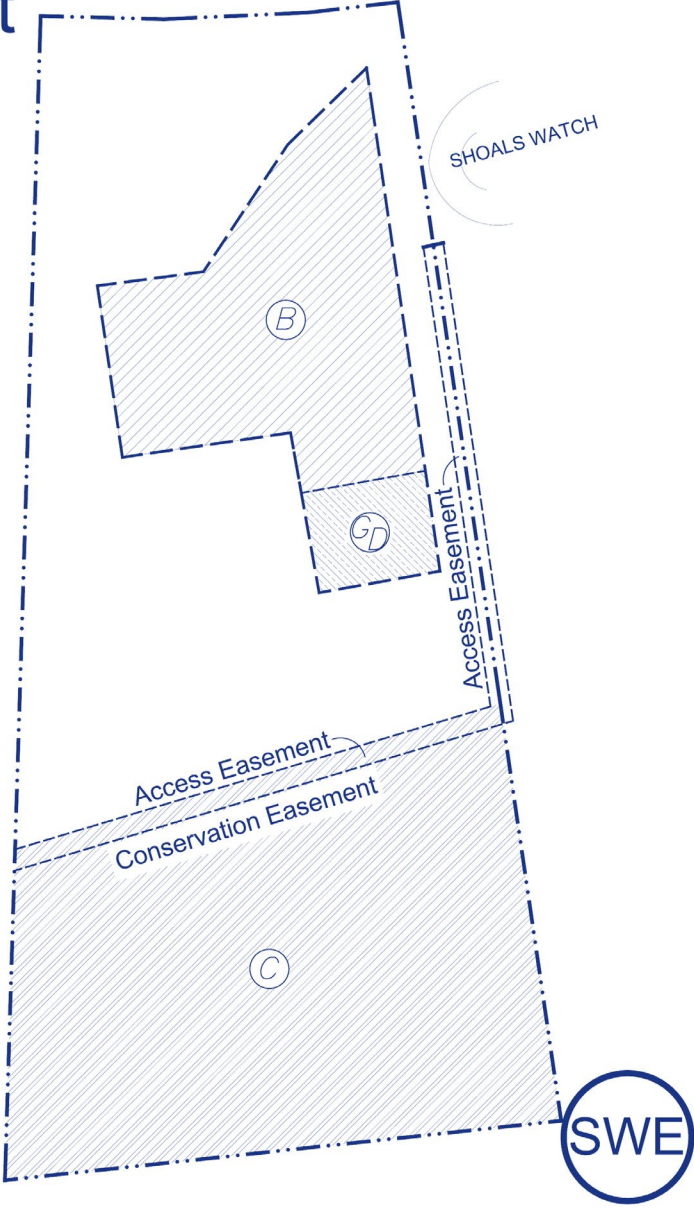
## SUMMARY

Minimum Heated SF:  
2,000 SF minimum

Maximum Heated SF:  
6,000 SF Maximum  
Primary Structure  
3,000 SF Maximum  
Secondary Structure

Porch:  
See Design Guidelines

Lot coverage:  
See Covenants



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Shoals Watch  
Estate Lot

# Cape Fear Station Shoals Watch Manor Lot

These rules apply to any residential lots with the “Manor (WM)” designation.

## 1. Overall Size restrictions

**Coverage** - Total impervious coverage is designated in the recorded covenants.  
Lot 3211 and 3213 are allowed 4000 sq. ft. Lot 3215 is allowed 4000 sq. ft.

**Square Footage** -

Lot 3211: Minimum heated square footage is 1500. Maximum heated square footage is 3500.  
Lot 3213: Minimum heated square footage is 1500. Maximum heated square footage is 3500.  
Lot 3215: Minimum heated square footage is 1200. Maximum heated square footage is 3000.

## 2. All buildings

**Uses** - Single-family residence is the only permitted use.

**Setbacks** - See attached drawings for general information. See subdivision plat for specific designated setbacks.

**Front setback-** 10 feet.

**Side setback-** Varies, see subdivision plat.

**Rear setback-** Varies, see subdivision plat.

**Porches** - An 8' deep by minimum 24' width porch shall be built fronting Shoals Watch Way.

**50% Rule** - The Shoals Watch Manor lots must comply with the 50% Rule due to the visibility created by the higher dune ridge location. The exemption to the 50% rule listed in the Design Guidelines regarding the first-floor elevation under the 50% Rule requirement number three (3) does not apply to the Shoals Watch Manor Lots.

## 3. Sitework

**Fences** - Fences shall be permitted at the discretion of the ARC. The fence shall define and create space rather than define the edge of the property. Fences running along 50% or more of property line are prohibited. Please see the “Fence Section” of this document for additional specifications.

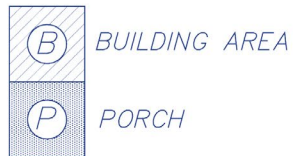
**Height-** 30 inches minimum, 48 inches maximum.

## 4. Accessory Buildings/Garages

In order to fit structures within the unique topography and vegetation of these lots, auxiliary buildings are encouraged. Up to two auxiliary buildings will be allowed in addition to the main structure. These buildings may include garages, bedrooms, guest cottages, crofters, enclosed storage, studios and workshops; however, the use must be associated with the main structure and may not be leased or rented separately from the main structure. Garages are not allowed under the main structure. Such structures shall not share a common roof with the main structure, but consideration may be given to connecting architectural elements such as trellis or covered walkways. All structures must comply with established setbacks.



# Shoals Watch Manor Lot



## SUMMARY LOT 3215

Minimum Heated SF:

1,200 SF minimum

Maximum Heated SF:

3,000 SF max.

Porch:

See Design Guidelines

Lot coverage:

See Covenants

Fence Line:

See Design Guidelines

## SUMMARY LOTS 3211 AND 3213

Minimum Heated SF:

1,500 SF minimum

Maximum Heated SF:

3,500 SF max.

Porch:

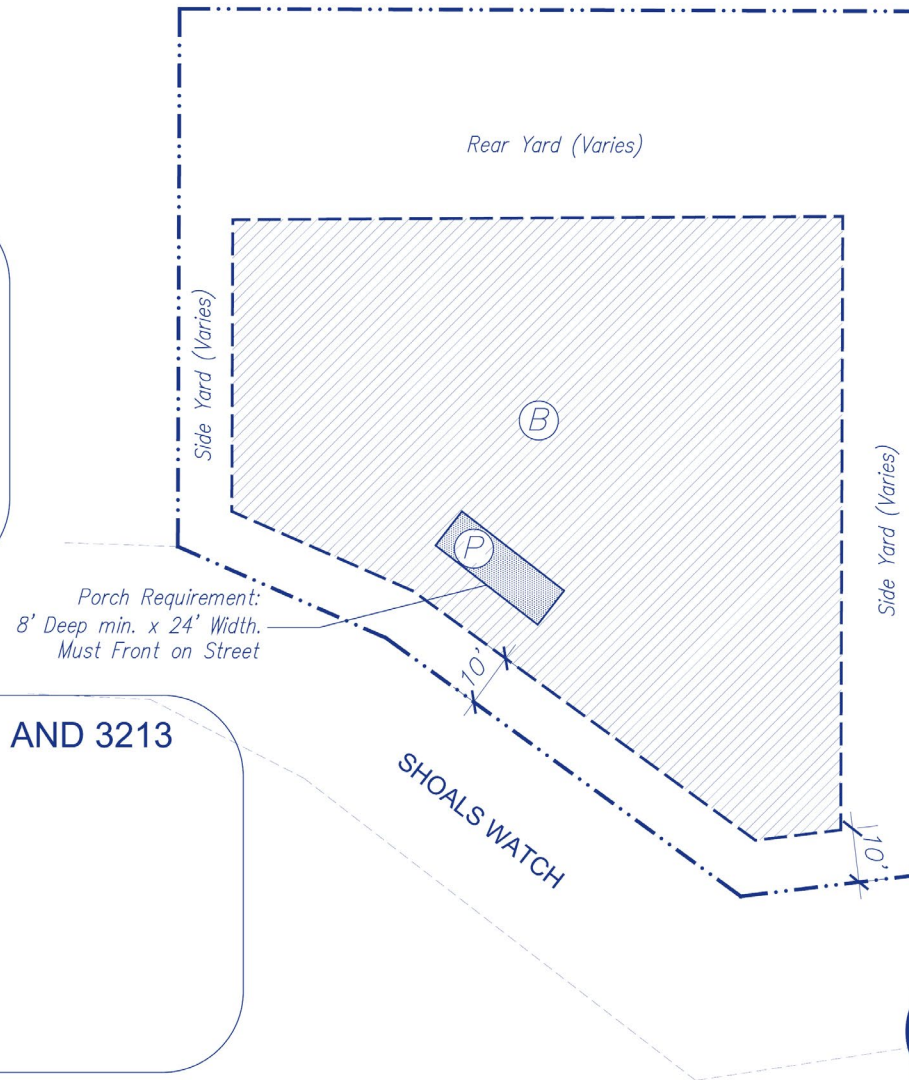
See Design Guidelines

Lot coverage:

See Covenants

Fence Line:

See Design Guidelines



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Shoals Watch  
Manor Lot

# Cape Fear Station Sideyard Lot

These rules apply to any residential lots with “Sideyard (S)” designation.

## 1. Overall Size Restrictions:

**Coverage** - Impervious coverage is designated in the recorded covenants

Lot 5703 is allowed 4000 sq. ft. All other Sideyard lots are allowed 3000 sq. ft.

**Square Footage** - Minimum heated square feet is 1,000. Maximum heated square feet is 30% of the total lot area (up to 3,000 square feet).

## 2. Main building:

**Uses** - Single-family residence only.

### **Setbacks** -

**Façade line**- Primary front surface of the house (façade) shall be 15 - 20 feet from the property line (façade line). One story bays, stoops and overhangs may project up to 5 feet in front of this line. The side porch must be set between 12 and 36 inches behind this line.

**Front setback**- 10 feet minimum from front property line.

**Small side setback**- 5 feet (10 feet on corners). Bays are permitted to encroach into the small side setback up to 2 feet maximum. Overhangs are allowed to encroach into the small side setback up to 3 feet.

**Garden side setback**- 20 feet (note: garden side is South East side of lot). Overhangs are allowed to encroach into the garden side setback up to 3 feet.

**Rear setback**- 10 feet off the property line.

**Required street frontage** - The building shall extend a minimum of 20% of the property line frontage. Ratio and proportion of street frontage divided between street façade and porch is a critical element of this type. The side porch width must be between 25% and 35% of the built street front. Minimum porch width is 6 feet.

**Front Entrance** - The street facing end of the side porch should appear to be the main entrance to the house. This provides a welcoming connection between the house and the street.

**Fenestration** - Window openings on the 5 feet small side setback shall not exceed 20% of entire surface.

### **Porches** -

**Width**- The porches shall extend at least 6 feet along the required street frontage.

**Depth**- Required minimum depth is 18 feet along the side of house that faces garden SideYard. Porch must begin between 12 and 36 inches behind the façade line.

**Height**- 2 story minimum

**Exceptions:** One of the following two options can be selected to reduce porch size:

- a. Bays are permitted to encroach up to 40% of the porch width to a maximum of 40% of the overall porch length. No bays may be closer than 3 feet from corner of porch or 16 feet from entrance end of lower porch.



- b. 20% of the lower porch and 50 % of the upper porch may be conditioned space provided the first 18 feet off the street side is open.

**Railings** - Due to the unique typology of the Sideyard house design, full cable railings are not appropriate unless they are a combined wood and cable railing system. The wood members should reinforce and help create the appearance of a more traditional wooden SideYard railing system

**Enclosure** -The required portion of the porch shall remain unheated, but the second level can be enclosed with Insect screening, or Wood shutters, louvers and lattice

### 3. Sitework

#### **Fences** -

**Small Side Yard-** On the small side yard side of the house, no fence is allowed the length of the house or the length of any accessory buildings in line with the house.

**Back-** At the back of the house or other accessory building, the fence ties to the building and runs to the Alley Easement line. At the Alley Easement line, the fence turns 90 degrees and runs along the Alley Easement line to the property line to meet the adjacent property's fence.

**Front-** At the front of the house, the fence ties to both sides of the house running parallel to the façade line and in-line with the side porch street entrance (door). Both sides run from there to the property lines to meet adjacent property fences.

Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height-** 36 inches minimum, 48 inches maximum on small side yard.

**Trellises, arbors, pergolas** are permitted anywhere within the building area

### 4. Accessory Buildings/Garages

Garages, crofters etc. are allowed within the designated area extending a maximum of 25 ft. from the alley easement line as a separate building.

# Sideyard Lots

- G GARAGE/PARKING AREA
- B BUILDING AREA
- S STOOP, BAY AND OVERHANG AREA

## SUMMARY

Minimum Heated SF:  
1,000 SF

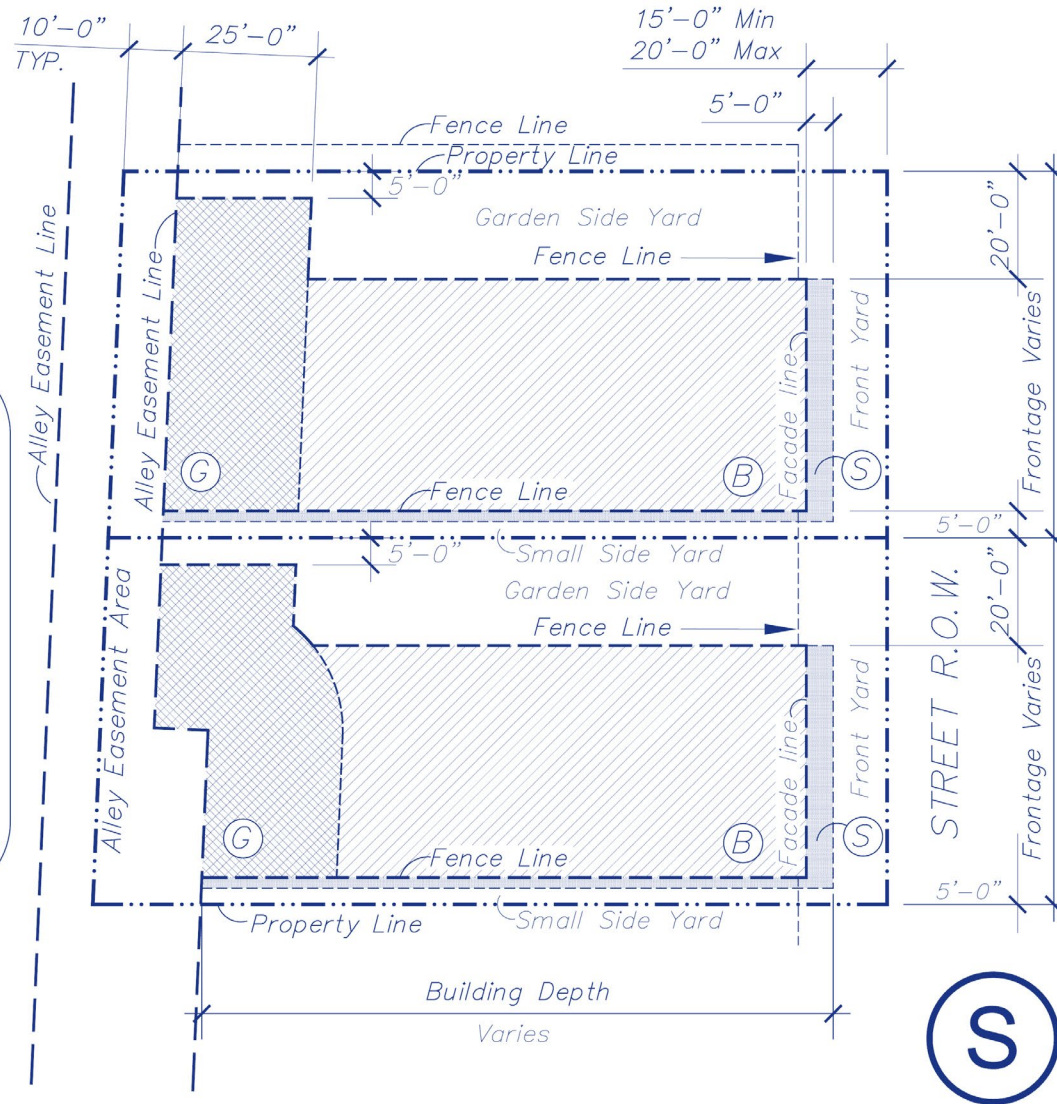
Maximum Heated SF:  
30% of Lot area  
3,000 SF Max.

Frontage:  
See Guidelines

Porch:  
See Guidelines

Lot coverage:  
See Covenants

Fence Line:  
12" behind Facade line;  
Small Side setback  
line; Alley Easement line.



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Sideyard

# Cape Fear Station Towncenter Sideyard Lot

These rules apply to any residential lots with “Towncenter Sideyard (TS)” designation.

## 1. Overall Size Restrictions:

**Coverage** - Impervious coverage is designated in the recorded covenants.

Odd lots 3707-3723 are allowed 2500 sq. ft.

Even lots 3704-3718 are allowed 4200 sq. ft.

**Square Footage for Even numbered Lots between 3704 and 3718** - Minimum heated square feet is 1,000. Maximum heated square feet allowed is 35% of the total lot area (up to 3,500 square feet), unless 35% of the total lot area is less than 2,000 sq. ft., then the max is 2,000.

**Square Footage for Odd numbered Lots between 3707 and 3723** - Minimum heated square feet is 1,000. Maximum heated square feet allowed is 35% of the total lot area (up to 3,000 square feet), unless 35% of the total lot area is less than 2,000 sq. ft., then the max is 2,000.

## 2. Main building:

**Uses** - Single-family residence only.

**Setbacks** -

**Façade line**- Primary front surface of the house (façade) shall be 10 –20 feet from the property line. One story bays, stoops, overhangs and porches may project up to 5 feet in front of this line. The side porch must be set between 12 and 36 inches behind the primary facade line.

**Front setback**- 10 feet minimum from front property line.

**Small side setback**- 5 feet (10 feet on corners)- bays are permitted to encroach into the small side setback up to 2 feet maximum. Overhangs are allowed to encroach into the small side setback up to 3 feet.

**Garden side setback**- 20 feet (note: garden side is South East side of lot). Overhangs are allowed to encroach into the garden side setback up to 3 feet.

**Rear setback**- 10 feet off property line.

**Required street frontage** - The building shall extend a minimum of 20% of the property line frontage. Ratio and proportion of street frontage divided between street façade and porch is a critical element of this type. The side porch width must be between 25% and 35% of the built street front. Minimum porch width is 6 feet.

**Front Entrance** - The street facing end of the side porch should appear to be the main entrance to the house. This provides a welcoming connection between the house and the street.

**Fenestration** - Window openings on the 5 feet small side setback shall not exceed 20% of entire surface.

**Porches** -

**Width**- The porches shall extend at least 6 feet along the required street frontage.

**Depth-** Required minimum depth is 18 feet along the side of house that faces garden Sideyard. Porch must begin between 12 and 36 inches behind the façade line.

**Height-** 2 story minimum

**Exceptions:** One of the following two options can be selected to reduce porch size:

- a. Bays are permitted to encroach up to 40% of the porch width to a maximum of 40% of the overall porch length. No bays may be closer than 3 feet from corner of porch or 16 feet from entrance end of lower porch.
- b. 20% of the lower porch and 50 % of the upper porch may be conditioned space provided the first 18 feet off the street side is open.

**Enclosure-** The required portion of the porch shall remain unheated, but the second level can be enclosed with Insect screening, or Wood shutters, louvers and lattice

**Railings** - Due to the unique typology of the SideYard house design, full cable railings are not appropriate unless they are a combined wood and cable railing system. The wood members should reinforce and help create the appearance of a more traditional wooden Sideyard railing system

### 3. Sitework

#### **Fences** -

**Small Side Yard-** On the small side yard side of the house no fence is allowed the length of the house or the length of any accessory buildings in line with the house.

**Back-** At the back of the house or other accessory building, the fence ties to the building and runs to the alley easement line. At the alley easement line, the fence turns 90 degrees and runs along the alley easement line to the property line to meet the adjacent property's fence.

**Front-** At the front of the house, the fence ties to both sides of the house running parallel to the façade line and in line with the side porch street entrance (door). Both sides run from there to the property lines to meet adjacent property fences.

Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height-** 36 inches minimum, 48 inches maximum on side yard.

**Trellises, arbors, pergolas** - are permitted anywhere within the building area.

### 4. Accessory Buildings /Garages

Garage, crofters etc. are allowed within the designated area extending a maximum of 35 ft. off the alley or conservation easement line as a separate building.

# Towncenter Sideyard Lots



## SUMMARY

Minimum Heated SF:  
1,000 SF

Maximum Heated SF:

Even numbered Lots:  
35% of total Lot area  
up to 3,500 SF

Odd numbered Lots:  
35% of total Lot area  
up to 3,000 SF

In either case, if  
calculated maximum is  
less than 2,000 SF  
then the max shall be  
2,000 SF

Frontage:

See Design Guidelines

Porch:

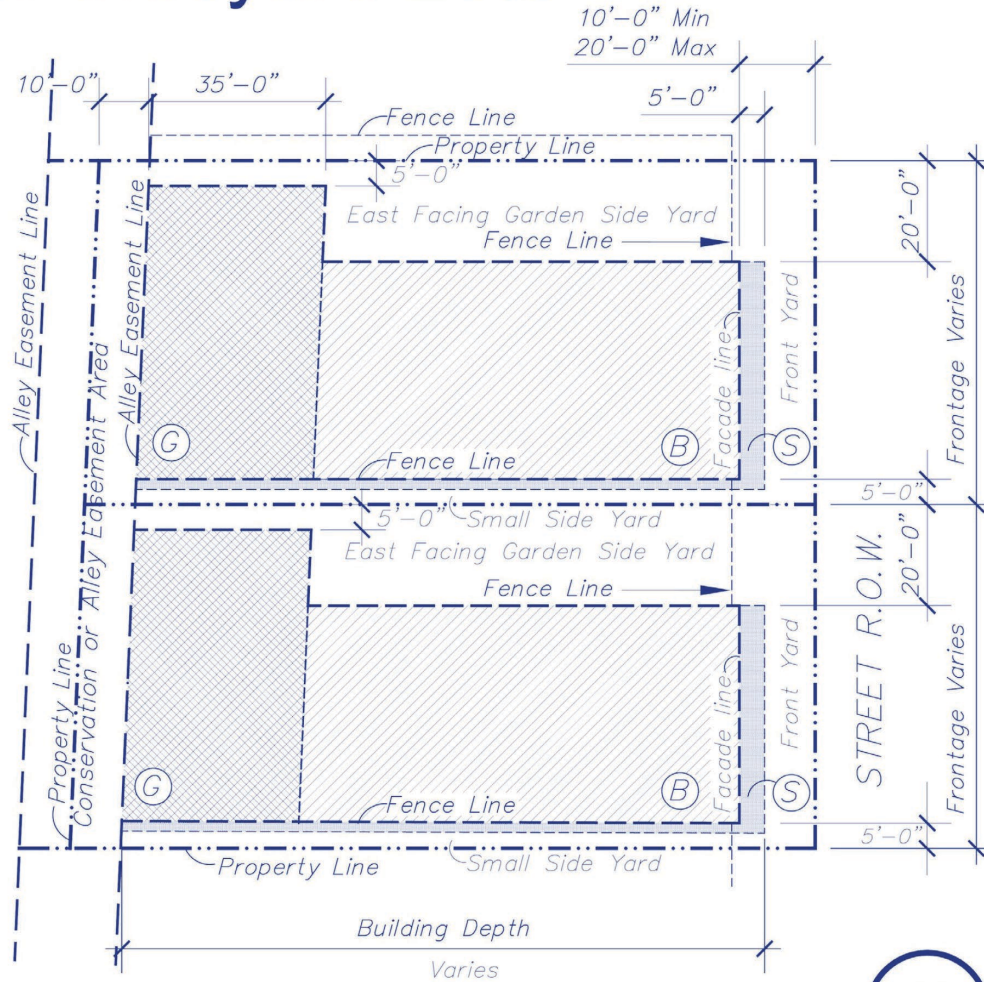
See Design Guidelines

Lot coverage:

See Covenants

Fence Line:

See Design Guidelines



Note: Lots south of Federal Road are a mirrored version of the diagram above.



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Towncenter  
Sideyard



# Cape Fear Station Village Common Lots

These rules apply to any residential lots with the “Village Common (VC)” designation.

## 1. Overall Size restrictions

**Coverage** - Impervious coverage is designated in the recorded covenants.

All Village Common lots are allowed 3500 sq. ft.

**Square Footage** - Minimum heated square footage is 1,600 per lot. Maximum heated square footage is 5,000 per lot.

## 2. Main building:

**Uses** - Single-family residence only.

**Setbacks** -

**Front setback**- 10 feet minimum and 20 feet maximum

**Side setbacks**- 5 feet (10 feet at corners)

**Rear setback**-10 feet off the property line or alley easement line (whichever is greater).

**Required street frontage** - At minimum, the building shall front 50% of the property line frontage (up to 50 feet). For purposes of this calculation covered porches as well as conditioned spaces will be included.

**Front Porches** - Shall be a minimum of 500 square feet total for two levels as measured up to 12' deep and must comply with the following specifications:

**Length**- First floor porches shall extend 100% of the required street frontage. Second floor porches shall extend a minimum of 50% of the required street frontage.

**Depth**- Required minimum depth is 8 feet. Bays are permitted to encroach up to 40% of the porch depth to a maximum of 50% of the overall porch length as measured on the building wall. Bays shall be at least 2 feet from the corner of the porch. The first and second floor porches must be the same depth with the exception that the second-floor porch may be less deep than the first-floor porch provided the roof of the second-floor porch is the same or greater than the first-floor porch.

**Height**- The porch must be a minimum of 2 stories as a Double Gallery.

**Enclosure**- The required first level porch shall have no enclosure. The required second floor porch can be enclosed up to 100% of its total length. Such enclosures shall be unconditioned. Permitted methods of enclosure are Insect screening, or Wood shutters, louvers and lattice

## 3. Sitework

**Fences** - Fences shall be built along the front and side property lines as well at the alley easement line. Please see the “Fence Section” of this document for specifications.

Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height**- 30 inches minimum, 48 inches maximum.

## 4. Accessory Building/Garage/parking area

The garage/parking/crofter area shall extend a maximum of 25 feet off the alley easement line.

# Village Commons Lots



## SUMMARY

Minimum Heated SF:

1,600 SF

Maximum Heated SF:

5,000 SF

Frontage:

50% of lot frontage

Porch:

See Guidelines

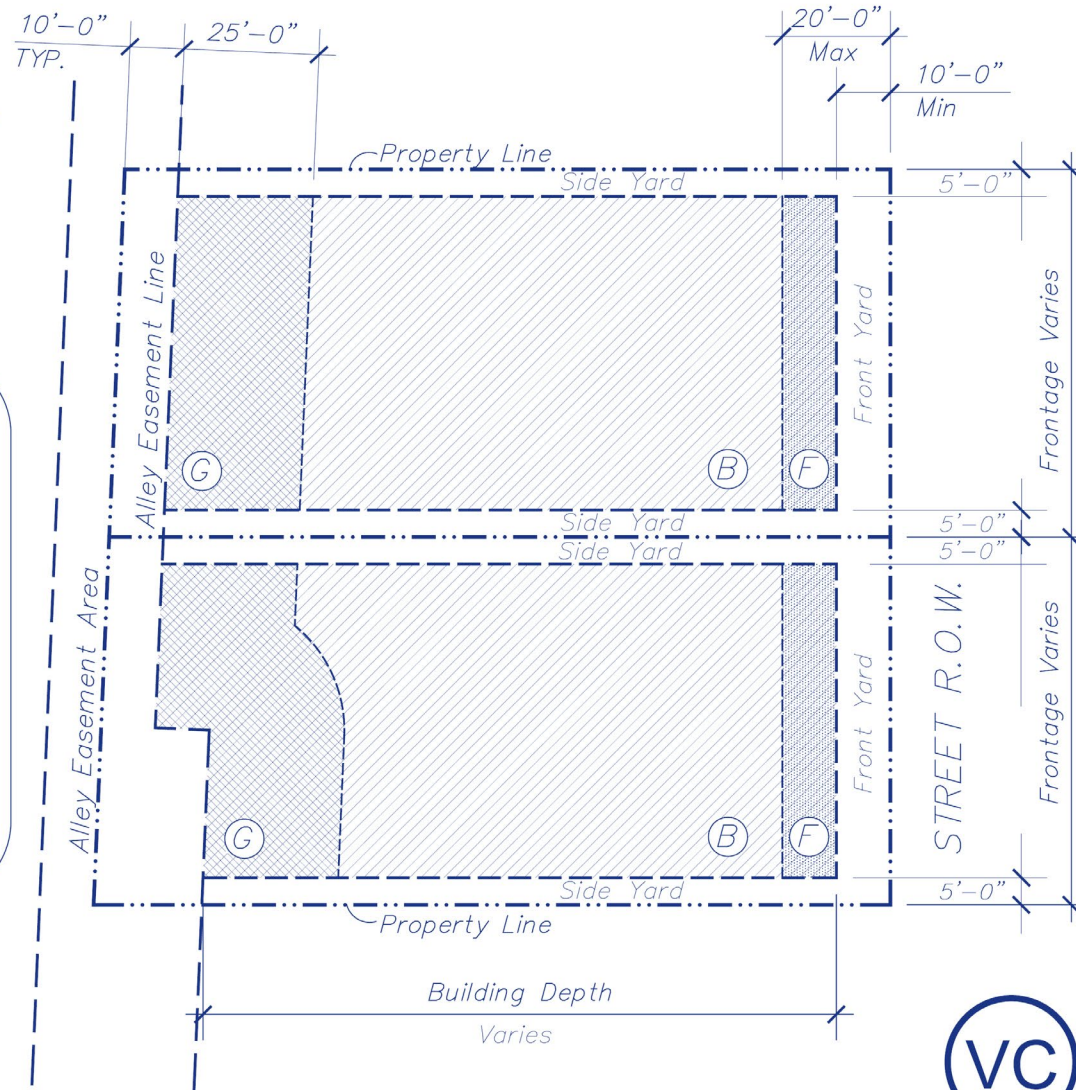
2 Story

Lot coverage:

See Covenants

Fence Line:

Along Property line &  
Alley Easement line.



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Village  
Commons



# Cape Fear Station Village Common Interior Lots

These rules apply to any residential lots with the “Village Common Interior” (VCI) designation.

## 1. Overall Size restrictions

**Coverage** - Total impervious coverage is designated in the recorded covenants.

Lot 5400 is allowed 3000 sq. ft.

Lot 5450 and 5500 are allowed 4200 sq. ft.

**Square Footage** - Minimum heated area is 1,600 square feet per lot. Maximum heated area is 5,000 square feet for lots 5450 and 5500 and 4,500 square feet for lot 5400.

## 2. Main building:

**Uses** - Single-family residence only.

**Setbacks** -

**Front setback**- 10 feet minimum

**Side setbacks**- 5 feet (10 feet at corner lots)

**Rear setback**- 10 feet off the property line

**Porch setback**- 30 feet maximum from rear commons property line

**Required Common frontage** - At minimum, the main building shall front 50% of the property line. For purposes of this calculation covered porches as well as conditioned spaces will be included.

**Front Porches** -

**Length**- First floor street front porches shall extend 24 feet minimum. Second floor front porches are allowed but not required.

**Depth**- Required minimum depth is 8 feet. Bays are permitted to encroach up to 40% of the porch depth to a maximum of 50% of the overall porch length as measured on the building wall. Bays shall be at least 2 feet from the corner of the porch.

**Height**- First floor minimum

**Enclosure**- The required first floor front porch shall have no enclosure.

**Rear Common Porches** - Shall be a minimum of 500 square feet total for each level and must comply with the following specifications:

**Length**- First floor rear porch shall extend 100% of the required rear commons frontage. Second floor rear porches shall extend a minimum of 50% of the required rear common frontage.

**Depth**- Required minimum depth is 8 feet. Bays are permitted to encroach up to 40% of the porch depth to a maximum of 50% of the overall porch length as measured on the building wall. Bays shall be at least 2 feet from the corner of the porch. The first and second floor porches must be the same depth with the exception that the second-floor porch may be less deep than the first-floor porch provided the roof of the second-floor porch is the same or greater than the first-floor porch.

**Height**- The porch must be a minimum of 2 stories as a Double Gallery.

**Enclosure-** The required first floor rear porch shall have no enclosure. The required second floor rear porch can be enclosed up to 100% of its total length. Such enclosures shall be unconditioned. Permitted methods of enclosure are Insect screening or Wood shutters, louvers and lattice

### **3. Sitework**

**Fences -** Fences shall be built along the entire perimeter.

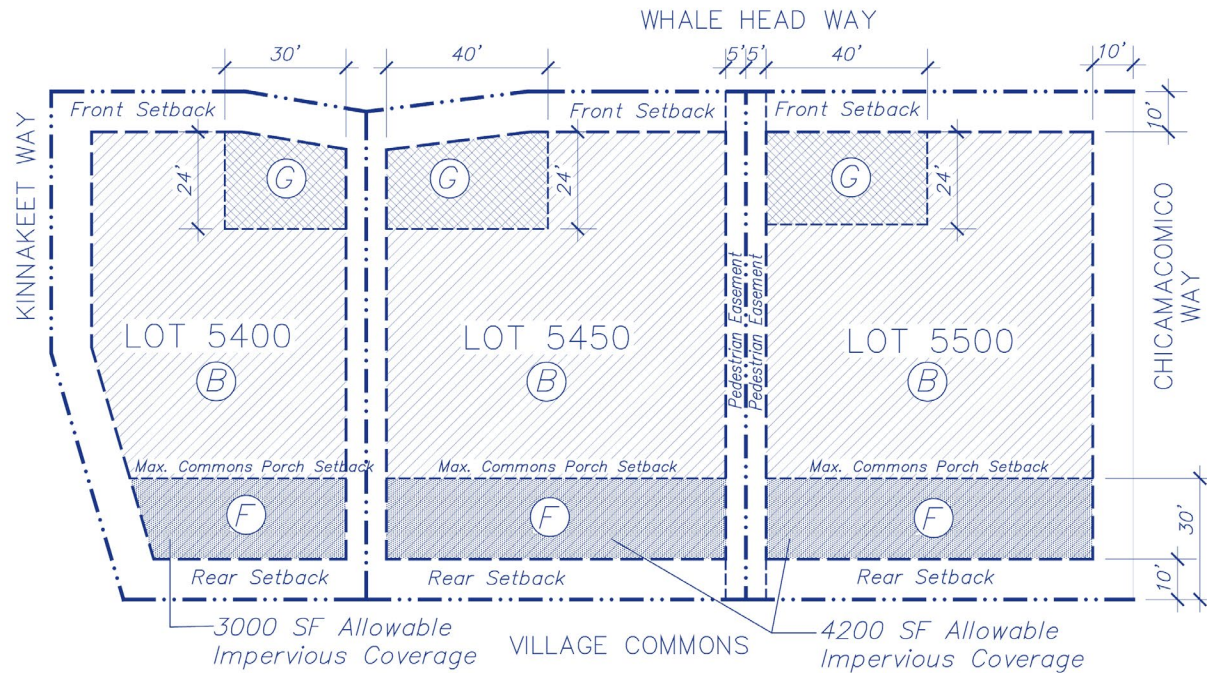
Once a fence has been built along a side property line, no additional fence may be built between the adjacent properties. It is the responsibility of each property owner to have his/her architect/designer transition any new fence to any existing fences and to adjust to the grade. All fences are reviewed and approved by the ARC.

**Height-** 30 inches minimum, 48 inches maximum.

### **4. Garage/parking area**

The garage/parking/crofter must be built in the designated garage area.

# Village Commons Interior Lots



## SUMMARY

Minimum Heated SF:  
1,600 SF minimum

Maximum Heated SF:  
Lots 5450 & 5500: 5,000 SF maximum  
Lot 5400: 4,500 SF

Commons Frontage:  
50% of rear property line

Porch:  
See Design Guidelines

Coverage:  
See Covenants

Fence Line:  
Entire Perimeter



CAPE FEAR STATION

BALD HEAD ISLAND, N.C.

July 1, 2017

SITEPLAN

Lot Typologies

Design Guidelines

Village Commons Interior

# Cape Fear Station - Keeper's Landing

These rules apply to all residential units with the "Keeper's Landing" (KL) designation.

## 1. Overall Size Restrictions

**Coverage** - Impervious coverage shall be as designated in the recorded covenants for *CFS Multi-Family 4*. No additional impervious coverage is allowed.

**Square Footage** - Minimum and maximum heated square footage is:

**Hatteras** (Units 1 and 2) – 900 to 1200;

**Cedar Island and Cedar Island R** (Units 3, 10, 12, 13, 16, 17, and 18) - 1200 to 1500;

**Corrolla and Corrolla R** (Units 4, 5, 6, 11, 14, and 15) – 2000 to 2400;

**Manteo** (Units 7, 8, and 9) – 900 to 1200;

**Bodie** (Units 19, 20, 23, and 24) – 600 to 900;

**Lookout** (Units 21 and 22) – 1200 to 1500;

**Core Bank and Core Bank R** (Units 28, 31, and 32) – 2100 to 2500;

**Expanded Corebank and Expanded Corebank R** (Units 25, 26, 27, 29, 30 and 33) - 2400 to 3000.

## 2. All Buildings

**Uses** - Single family residential is the only permitted use.

**Additions/Changes** - All proposed construction must occur within the building "drip line" as depicted on the as-built survey attached to the deed and shall be compatible with the existing architecture. Special attention will be paid to scale, massing and proportion for proposed improvements. Replacements or additions will match existing materials and color treatments.

**Porches** - Conversion of open porches to screened porches shall be at the sole and unlimited discretion of the ARC.

**Setbacks** - Location of buildings are designated on recorded plat.

**Rebuilding** - If the unit's improvements are destroyed due to catastrophic circumstances, they must be rebuilt using the original approved plans on file with the ARC and must be on the same building "footprint".

## 3. Sitework

**Landscaping** - With the exception of decorative landscaping within the building "drip line" as depicted on the as-built survey, the POA is responsible for common area landscaping outside the "drip line". The POA will attempt to preserve existing flora and increase the productive natural systems of the particular mini environment with natural landscaping. This means, for the most part, that native plants will be allowed to flourish on their own accord. Owner-Members of the Association are not permitted to install, plant, trim or remove any trees, plants or vegetation in common areas.

## 4. Accessory Buildings/Garages

- a. Garages and/or crofters are allowed only within the designated area shown on the as-built survey for the unit. Crofters are not permitted on units 27 through 32.
- b. In the case of attached garages, if either owner wishes to add a second story crofter, the other owner must agree and attached crofters must be added to both garages, subject to approval by the ARC.
- c. The heated square footage of a crofter counts toward the overall maximum heated square footage allowed for the unit.

# Cape Fear Station - Sumner's Crescent

These rules apply to all residential units with the "Sumner's Crescent" (SC) designation.

## 1. Overall Size Restrictions

**Coverage** - Impervious coverage shall be as designated in the recorded covenants for Multi-Family 2. No additional impervious coverage is allowed.

**Square Footage** - Maximum heated square footage is:

**Crescent Cottage** (Units 1, 3, 5, 7, 11, 15, 17, and 19) - 1,200;

**Breech's Buoy** (Units 2 and 16) – 2,000;

**Boatswain and Boatswain 2** (Units 4, 6, and 12) – 2,000;

**Key Post** (Units 8, 10, and 14) – 2,000.

## 2. All Buildings

**Uses** - Single family residential is the only permitted use.

**Additions/Changes** - All proposed construction must occur within the building "drip line" as depicted on the as-built survey attached to the deed and shall be compatible with the existing architecture. Special attention will be paid to scale, massing and proportion for proposed improvements. Replacements or additions will match existing materials and color treatments.

**Porches** - Conversion of open porches to screened porches shall be at the sole and unlimited discretion of the ARC.

**Setbacks** - Location of buildings are designated on recorded plat.

**Rebuilding** - If the unit's improvements are destroyed due to catastrophic circumstances, they must be rebuilt using the original approved plans on file with the ARC and must be on the same building "footprint".

## 3. Sitework

**Landscaping** - With the exception of decorative landscaping within the building "drip line" as depicted on the as-built survey, the POA is responsible for common area landscaping outside the "drip line". The POA will attempt to preserve existing flora and increase the productive natural systems of the particular mini environment with natural landscaping. This means, for the most part, that native plants will be allowed to flourish on their own accord. Owner-Members of the Association are not permitted to install, plant, trim, or remove any trees, plants or vegetation in common areas.

## 4. Accessory Buildings/Garages

Garages and/or crofters are allowed only within the designated area shown on the as-built survey for the unit. The heated square footage of a crofter counts toward the overall maximum heated square footage allowed for the unit.

# Cape Fear Station - Surfman's Walk Cottages

These rules apply to all residential units with the "Surfman's Walk Cottage" (SW) designation.

## 1. Overall Size Restrictions

**Coverage** - Impervious coverage shall be as designated in the recorded covenants for Multi-Family 3. No additional impervious coverage is allowed.

**Square Footage** - Minimum heated square footage is 1,250. Maximum total heated square footage is 1,300.

## 2. All Buildings

**Uses** - Single family residential is the only permitted use.

**Additions/Changes** - All proposed construction must occur within the limits of the building "drip line" as depicted on the recorded plat or, if the building location was adjusted for specific site conditions, as originally constructed, and shall be compatible with the existing architecture. Special attention will be paid to scale, massing and proportion for proposed improvements. Replacements or additions must match existing materials and color treatments.

**Porches** - Conversion of open porches to screened porches shall be at the sole and unlimited discretion of the ARC.

**Setbacks** - Location of buildings are designated on recorded plat.

**Rebuilding** - If the unit's improvements are destroyed due to catastrophic circumstances, they must be rebuilt using the original approved plans on file with the ARC and must be on the same building "footprint".

## 3. Sitework

**Landscaping** - With the exception of decorative landscaping within the building "drip line" as depicted on the recorded plat or (if adjusted for site conditions) as originally constructed, the POA is responsible for common area landscaping outside the "drip line". The POA will attempt to preserve existing flora and increase the productive natural systems of the particular mini environment with natural landscaping. This means, for the most part, that native plants will be allowed to flourish on their own accord. Owner-Members of the Association are not permitted to install, plant, trim or remove any trees, plants or vegetation in common areas.

## 4. Accessory Buildings/Garages

Garages and/or crofters are allowed only within the designated building pads for each unit shown on the recorded plat.

# D – DESIGN & SITE ELEMENTS

## Accessory Buildings

Accessory buildings are any structure that is subordinate and not connected/integrated into the main structure and the use of which is incidental to the use of the main structure or the use of the land. Conditioned, non-conditioned, covered or latticed connectors (where allowed) will not be considered as incorporating the accessory building into the main structure. These buildings may include, but are not limited to, the following uses:

- Boat shed
- Detached garage
- Guest cottage/crofter
- Pavilion and gazebo
- Utility, shower or garbage enclosure
- Workshop or studio

Massing, roof pitches and materials of such outbuilding(s) must complement those of the primary structure. All accessory type uses including garages and crofters must be incorporated into the overall design of the main structure in order to be exempted from the Accessory Buildings guidelines. Accessory type uses must share walls and design elements that negate the appearance of a separate attached structure.

### REQUIREMENTS

1. Accessory buildings will be constructed no higher than 5 feet below the highest peak of the main structure. Maximum height--The highest point of the roof must not exceed 25 feet above the virgin low point on the ground around the perimeter of the structure. The perimeter of the structure includes attached decks, porches, staircases, etc. Chimneys, spires, lanterns, weathervanes and cupolas may project above the 25 feet maximum height with the written permission of the ARC. \*\*\*A change submittal to expand, replace or add an accessory structure must also include the height of the existing main structure.
2. The maximum footprint of an accessory structure must not exceed the greater of 320 square feet or ten (10) percent of the first-floor volume (covered space) of the main structure. Open decks (on pilings without skirting) and stairs on accessory structures are not included in the allowable footprint calculation.
3. First Floor Elevation – The average distance from virgin low to the first-floor elevation (top of slab) must not exceed 3' or the FEMA designated floodplain, whichever is higher.
4. A maximum of 2 accessory structures is allowed. EXCEPTION: Cape Fear Station has no limit to the number of accessory buildings.



5. All accessory structures are required to be at least 5 feet away from the primary structure. (Does not include overhangs.)
6. The Design Guidelines discourage a “three story” box look to accessory buildings.
7. Accessory buildings are not considered main structures/buildings and can only be built as an accessory to a main structure. No permanent improvements shall be considered, approved, or installed prior to the construction of the main structure.
8. A Village of Bald Head Island ordinance prohibits two living units on one property and, to comply with this ordinance, the accessory building cannot be equipped with a working stovetop. The Covenants, Article 10.5(a), indicate that all units are only for single family residential purposes: “...no dwelling, including any ancillary structure or annex to a Unit, will be utilized at any time for occupancy by more than one family or one family with guests. The Owner of a Unit is specifically prohibited from occupying an ancillary structure or annex located on his Unit while renting the primary residential dwelling, or from occupying the primary residential dwelling while renting the ancillary structure or annex, or from renting to two or more rental parties the primary residence and the ancillary structure or annex.”
9. A vacant lot cannot be utilized for storage, temporary structures, tents, materials storage, etc. without a Village of Bald Head Island building permit for an ARC approved project. See landscape guidelines for additional vacant lot restrictions and guidelines.

## Beach Accesses

Beach access structures must follow the requirements outlined within the Bald Head Association Common Area Policy, Appendix F, and the Village Ordinance 2001-047, Appendix G. Contact the Village of Bald Head Island for further requirements. Any beach access approved to cross Bald Head Association or Bald Head Island Limited land will require a license agreement. See Appendix C – Cape Fear Station for additional restrictions.

## Boats

Boats must be concealed from view, including but not limited to views from other properties, any public road or fairway using approved grade-level screening or vegetation. Any property owner who intends to store a boat on private property on the island and who does not have a pre-existing boat concealment solution must submit a construction or natural vegetation option for concealing the boat as part of the review process.

Neighborhood associations may establish parking areas for boats in their neighborhoods and limited common areas as long as the boats are concealed from the fairway or any road not inside the boundaries of the neighborhood. Construction or vegetation solutions, on units or limited common areas, must be submitted to the ARC prior to implementation. New construction projects see Architectural Questionnaire, under Forms section.

# Decks/Balconies

## REQUIREMENTS

1. Decks more than 4' deep or 4' high must be supported on dedicated deck pilings rather than braced from the house pilings.
2. These deck support pilings must be a minimum of 8" x 8".
3. Cantilevered decks, balconies and other heated space must be bracketed or braced from the house pilings or wall.
4. Decks must be integrated appropriately into the massing and proportion of the home to obtain ARC approval. Internal stairs are strongly encouraged for decks over living areas.
5. Rail cap and balusters must be detailed.

# Decorative Items

Article 7 of the Covenants instructs that no structures, buildings, improvements or construction will be commenced until the plans and specifications have been submitted and approved in writing. Article 7.1(a) explicitly states that structures, buildings and improvements shall include but are not be limited to, among others, tree house, playhouse, sign, flagpole, exterior illumination, monument or marker, outdoor statuary, patio, deck or outdoor decorative objects.

## REQUIREMENTS

1. Landscaping should be accomplished primarily with native plants and vegetation.
2. All exterior decorative items such as planters, statuary, water features, feeders, wind chimes, birdbaths and other ornamental items and structures must be harmonious with the community aesthetic, site, home and surrounding environment.
3. All exterior decorative items (including temporary holiday decorations) must be constructed of natural and organic materials and blend seamlessly within the home and landscape design. Colors should complement the natural surroundings. Holiday novelty decorations like blow-ups and items that are inconsistent with this guideline are not allowed. See additional information under Lighting.
4. These exterior decorative items must be few in number and consistent with the general subdued and natural character of the Bald Head Island conservation consciousness.
5. House signs or decorative items on homes should have colors compatible with the structures on which they are hung. (See "Signage" for specifications.)
6. Swings that are visible from the road and not attached to the primary structure must be constructed of natural materials.
7. Water features must be complementary to the natural island environment and may be approved at the discretion of the ARC.

**ARC approval is required for all decorative items.**

## Doors (Exterior)

### REQUIREMENTS

1. True divided lites are permitted. Snap-in muntins are not allowed.
2. Any visible reflective coating or tinted glass must be approved by the ARC.
3. Door glass divisions shall create panes of square or vertical proportions.
4. Garage doors should reflect coastal vernacular details and complement the overall structure design.
5. Garage doors in Cape Fear Station designated lots must be made of wood or fiberglass.

## Driveways and Parking

### REQUIREMENTS

1. All loose paving materials must be edged with suitable permanent material.
2. Drives must provide a concrete or paver apron at the road and alley edges. The apron must be installed to the edge of the asphalt with 12-foot minimum width at the interface and tapered to meet a driveway width of 8-foot minimum.
3. Outside or non-garage parking must be within required setbacks and adequate for two carts without stacking. Exceptions may exist for Cape Fear Station lot designations.
4. Changes to driveway surfaces for existing homes or during new construction must be submitted for ARC approval prior to implementation.
5. Carts are not allowed to park on unimproved properties. Properties that are under construction are not allowed to have carts left on the property overnight. The appropriate parking locations can be made available to builders by contacting Contractor Services.
6. All existing improved properties and new construction projects must provide for resident cart parking in a cart garage or crofter or under the main unit.
7. Carts must be parked in designated guest parking areas, driveways or garages.

### RECOMMENDATIONS

1. Two 4" diameter Schedule 40 PVC sleeves with caps at each end should be placed under concrete aprons/entry driveways 2' below grade and 6' from the road edge for utility conduits and protection against driveway damage if future utility maintenance is required.
2. In order to protect the road edge, all drives and/or construction accesses should be stabilized with gravel, mulch or other appropriate material before construction begins. This temporary stabilization material may need to be removed at project completion in order to not increase the approved impervious coverage calculation.

# Fences

Fences should define and create spaces rather than merely serve as property delineators. Fences shall be no closer than 5 feet to any property line unless otherwise designated in these guidelines.

## REQUIREMENTS

1. A detailed drawing of elevations of the entire fence must be submitted to the ARC.
2. Fence lines and detail requirements are designated for each typology in the Cape Fear Station lot designations.
3. If the adjacent property has existing fencing at the side property lines, it is the responsibility of the architect to make any new fence meet/transition any existing fences on either side of the property line and adjust to the existing grade.
4. All fences must be constructed of dimensional lumber, and the fencing material must be consistent throughout.
5. Chain link fencing is not permitted.
6. Electric fencing is not permitted. Invisible pet fences are the exception. Provided all components are not visible, the Owner is not required to submit an application to the ARC. It is the Owner's responsibility to assure all components are within their property lines and to keep those components in working order.
7. The maximum height is 48 inches and the minimum height of 24" for residential fencing.
8. The design must allow for air passage to avoid a solid appearance. The spacing width should be determined based on achieving a balance with the appearance of the home.
9. The finished side of the fence must face outward.
10. When fence construction is intercepted by a tree, the fence must not be attached to or touch the tree or otherwise negatively impact the root system of the tree.

# Flags and Flagpoles

## REQUIREMENTS

1. The request to install a ground-mounted flagpole must be submitted for ARC approval and must include a site plan with dimensions and specifications for the proposed pole location.
2. Only one ground-mounted flagpole may be installed on a property. Any ground-mounted flagpole must be made of wood or high-quality metal. The flagpole must be no taller than 25 feet and no taller than the primary structure.
3. A bracket-mounted flag kit is allowed on main structures and does not require ARC approval.
4. The maximum flag size allowed is 4' x 6' and does require ARC approval.
5. In accordance with state law, United States and North Carolina flags smaller than 4' x 6' are not subject to approval by the ARC. United States flags shall be in good condition and displayed in a respectful manner in accordance with the United States flag code of 1976.

## Grade - Building Relationship to Grade

Each building submitted for review will be analyzed according to site and topography. Homes should be constructed as low as possible to grade elevations while complying with all applicable codes, regulations and restrictions.

### REQUIREMENTS

1. No main structure shall exceed 35 feet measured from the existing virgin low ('lowest point') that intersects with the perimeter of the structure (including attached decks, porches, staircases, etc.) to the highest point of the ridge of the roof. Where any elevation beneath the building footprint falls below an elevation of 5 feet above mean sea level (AMSL), the lowest elevation (virgin low point) shall be considered 5 feet AMSL.
2. For homes outside the VE Coastal Hazard zone area, first floor elevations will be restricted to a maximum of 2 feet above the **actual** Federal Emergency Management Agency (FEMA) base flood elevation above mean sea level (AMSL), or a maximum of 4 feet above the **average** grade around the perimeter of the structure including, but not limited to, decks, porches, staircases, etc., whichever is greater. Homes in areas with a tendency to flood may be built higher with an approved variance, but the 35 feet height requirement must still be observed.
3. For homes inside the VE Coastal Hazard zone area, first floor elevations will be restricted to a maximum of 2 feet above the actual Federal Emergency Management Agency (FEMA) base flood elevation above mean sea level (AMSL),

## Grade - Site Grading

### REQUIREMENTS

1. Site grading must be kept to a minimum and necessary drainage systems must be designed for minimal impact. A minimum of 60% of the lot should remain undisturbed. This percentage minimum is a general rule that may vary in application. The required percentage of undisturbed area may be greater for larger lots (greater than 10,500 sq. ft.) and less for smaller lots typical in Cape Fear Station. Due to the sensitive environment of the island and its drainage issues, the Village and the Association are very concerned with filling or major contour changes on any property. Any filling or contour changes must be submitted to the Village Building Inspector and the ARC for approval before proceeding. In an AE Flood Zone, Village approval must be granted for filling and the Village Building Inspector will examine particularly whether or not the proposed filling will impact the natural flow of storm water. In a VE Flood Zone, FEMA requirements regulate filling.
2. Erosion and siltation control provisions shall be employed during and after construction. Surface drainage must be collected on site and not cause damage to adjacent properties. Particular attention must be paid to avoid standing water.
3. Paving, buildings and drainage systems must preserve natural grade run-off and vegetation. The driveway must be designed for minimal environmental impact and zero impact on neighbors. Avoid damming the natural water flow with culverts or drain tile as necessary.
4. The sands on Bald Head Island are very permeable and accept run-off easily. However, flooding from large storms is sometimes a problem. Particular attention must be paid to avoid standing water. Any elevation less than 8 feet AMSL tends to flood; therefore, filling for the building pad and driveway may be allowed **with** a Village permit only.

## Lifts

The addition of an exterior lift requires ARC approval. The submittal for the addition of an exterior lift should include scaled drawings that incorporate the lift into the overall design of the structure.

## Lighting (Exterior & Interior)

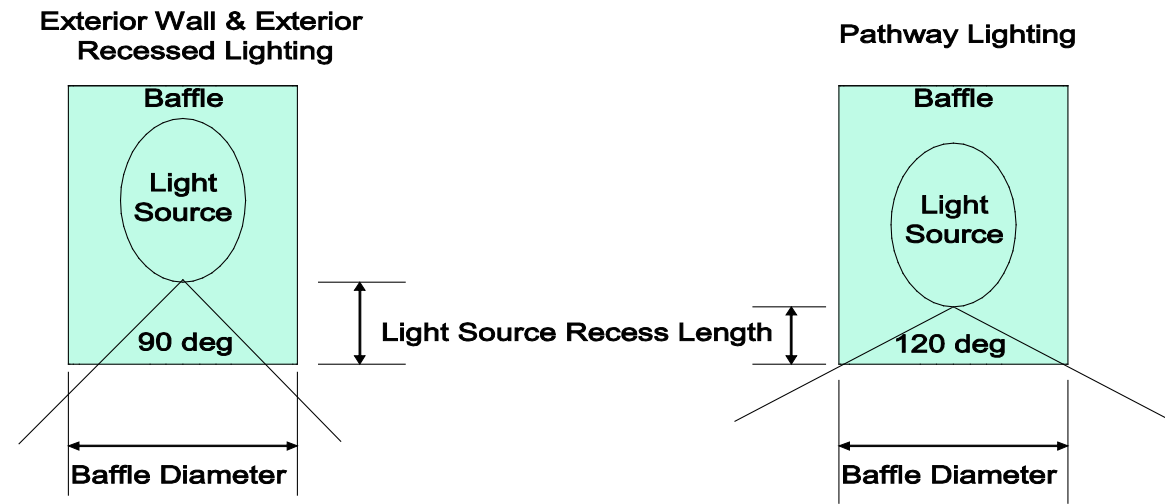
Light pollution is avoidable and prohibited. Protecting the natural atmosphere and habitat of Bald Head Island remains a priority for the BHI Conservancy. As we cohabitate with one another and nature in closer quarters due to growth, expect enforcement of light violations to help reduce impact. Owners are responsible for their renters and guests. Homes on the island must be extremely frugal with exterior lighting. Owners and renters should avoid open window coverings coupled with overuse of interior lighting, especially near or on the beach. Homes on the beachfront especially must be careful to prevent distraction of the hatchling and nesting sea turtles during the annual “turtle season” from May 1st to November 15th. This necessary lighting restriction is strictly regulated by Village ordinance and enforced by Village personnel. Nesting female and hatchling loggerhead sea turtles should not be exposed to artificial sources of light while on Bald Head. Ocean-facing homes on the seaside of the Dune Ridge are required to install room darkening window treatments, such as blinds, shades and drapes, on all beach-facing windows. These window treatments should be closed from dusk to dawn during the “turtle season” months to prevent interior house lighting from disturbing the nesting and hatching of the sea turtles.

### REQUIREMENTS:

1. All exterior lighting fixtures, regardless of design, are subject to ARC approval.
2. Recessed exterior lighting fixtures are not allowed.
3. All lighting will be baffled to prevent direct visualization of the light source. The ARC may not approve lighting fixtures that have been modified or altered from the original manufactured design.
4. All exterior wall lighting shall have a baffle-to-light source relationship that creates a maximum spread of light of 90 degrees from the bottom of the baffle. All fixture lenses and bulb covers must maintain the source-to-baffle relationship indicated in the diagrams and examples of the baffle-to-light source relationship calculations below.
5. All pathway low-luminary lighting shall have a baffle-to-light source relationship that creates a maximum spread of light of 120 degrees from the bottom of the baffle. All fixture lenses and bulb covers must maintain the source-to-baffle relationship indicated in the diagrams and examples of the baffle-to-light source relationship calculations below. All pathway lighting shall be no higher than eighteen inches (18”) above grade as measured from the top of the light fixture.
6. All hooded exterior wall fixture bulbs will be from the white family and no bulb shall be brighter than 450 lumens. (Approximately 40 watts incandescent, 6 watts LED, 10 watts CFL). The bulb/light color temperature must be 3000 degrees Kelvin or less, which is warm white in color.
7. Pathway or stairway lighting fixtures must utilize a maximum equivalent of 100 lumens or less. The bulb/light color temperature must be 3000 degrees Kelvin or less, which is warm

white in color. The reduced baffling cannot result in direct visualization. This light style must be reviewed and approved by the ARC and must be used sparingly.

8. Placing television sets or other electronic equipment on exterior decks, porches, etc. is not permitted, unless it is possible to shield from horizontal view by neighbors and from the street/alley/oceanfront/golf course/etc.
9. Holiday lighting is permitted from November 15 to January 15 only. Moderation is recommended. No holiday or string lighting is to be used for exterior decoration any other time during the year, including clear or white lights, nor is it permitted to be used to illuminate any exterior steps, porches, arbors, structures, etc. any other time of year.



<u>Baffle diameter</u>	<u>Source recess length from bottom of baffle</u>	
	<u>90 degree spread</u>	<u>120 degree spread</u>
4"	2"	1.15"
6"	3"	1.73"
8"	4"	2.31"
10"	5"	2.87"
12"	6"	3.16"

### **RECOMMENDATIONS:**

Homeowners are strongly encouraged to light only what they need, when they need it. A lost view of the stars extinguishes a connection with the natural world and blinds us to one of the most splendid wonders in the universe.



# Paint and Colors

All paint colors chosen for the exterior elements of the home must be compatible with the island environment and complement the home's design elements.

The selected palette must be attached to a completed Paint/Color Application and submitted to the ARC for approval.

## REQUIREMENTS

The main body paint colors in the forest environment must be earth tones. The main body of beach environment homes must be of a lighter intensity of hue. All main body colors should be of a subdued hue intensity and light to medium value, unless otherwise approved by the ARC. Bright tropical and pastel colors are not acceptable; however, they may be considered for accents with ARC approval.

The ARC Coordinator has a book of suggested color schemes that offer guidance in color selection for each environment.

Applicants may choose to submit one of the pre-selected color schemes or submit another color scheme of their personal preference. **Manufacturer-provided paint chips of the chosen colors must be attached to a completed Paint Review Application and submitted to the ARC for approval.**

1. Lattice and foundation screening should be painted to bring the building to the ground aesthetically.
2. Accents, panels, doors, louvers, soffits and porch ceilings must complement the overall color scheme. These colors may be of higher hue intensity and value.
3. Columns, pickets, railings, trim and fences shall be painted white unless otherwise approved by the ARC.
4. Miscellaneous details, such as window and door casings, soffits, fascia, deck railing, grade level screening, chimneys, outbuildings and other detached elements of the home must have commonality in materials and colors to unify the appearance of the home.
5. Roofing color schemes must be of colors complementary to the island environment. Examples of these colors include beiges, grays and soft greens. Metal roofs are acceptable, but it is important to consider reflective qualities and choose softer, darker colors in open areas on or in front of the dune ridge. Mill finish or products that have the appearance of a mill finish are generally not acceptable finishes for metal roofing. Roof vents, such as ridge vents and roof exhaust fans, must be painted to be compatible with the roof color. Unpainted copper is acceptable.

**NOTE: Cape Fear Station has specific paint/color guidelines.**

# Pools/Spas/Hot Tubs

## REQUIREMENTS

1. Swimming pools may only be considered on golf course lots when the pool is obscured from the golf course by the main structure and must be an integral part of the overall design. A pool must be located on the away side of the property and not visible from the golf course.
2. The area of a swimming pool or spa/hot tub counts as part of the allowable building coverage calculation regardless of structure height. The area of an inground pool or spa is included in the allowable building coverage calculation.
3. Pools must be designed and installed by professionals that specialize in this type of construction. Temporary, sidewall or inflatable pools or spas/hot tubs are not allowed.
4. Pool or spa/hot tub enclosures including, but not limited to, tents, canopies, screen cages, netting, etc. are not allowed.
5. ARC approval is required prior to the installation of a pool, spa/hot tub. ARC approval is also required prior to the installation of freestanding spas/hot tubs on decks, porches and any other exterior spaces.

# Porches

## REQUIREMENTS

1. Homes on or in front of the dune ridge must have a minimum of 15% of the linear feet of the perimeter exterior walls wrapped by covered, non-screened open porches having an 8-foot depth minimum. Bays may be counted as part of this depth. The 15% is measured from the linear footage around the heated wall space on the first floor. For elevations with a porch directly above another porch, only one porch will be counted toward the percentage.
2. East End homes must have a minimum of 20% of the linear feet of the perimeter exterior walls wrapped by covered porches having an 8-foot depth minimum. The 20% is measured from the linear footage around the heated wall space on the first floor. For elevations with a porch directly above another porch, only one porch will be counted toward the percentage.
3. See Cape Fear Station Lot Designation guideline requirements (Appendix C). In the absence of specific Cape Fear Station Lot Designation porch requirements #2, in this section, apply.
4. The porch pilings must be a minimum of 8 inches x 8 inches.
5. Plastic roll-down screening is not permitted.

## Recreational/Play Equipment

The Bald Head Association is committed to the island's ecology and recognizes the need to limit impacts on the natural environment.

2. Trampolines, skateboard ramps, jungle gyms, and other types of recreational/play equipment are not allowed.
3. Portable basketball hoops may be placed on a homeowner's property temporarily, but they shall not remain in view beyond 48 hours and must be stored in an enclosed space. Basketball hoops shall not be used after 9pm.
4. Temporary, sidewall or inflatable types of pools are not allowed.
5. Enclosures including, but not limited to, tents, canopies, temporary shelters, etc. are not allowed.
6. Firepits and outdoor fireplaces must be complementary to the natural island environment and an integral part of the overall design. Only liquified petroleum gas (LP) may be used as fuel.

**Items must not be placed on a Village street, private right of way or on an alley per Village Ordinance 26-124.**

## Roofs/Overhangs

### REQUIREMENTS

1. The pitch of the primary roof of all structures must meet or exceed 8 inches in 12 inches.
2. The pitch of a hip roof may be reduced to 6 inches in 12 inches.
3. Minimal slope on secondary roofs must be 4 inches in 12 inches.
4. Flat roofs are only allowed when architecturally integrated as an attached shed or room to a principal pitched roof surrounded by parapet or balustrade.
5. Rooftop decks must be architecturally integrated into the overall roof design and not contribute to a three-story appearance.
6. Principal eave overhangs of all structures shall be 18 inches minimum and rake overhangs of all structures shall be 12 inches minimum. This minimum standard for overhangs may not be sufficient for every design. The overall massing should be considered when designing overhangs.
7. Open rafter tail soffits are typical in coastal vernacular design. When a closed soffit design is considered, the design must include clean rakes.
8. Roof forms shall be of simple gable, hip, gambrel or shed.
9. Chimney pipes must be enclosed. Flues may be no taller than the lowest point prescribed by code, which is two feet higher than any structure within ten feet of the chimney.
10. Cantilevered chimneys are not permitted.

11. All roof application submittals must include a sample of the proposed material.
12. Roofing color schemes must be of colors complementary to the island environment. Examples of these colors include beiges, grays and soft greens. Metal roofs are acceptable, but it is important to consider reflective qualities and choose softer, darker colors in open areas on or in front of the dune ridge. Bright Silver, reflective galvalume, or mill finishes are not acceptable finishes for metal roofing. Roof vents, such as ridge vents and roof exhaust fans, must be painted to be compatible with the roof color. Unpainted copper is acceptable.
13. Any roof patch repair must be undetectable and consistent in appearance with the existing roofing when completed.
14. Cape Fear Station exceptions apply.

## Satellite Dishes and External Antennas

### REQUIREMENTS

Satellite dishes and external antennas over a meter (approx. 39 inches) in height or diameter are prohibited.

**The installation of satellite dishes on BHA Common Area or individual neighborhood common area will not be allowed and no applications for same can be accepted.** The placement of satellite dishes or antennas is only permitted on the lot or locations where the owner has exclusive use or exclusive control, which includes the stairs or decks attached to the living unit.

### RECOMMENDATIONS

Applicants are strongly encouraged to position satellite dishes and external antennas discreetly, concealing them from view to the maximum extent possible.

## Screening – Grade Level

### REQUIREMENTS

1. Grade level screening for crawl space areas must be constructed to avoid a solid appearance. The spacing width should be determined based on achieving a balance with the appearance of the home.
2. Grade level screening must follow heated space. Any screening beneath decks and porches used to conceal boats or to provide other storage needs must be approved by the ARC.
3. Grade level screening of a minimum thickness of ¾" is required and must be constructed so that the spacing does not exceed the width of the board.
4. Prefabricated lattice is not permitted.

### RECOMMENDATIONS

The use of natural vegetation is preferred and encouraged to conceal objectionable views and add privacy and architectural unity.

# Setbacks

## REQUIREMENTS

Lots may have different setback requirements. Please refer to the Covenants and Design Guidelines pertaining to each specific lot. If the lot is in Cape Fear Station, there may be additional setback requirements. Please refer to the Cape Fear Station “Lot Designation Sheet” at the beginning of the Cape Fear Station Section (Appendix C) to determine the lot designation and Covenants and guidelines applicable to these lots.

1. Minimum standard setbacks are:
  - a. **Side yards** - 10 feet
  - b. **Rear yard** - 10 feet
  - c. **Front yard** - 35 feet (street face)
  - d. **EXCEPTIONS:**
    - 1) **Corner lots** will have one 35’ front yard setback and the front yard will be determined by 911/GIS assignment of the Village. The side road will require a 15’ minimum setback. A lot is required to adhere to the Village and ARC side setback requirements for corner lots (15 feet) if the side property line of the lot is less than 10 feet from the road.
    - 2) **Estate lots** have 50’ front yard setbacks, 25’ side and 10’ rear.
    - 3) Merged lots have 35’ front yard setbacks, 25’ side and 10’ rear
    - 4) **Properties on Wild Bean Court, Bayberry Court and Indian Blanket Court** all have unique building setback requirements that are site specific. These deeded building pads are recorded at Brunswick County Register of Deeds.
    - 5) **CAMA** can change setback requirements on marsh, harbor and ocean/river sides.
2. Overhangs are not allowed in the setbacks.
3. Listed below are structures that are allowed to encroach upon the setbacks. All others shall be within the setbacks.
  - a. Address bollards
  - b. Driveways, excluding the guest parking area
  - c. Fences not exceeding 4 feet in height above grade
  - d. Flagpoles, not exceeding 25 feet in height and no taller than the primary structure
  - e. Retaining walls
  - f. Trellises, entry arbors and pergolas not to exceed 10 feet in height.
  - g. Wood walkways (not beach accesses) must not exceed 4 feet in width and 16 inches in height above grade.
4. **Sightline Setback** –This setback applies to all new construction homes and oceanside additions to existing homes on oceanfront lots. In all cases a new oceanfront house or addition shall be no closer to the waterline than the average of the houses on the three adjoining lots on both sides of the house. Oceanfront decks elevated higher than 18” above finish grade shall be no closer to the waterline than the average of elevated oceanfront decks on the three adjoining lots on both sides of the house.

If there are no houses on the first three adjoining lots on each side of the reference house, the location of the house or addition shall be unrestricted by this sightline setback. If there are no oceanfront decks on the first three adjoining lots on each side of the reference house, the location of the oceanfront deck for the reference house shall be unrestricted by this sightline setback. The sightline setback does not apply to homes with deeded building pads.

# Shutters

**All shutters must be approved by the ARC.**

Decorative or functional shutters may be fixed, but all shutters must be sized to cover the sash. If bi-lateral shutters are used, they should be the same height as the windows and each one wide enough to cover one-half of the total window area. Shutters must be installed as indicated on the approved elevation drawings. Shutters made of plastic, vinyl or other materials must be submitted for review and receive ARC approval prior to installation. A physical sample must accompany any submittal that includes plastic or vinyl shutters.

## Storm-Protection Shutters

Permanently Mounted Storm-Protection Shutters

1. Roll-down shutters must be fully retracted in storage housing and concealed from view when not in use. Storm shutters can be used for protection from June 1 to November 30.
2. Only transparent window-shielding systems that are flat and not corrugated are allowed on a permanent basis.

## Siding

1. Materials that are natural or have a “natural” appearance should be used.
2. No sawn plywood textures are allowed as primary siding material such as T1-11 plywood.

Stucco-covered foam moldings are not permitted.

## Signage

The only signs that may be placed on single family residential lots are standard “For Sale” and “Open House” bollard caps, Village standard address bollards, standard builder signs during the construction phase only, code required builder signs and house identification signs.

The Village also has specific sign ordinances. In situations where the Association, neighborhood Association and Village restrictions overlap, the strictest guideline applies. Commercial signs are not permitted except as noted above.

### REQUIREMENTS

1. House identification signs must not exceed two square feet in area per Village Ordinance. A house identification sign may provide the name of the occupant, the name of the dwelling unit or property unit or property and/or its location. A website address connecting to commercial/rental information about the property or other business interests is not permitted on the sign.
2. The placement of all house identification signs requires ARC approval.
3. House identification signs on homes should have colors compatible with the structures on which they are hung.

4. The following specifications detail the only approved commercial signage allowed in BHA and the Harbour Village area. This includes the “For Sale” and “Open House” bollard caps, and builder/construction sign specifications. Also included in this Appendix are the specifications for the Village standard address bollard.
5. The ARC Coordinator can provide guidance about the specifications of these permitted signs.

**“FOR SALE” BOLLARD CAP NOTES (See detail next page):**

1. All material 1 X (cut to suit)
2. Text: white vinyl applied lettering in Adobe Garamond Pro Bold font
3. Background: either PMS # 2915 OR 782 Blue Belle by Benjamin Moore
4. This item is to be placed on top of a Village standard address bollard.
  - a. If the property for sale is unimproved (no house) and there is no existing bollard, the property owner / realtor may use the Village bollard standard without the routed / sandblasted numbers, though the number specification is strongly encouraged for emergency service purposes.
  - b. If the property for sale is improved (has a house built on the property) and has a bollard that predates the Village bollard specification (grandfathered), the For-Sale cap may be placed on top of the grandfathered bollard. If it does not fit, a Village standard address bollard, including the routed / sandblasted numbers, must be acquired to replace the grandfathered bollard.
5. The hinge and “Lift” verbiage on the lip of the cap are not required features of the bollard cap; the cap top may be fixed in place with no holding area. However, if the hinge feature is desired on the bollard cap by the property owner / realtor, it must follow these specifications.

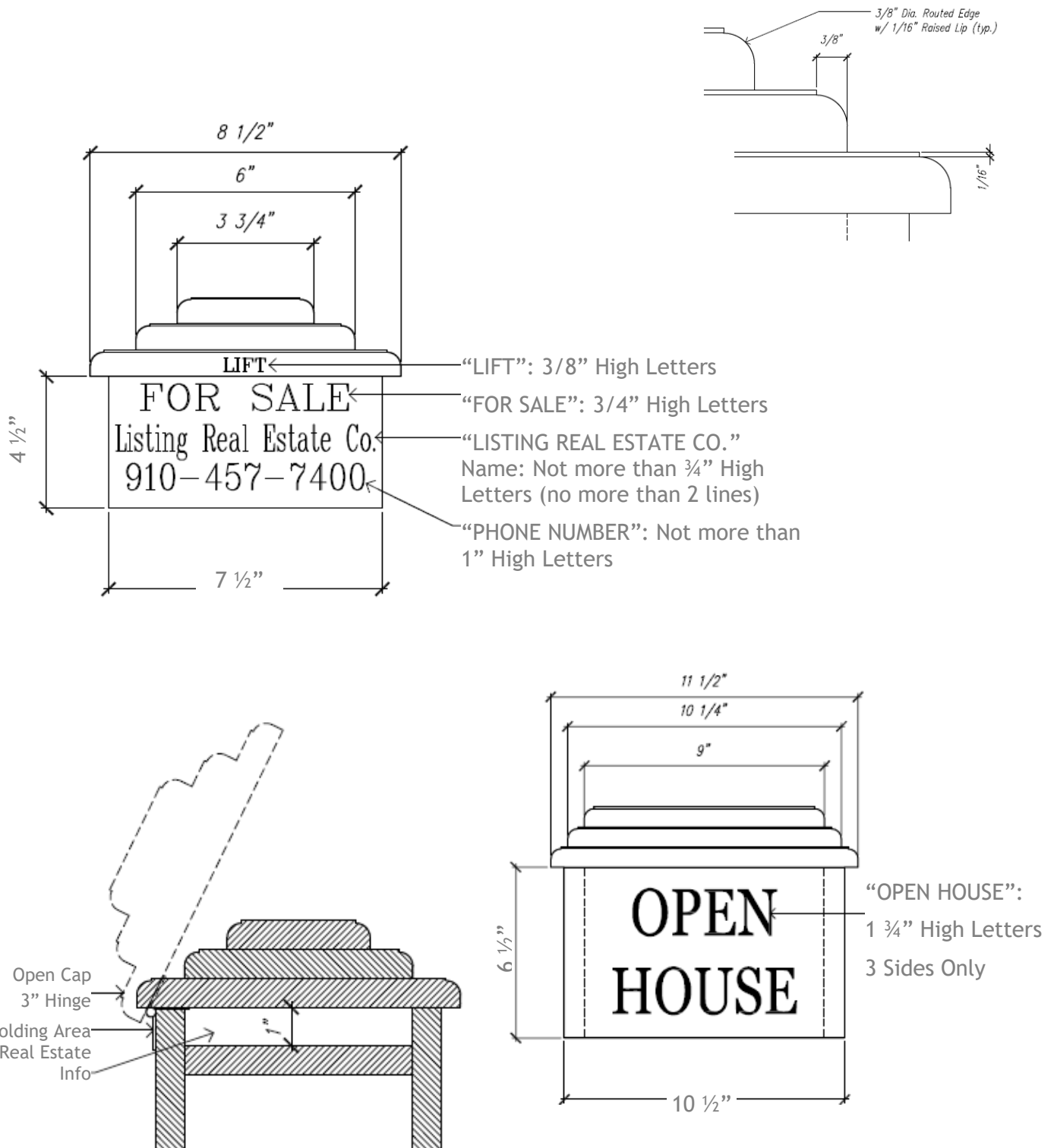
Properties that are for sale by owner may omit the second line showing the listing real estate company or may choose to use this line to read “By Owner” according to the lettering style and height specifications noted for this line.

**“OPEN HOUSE” BOLLARD CAP NOTES (See detail next page):**

1. All material 1 X (cut to suit)
2. Text: white vinyl applied lettering in Adobe Garamond Pro Bold font
3. Background: either PMS # 546 OR HC-155 Newburyport Blue by Benjamin Moore
4. This item is to be placed to cover the “For Sale” bollard cap during open house.



# Detail for “For Sale” and “Open House” Bollard Caps:



## CONSTRUCTION SITE SIGNAGE (LARGE)

TEXT IS RECESSED: The letters are recessed into the turquoise plaque in Adobe Garamond Pro-Bold font and then painted with white reflective paint

**BUILDER SIGNAGE MUST NOT BE INSTALLED AT THE SITE UNTIL THE BHI VILLAGE BUILDING PERMIT HAS BEEN GRANTED FOR THE APPROVED PROJECT AND IS REQUIRED TO BE AT LEAST 10 FEET AWAY FROM THE EDGE OF THE ASPHALT UNLESS OTHERWISE APPROVED BY THE ARC DUE TO SITE LIMITATIONS.**

**ALL BUILDER SIGNAGE MUST BE REMOVED WITHIN 30 DAYS AFTER THE VILLAGE OF BHI CERTIFICATE OF OCCUPANCY IS GRANTED.**

**SIGNAGE MUST BE REMOVED ONCE A RENOVATION PROJECT IS COMPLETE AND HAS RECEIVED VILLAGE APPROVAL.**

The Design Guideline specifications for construction signs prohibit logos, designs, phone numbers and deviations in color. All text, which includes the builder's name as it appears on the contractor's license, is to be sandblasted into the turquoise plaque (recessed) in Adobe Garamond Pro-Bold font and painted with reflective white paint on a solid plaque painted PMS #323 or 30053 Exquisite Turquoise by Valspar in Decorator Enamel Gloss against a Cabot solid color acrylic deck stain in Beachwood Gray background.

On the middle plaque it is acceptable to use the owner's last name only and then "Residence" / "Cottage" (i.e. – Smith Residence) and street address.

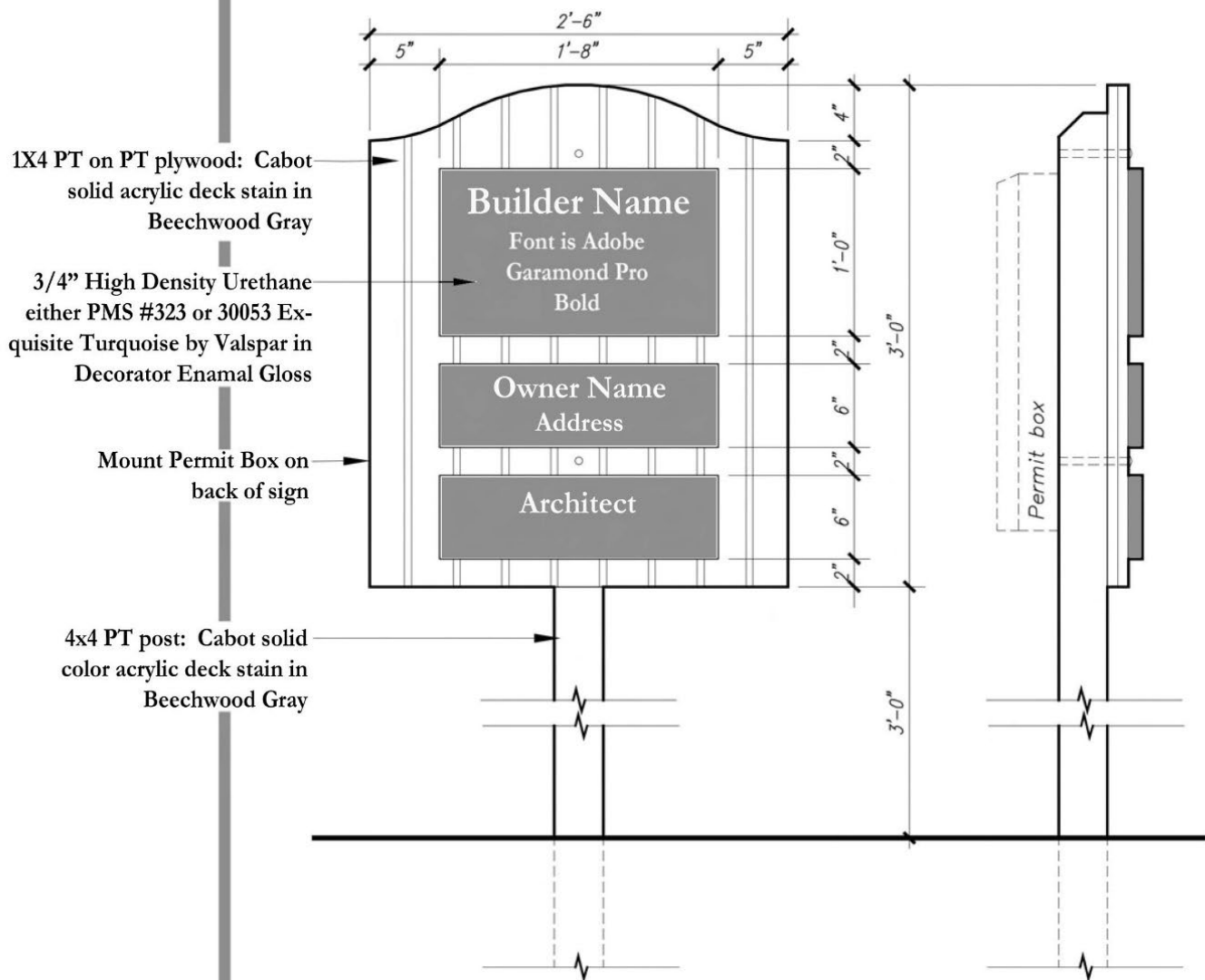
The third plaque is reserved for the project architect's/designer's name.

Blank plaques must be mounted as placeholders when not using custom informational plaques. **The plaques are the only embellishments permitted.** The Association does not require a construction site sign, but **all signage must conform to the Bald Head Association Architectural Review Standards and to the Village of Bald Head Island Sign Ordinance.**

The permit box is required to be attached to the back of this sign and concealed from view of any public road. The Village regulates only the size of the signage. Covenant restrictions regulate all colors, verbiage and other aspects of using signs and these covenant restrictions often are stricter than the Village.

See diagram on following page.

The members of the Bald Head Association are bound by the Covenants.



## Construction Site Signage

October 11, 2014

## **ALTERNATE CONSTRUCTION SITE SIGNAGE (SMALL)**

**TEXT IS RECESSED:** The letters are recessed into the turquoise plaque in Adobe Garamond Pro-Bold font and then painted with white reflective paint

**BUILDER SIGNAGE MUST NOT BE INSTALLED AT THE SITE UNTIL THE BHI VILLAGE BUILDING PERMIT HAS BEEN GRANTED FOR THE APPROVED PROJECT AND IS REQUIRED TO BE AT LEAST 10 FEET AWAY FROM THE EDGE OF THE ASPHALT UNLESS OTHERWISE APPROVED BY THE ARC DUE TO SITE LIMITATIONS.**

**ALL BUILDER SIGNAGE MUST BE REMOVED WITHIN 30 DAYS AFTER THE VILLAGE OF BHI CERTIFICATE OF OCCUPANCY IS GRANTED.**

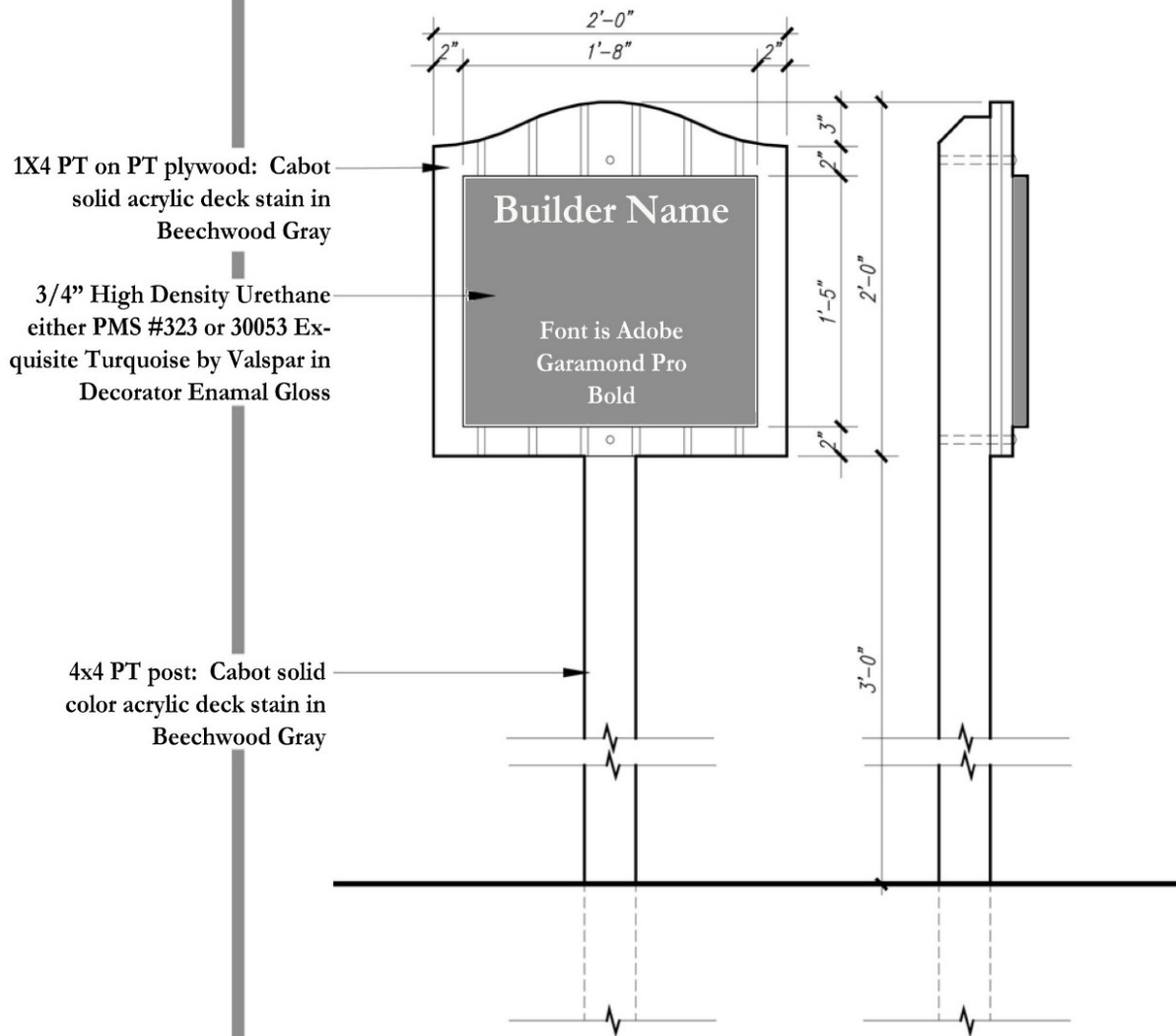
**SIGNAGE MUST BE REMOVED ONCE A RENOVATION PROJECT IS COMPLETE AND HAS RECEIVED VILLAGE APPROVAL.**

The Design Guideline specifications for construction signs prohibit logos, designs, phone numbers and deviations in color. All text, which includes the builder's name as it appears on the contractor's license, is to be sandblasted in Adobe Garamond Pro-Bold font, painted with reflective white paint on a solid plaque painted PMS #323 or 30053 Exquisite Turquoise by Valspar in Decorator Enamel Gloss against a Cabot solid acrylic deck stain in Beechwood Gray background. The Builder name plaque is the only embellishment permitted on the smaller construction site signage. The Association does not require a construction site sign, but all signage must conform to Bald Head Association Architectural Review Standards and to the Village of Bald Head Island Sign Ordinance.

Due to the reduced size of this construction site signage, the permit box CANNOT be attached to the back. The permit box must be placed in a location concealed from view of any public road. The Village regulates only the size of the signage. Covenant restrictions regulate all colors, verbiage and other aspects of using signs and these covenant restrictions often are stricter than the Village.

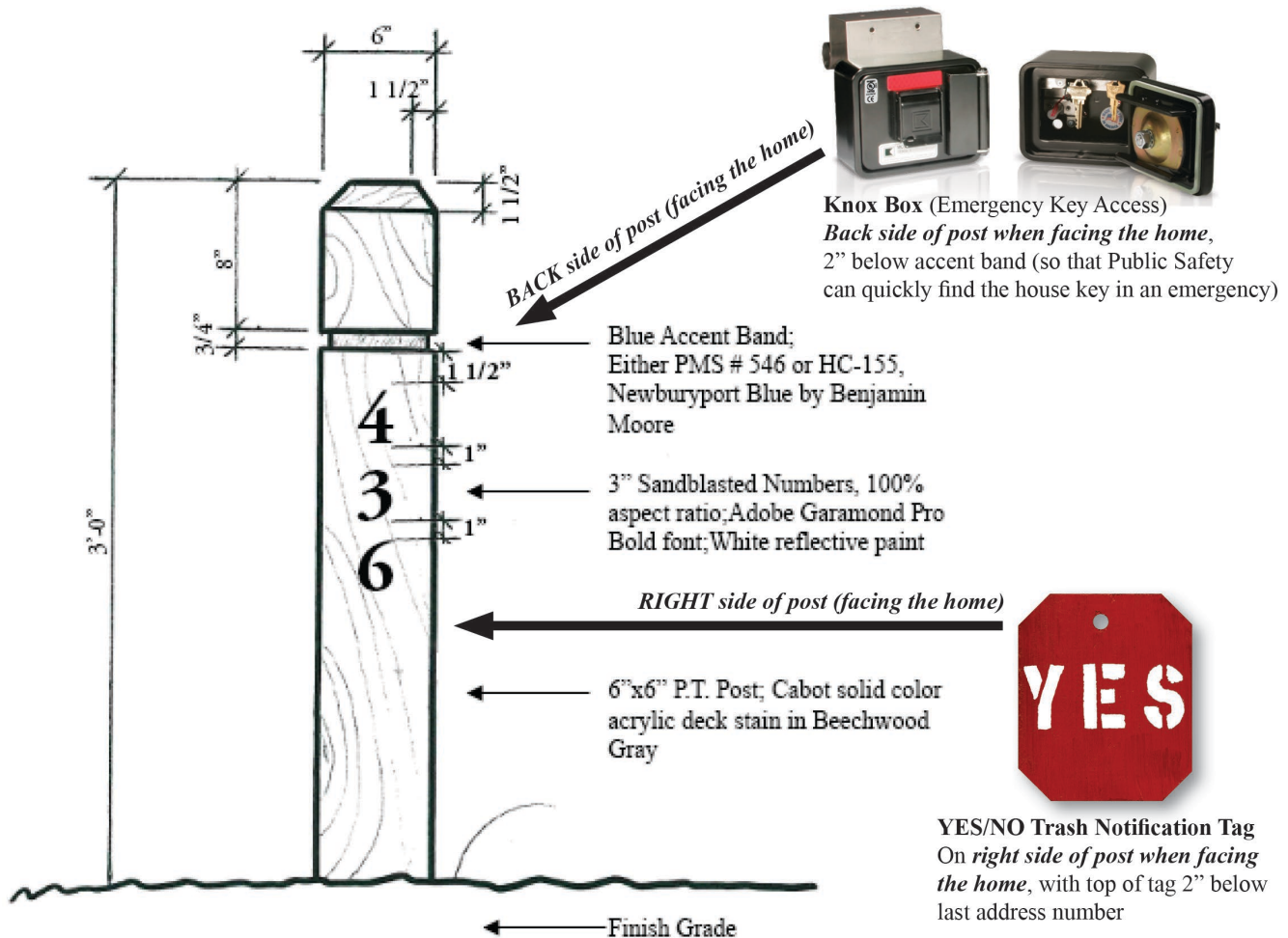
See diagram on following page.

**The members of the Bald Head Association are bound by the Covenants.**



## Construction Site Signage Small

October 11, 2014



### **Standard Address Bollard**

**TEXT:** 3" Recessed numbers in Adobe Garamond Pro Bold font; white reflective paint

Refer to the site plans for the exact location of the address bollard. Lots in Cape Fear Station with access on street and alley sides must have an address bollard at each entrance. All other lots are allowed one address bollard per property. On a corner lot, the bollard is required to be located on the side to which the address is designated by the Village. The addition of an address bollard to an improved property is required to be approved by the ARC.

\*If you choose to have a Knox Box (accessed only by Public Safety in emergency situations), then the box must be located on the back side of the bollard facing the house.

\*\*See Trash Receptacles/Enclosures section for details about Yes/No trash tags.

# Site Management

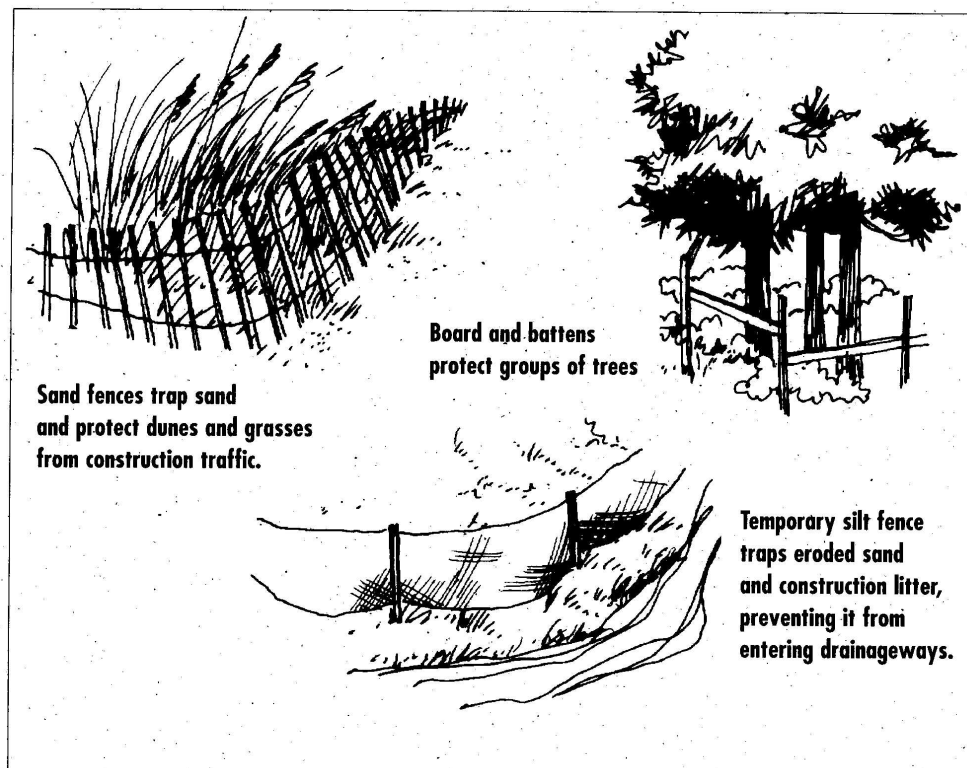
A preconstruction discussion with your builder and ARC Coordinator on site is required and can be valuable for reducing needless damage and removal of the topography and vegetation. Progress reviews are equally valuable to inventory damage and responsibility. Your builder should be aware of specific regulations governing construction work and keeping the site presentable.

## REQUIREMENTS

1. ARC approval is valid for 24 months. The date the building permit is obtained establishes the date of commencement and the exterior must be completed within 24 months of that commencement date.
2. ARC approved landscaping plans must be installed prior to final inspection. Planting may be delayed for maximum success rate; however, ARC approval is required for any landscaping delays.
3. After gaining ARC final approval and obtaining all necessary permits, the builder must establish limits of construction, stabilize the proposed driveway and install appropriate protection for all vegetation that is to be saved at limits of construction as shown on the Site Management Compliance Form before delivery of materials and start of construction. Existing grades and drainage feature also need adequate protection. Silt fencing must be used where specified by CAMA requirements. Small construction trailers are permitted on a temporary basis.

All reasonable means shall be taken during and after construction to protect and preserve all existing vegetation. Boards or other materials shall not be nailed to trees during construction. Equipment and/or materials storage must occur within the designated lay-down area on the Site Management Compliance Form or the driveway and parking areas of the site to minimize root damage impact under tree canopies. Equipment and materials may not be placed against or lean on trees. Care should be taken to keep the areas around the trees free of materials and debris.

Sediment and erosion control provisions shall be employed during and after construction as required by the State of North Carolina. Surface drainage must be collected on site and not cause damage to adjacent properties as the result of construction. Particular attention must be paid to avoid standing water.





4. All planting, fixtures, fencing and landscaping which is damaged during construction or after by construction vehicles, fire or other cause, on or off-site, including streets, shoulders and common areas, shall be repaired, removed or replaced by the builder.
5. Mulch may be used as general ground cover only on new construction projects. Mulch may be used to help mitigate the impact of the building process until the vegetation is restored. Once a new construction project is completed, in accordance with the guidelines, mulch may only be replenished in existing defined bed areas indicated on the approved site or landscape plan. The definition of a defined bed is the manipulation or disturbance of the native ground plane in order to create a spatial relationship within a defined area for non-native and/or indigenous plantings.
6. During construction, all trash, debris and waste shall be gathered regularly and not only concealed from public view, but also made inaccessible to wildlife.
7. Construction personnel are expected to conduct themselves in a professional manner. Disturbance of island residents/visitors with loud music, profanity or other unacceptable behavior will be addressed through the Department of Public Safety.
8. Homes that burn down shall be replaced or shall be removed and the property restored to its natural vegetative state. Either solution shall be implemented in a timely manner.

## Size

### REQUIREMENTS

1. Single family residences shall have a minimum square footage of 1,600 square feet, exclusive of accessory buildings, terraces, decks, open porches, roof overhangs and exterior stairs. A maximum of 300 square feet of the 1,600 square feet of the floor plan may be screened porch, provided the roof of any such screened porch is an integral part of the roof line of the structure or group of structures. The porches must not appear “tacked on” to the structure of the house. See Cape Fear Station Lot Designations for specific lot requirements.
2. In any environment, the ARC building coverage shall be limited to a maximum of 25% of the total square footage of the lot. The elements that affect the ARC building coverage have a visual impact on the property. The following elements are required to be included in the ARC building coverage:
  - a. Building footprint of the main structure including cantilevered elements and all accessory structures
  - b. Any structure including, but not limited to, all exterior stairs and decks above 30 inches, regardless of material
  - c. The area of a swimming pool or spa/hot tub counts as part of the allowable building coverage calculation regardless of structure height. The area of an inground pool or spa (including water surface) is included in the allowable building coverage calculation.
3. In any environment, the **impervious drainage surface coverage** is limited to a maximum of 25% of the total square footage of the lot. This is the area of the property covered by structures or materials that do not allow water to penetrate or percolate into the ground. Cantilevered

elements are included in the impervious coverage calculation. Raised, open wood decking and the water surface of a swimming pool and a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric do NOT count toward this coverage.

**Note:** The Village or CAMA percentage requirements may be higher, depending on where the home is located on the island.

4. Property owners who own two contiguous properties and seek to combine the properties, must obtain written permission from the Bald Head Association Board to merge the lots and must record these as merged in the public records of Brunswick County prior to ARC final approval.

### **East End**

Single family residences shall have a minimum square footage of 1,600 square feet, exclusive of garages, boat sheds, terraces, decks, open porches, roof overhangs and exterior stairs. Of the 1,600 square feet, a maximum of 300 square feet of the total footage of the floor plan may be screened porch, provided the roof of such porches are an integral part of the roof line of the structure or group of structures.

In any environment, the building footprint and graded areas shall be limited to a maximum of 25% of the total square footage of the lot. The building footprint is defined as the area under the perimeter of all construction; including decks more than 30 inches above grade, stairs, garages, etc., but excluding roof overhangs. East End homes need to be proportionate to their lot size. Total heated square footage shall not exceed 30% of the lot area. A survey must be obtained to determine the total square footage of a lot.

Homes will also be limited in size by impervious coverage restrictions. This is the area of the property covered by structures or materials that do not allow water to penetrate or percolate into the ground. The maximum impervious coverage for each lot is listed in the Secondary Covenants. Materials that are considered impervious include but are not limited to; structures, asphalt, concrete, compacted gravel, brick, stone, slate, marl and coquina. Materials considered pervious include raised, open wood decking, the water surface of swimming pools or a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric.

All homes on or in front of the island's primary dune ridge shall meet the "50% Rule." (See 50% Rule under Bald Head Architecture section on Size.)

Please check Covenants applicable to the specific lot in the East End for further regulations.

### **East End Multi-Family Communities**

Multi-Family Communities have specific requirements contained in their applicable Covenants. The Architectural Review Coordinator will be pleased to discuss your questions concerning Multi-Family Communities.

## **Cape Fear Station**

Single-family residences in Cape Fear Station have different requirements for each lot type. The lot types with the “Lot Designation Sheet” can be found in Appendix C - Cape Fear Station.

Once you know the lot type you can find the specific requirements for each lot. The lot types for Cape Fear Station take precedence over general BHA requirements. Each lot type has a minimum and maximum heated square footage requirement. (The 25% grading and building footprint rule and the 30% heated rule **do not** apply) The homes will also be limited in size by impervious coverage restrictions. This is the area of the property covered by structures or materials that do not allow water to penetrate or percolate into the ground. The maximum impervious coverage for each lot is set forth in the Covenants.

Materials that are considered impervious include but are not limited to; structures, asphalt, concrete, compacted gravel, brick, stone, slate, marl and coquina. Materials considered pervious include raised, open wood decking, the water surface of swimming pools or a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric.

Buildings are required to front the street within the designated frontage area as defined in each lot type. Frontage shall be parallel to the front setback line.

All homes on or in front of the Island’s primary dune ridge shall meet the “50% Rule”. In the case of a conflict between the Covenant and Guideline restrictions, the stricter regulation applies.

## **Cape Fear Station Multi-Family Communities**

Multi-Family Communities have specific requirements contained in their applicable Covenants. The Architectural Review Coordinator will be pleased to discuss your questions concerning Multi-Family Communities.

## **Stair Towers**

Independent stair towers built to reach views are not permitted on vacant or improved properties.

## **Stormwater Control**

1. Building and landscaping design documents for new construction and renovation projects submitted to the ARC for approval shall, where necessary, include details of measures to control stormwater runoff from buildings and on the property to prevent damage, unsightly erosion, and safety hazards.
2. Trenches, rocks, gutters, and downspouts should be limited to areas likely to create problems.
3. Materials should blend with the natural and man-made characteristics of the property and ground level solutions should always be pervious surfaces.
4. Rock solutions, such as those employed at the drip edge of rooflines, should be smooth river rock between  $\frac{3}{4}$  to  $1\frac{1}{2}$  inches in size and of a color to blend with surroundings. Black, white and bright colored rock is not acceptable.

# Trash Receptacles

## REQUIREMENTS

1. Trash receptacles must be under or near the house or garage/crofter.
2. Trash receptacles must be convenient to the driveway and have unobstructed, serviceable access.
3. Trash receptacles must have a solid waterproof roof.
4. Trash receptacles must be animal-proof and lined with welded wire if gapped siding is used.
5. Trash receptacles must be sized to hold at least two 30-gallon trash containers.
6. YES/NO tags are provided by the Village. They should be located on or near the trash receptacles and must be visible from the street or alley.
7. If the YES/NO tag is not visible from the street or alley when located on or near the trash receptacle, it may be positioned 2 inches below the last address number on the right side of the address bollard of the property. Exception: YES/NO tags are not allowed on the street address bollard in Cape Fear Station, they are only allowed on the alleyway address bollard. The entire address must remain unobstructed.
8. No advertising is permitted on garbage tags.

# Trellises and Arbors

## REQUIREMENTS

1. Trellises and arbors should be constructed of dimensional lumber.
2. The footprint of a detached trellis must not exceed 120 square feet measured within the outer perimeter of all members. The proportion must complement the other structures on the lot.
3. If over a driveway: The maximum inside width dimension must be no more than 10 feet from post to post, the minimum inside dimension must be no less than 8 feet to allow for vehicular access, and the overall height cannot exceed 10 feet.
4. The minimum height must be 8 feet from the finish elevation to the lowest horizontal member. Overall height cannot exceed 10 feet.
5. Simple versus ornate trellis styles are preferred.

# Trim

## REQUIREMENTS

1. Trim details need to be consistent on all four elevations.
2. Trim may not be overlaid on top of siding.
3. Stucco-covered foam moldings are not permitted.
4. Windows and doors must be cased with trim that has a minimum width of 5 inches (actual measurement) and a minimum depth of a  $\frac{3}{4}$  inch thickness.
5. Window and door groupings must include trim between each unit.
6. Trim includes window and door casings, corner boards, etc.

# Utilities

## REQUIREMENTS

1. All HVAC equipment must be above the base flood elevation and concealed from view. All stands that are more than 4 feet above grade must be supported on pilings that are proportional to the structure.
2. Solar panels, if used, must be incorporated into the house and roof design to minimize visibility.
3. Solar panels at grade level must be concealed by appropriate landscaping.
4. Through-window heating/cooling units are prohibited.
5. High-efficiency through-wall heating/cooling units are subject to approval by the ARC.

## RECOMMENDATIONS

1. Contact the Village of Bald Head Island Utility Company for water and sewer requirements. Duke Energy provides electrical service.
2. Consult the Public Safety Department for fire protection tips and guidelines, including considerations for golf carts, appliances and fireplace safety.
3. All HVAC compressors should be located to allow rain to wash salt accumulation and minimize corrosion.
4. Passive solar heating designs may be appropriate for consideration depending upon the characteristics of the lot.

# Windows

Windows contribute significantly to the overall appearance of a house and many shingle-style and coastal cottage designs include a generous number of rectangular and vertical window openings to allow coastal light and provide an open, welcoming look to the house design.

## Requirements

1. 75% or more of the window shape submitted must be vertical rectangular.
2. Single and double-hung windows must have a minimum height-to-width ratio of 1.5 to 1.
3. Additional accent windows may be applied sparingly if approved by the ARC.
4. Any reflective coating and stained or tinted glass must be approved by the ARC.
5. No trapezoidal windows will be allowed.
6. Window mullions shall be true divided lites or fixed grills on both the interior and exterior surfaces and shall create panes of square or vertical proportion.
7. Windows shall be wood, vinyl-clad or aluminum-clad. All vinyl and/or fiberglass windows shall be approved at the discretion of the ARC.
8. Homes in Cape Fear Station may have additional window restrictions. Please refer to Appendix C - Cape Fear Station.

# E - LANDSCAPING

*In the end we will be defined,  
not by what we create,  
but by what we refuse to destroy.*

*-John Sawhill, Nature Conservancy CEO 1980-1990*

The three major ecological environments on Bald Head Island— the creek side marsh, the open dunes and the Maritime Evergreen Forest have been shaped by the natural forces working on the island. The relative stability of the island has been dependent upon its maritime forest. The forest prevents wind erosion and traps wind-blown sand to eventually form the large dunes on the seaward edge. Here in the forest, many species of plant and animal life find their home. Live oak, pine, palm, bay and laurel oak provide a canopy that rises from its salt-sheared edge to about fifty or sixty feet adjacent to the salt marshes. Much of the vegetation is evergreen and the low light levels on the forest floor preclude much understory growth.

A lesser variety of animals and vegetation occurs in the dune environment. The plant varieties that do occur on the dunes are very important to the stability of these slow-moving dunes. The sea oats and other salt and wind tolerant grasses, vines, and shrubs inhibit the movement that would otherwise bury the forest.

Wetland vegetation along the creek side marsh is another critical component providing habitat to countless birds, fish and crustaceans.

The existing flora should be protected, as this helps to maintain the natural systems which protect our island. Natural landscaping can help accomplish both goals. Natural landscaping is not defined as a total abandonment of planting maintenance, but rather a controlled and guided landscape in character with the charm and beauty of Bald Head Island.

Any approved clearing and planting should take into account the environmental impact of such activities and the need to protect plants of special value to the island ecology.

## Village Ordinances Relating to Landscape

BHI Village Ordinance 32-44 states - “It shall be the policy of the Village to protect, to the maximum extent feasible, those trees and shrubs native to the Maritime Forest and dune areas of the Village. All improvements shall be designed in such a way so as to minimize the destruction of plants of special concern and to preserve and protect those remaining. Where re-landscaping is required by this ordinance, re-landscaping shall be accomplished, as much as feasible, through the use of those plants which naturally occur within this area, including plants of special concerns.” In the past, the Village has designated the following plants as plants of special concerns: Live oak, yaupon holly, sea oats, dogwood, American beach grass, American holly, sabal palm, red cedar and laurel oak.

## Landscape Planning

A successful site/landscape plan is composed of a number of elements that, with quality design and execution, contribute to a unified balance of the natural environment and man-made elements.

Native plants will always grow best on Bald Head Island and the use of native grasses, wildflowers or vines for groundcover is highly encouraged. Native plants contribute to the overall resilience of the island and support native wildlife of all types.

On the ocean side of the dune ridge, strategically placed appropriate shrubs can detour strong winds and, in combination with the native grasses, will stabilize shifting sands that tend to intrude on unwanted places.

On forested sites, protecting and planting trees decreases temperature impacts of seasonal extremes while at the same time providing privacy and beauty.

Similarly, landscape plans for elevations facing the creek should attempt to mesh with the vegetation there.

## Requirements for New Construction and Major Renovation Plans

1. Engage a trained landscape design professional when you first build your home and submit the plan along with your house plans.
2. New construction landscape plans should utilize the proposed site plan with topographical information provided by the survey/site plan that is required for a draft level submittal.
3. A minimum of 60% of the lot should remain undisturbed. This percentage minimum is a general rule that may vary in application. The required percentage of undisturbed area may be greater for larger lots (greater than 10,500 sq. ft.) and less for smaller lots typical in Cape Fear Station.



4. Existing homes planning a major renovation should utilize a site plan that includes all existing improvements, remaining existing landscaping, hardscape and illustrate the proposed changes.
5. Verify setbacks of the property as determined by the Covenants, Design Guidelines, and Village Ordinance, as well as government waterfront setback controls and maximum allowable impervious coverage (see Size Requirements section) of your house.
6. Develop a landscape plan that includes existing opportunities afforded by your property, such as:
  - a. Existing plant material
  - b. Drainage patterns on or near the site
  - c. Views in all directions, to and from the site
  - d. Sensitive environmental areas
7. Plants indigenous to the island (identified as “Native” on the plant list) should be the predominant source for landscape plans. It is required that a minimum of 70% of the new plant material be native to BHI. The use of non-native plant material (see glossary for definition) is limited to a maximum of 10% of the plan. Up to 20% of the plant material may be NC native. The plant lists are subject to change and plants not on these lists may be considered.
8. No known invasive plants may be planted. (See Plant Lists)
9. Artificial plants are not allowed.
10. During construction, naturalized areas of the property that are not within the ARC approved building area (denoted by the limits of construction fencing) must not be disturbed. Any areas outside the limits of construction fencing that are disturbed must be restored to their original natural character.
11. The clearing of understory is **NOT ALLOWED** in setbacks except as permitted in these guidelines within six feet of the structure, or as necessary for an approved site plan or landscape plan. For example, some clearing within a setback may be required for driveway access. All clearing for new construction must be reflected in the ARC approved plan.
12. New construction and major renovation landscaping plan submittals must include:
  - a. Date of plan preparation, project name, address and name property owner, North arrow, graphic scale (the required scale is 1 inch = 10 feet).
  - b. The site plan must include variety, size and location of plant material and dimensions of hardscape and impervious coverage impacts.
  - c. Plant list with quantity, botanical name, common name, size and special specifications.
  - d. Detail drawings showing specifications for hardscaping, such as grill pads, planters, extra parking areas, pathways, decking, pavers, steppingstones, fences, arbors, notation of irrigation components, etc.
  - e. Show location for mitigation trees and clustered vegetation, as appropriate, if mitigation is required.

- f. Calculate any impervious surface square footage that the landscape plan will add to the existing site impervious coverage totals, including retaining walls, pavers and the use of other hardscape details.

**NOTE:** *After a Certificate of Occupancy is issued, the builder, as the property owner's representative, is required to contact the ARC Coordinator to schedule a final inspection. The ARC does not permit variances from approved plans, such as substitutions, downsizing or a reduction in quantities of plants, without re-submittal and re-approval.*

## Landscape Changes for Existing Homes

### REQUIREMENTS

1. Any landscaping changes should be consistent with the natural beauty of the island and the original landscaping plan and must meet requirements for native plants and ARC approval.
2. Landscaping improvements, plantings or alterations to be installed by a property owner or landscape contractor requires prior consultation with the ARC Coordinator.
3. ARC review and approval is required before the removal of trees 3 inches in diameter measured 48 inches along the trunk from ground level, tree limbs of 3 inches or more in diameter, clustered growth vegetation 2 square feet or more at ground level, regardless of branching habits or diameter of the branches. Within the understory, ARC approval is also required to remove vegetation 1 inch or greater in diameter measured 48 inches along the trunk from ground level.
4. Changing the topography of any lot requires ARC approval; for example: leveling or removing an existing natural feature from a lot.
5. It's important that yard maintenance involve only minimal trimming to maintain a controlled and guided landscape in character with the charm and beauty of Bald Head Island. A minimum of 60% of the lot should remain undisturbed. This percentage minimum is a general rule that may vary in application depending on the previously approved site plan. The required percentage of undisturbed area may be greater for larger lots (greater than 10,500 sq. ft.) and less for smaller lots typical in Cape Fear Station.
6. Removal of understory and ground cover in naturalized areas on existing home sites is prohibited. Do not weed-eat or cut down naturalized areas of understory and ground cover. As a barrier island, understory and ground cover are critical elements to control erosion and protect birds and other wildlife.
7. The practice of tree topping is not permitted.
8. The use of mulch must be limited to defined beds. Pine straw is prohibited. The definition of a defined bed is the manipulation or disturbance of the native ground plane in order to create a spatial relationship within a defined area for non-native and/or indigenous plantings. Utilizing mulch and pine straw as general ground cover is not allowed except on new construction projects temporarily until the damaged vegetation is restored. Existing homes should maintain the surrounding landscaping in a naturalized manner that reflects their specific BHI ecological environment — the creek side marsh, the open dunes or the Maritime Evergreen Forest.

# Clearing, Trimming and Maintaining:

## REQUIREMENTS

1. **Lot clearing for sale of property** - Clearing of the entire understory or clearing for the sole purpose of selling a lot is **not** permitted. However, in order to provide ease of access, a path of 36 inches in width may be cleared as long as no trees, tree limbs or clustered growth, subject to Village or ARC approval, are disturbed. Any violation due to more extensive clearing will be subject to fines and/or mitigation.
2. **Lot clearing for survey or staking** – Some clearing of understory trees and shrubs may be required to prepare a site for survey or to stake the proposed building site. Permission to clear such understory trees and shrubs shall not be required by the ARC for the purpose of surveying, but clearing shall be limited to vegetation less than a 1 inch in diameter at 48 inches as measured along the trunk from ground level or any tree limb less than 3 inches in diameter. Any vegetation larger than this, or any vegetation that exists as clustered growth, or having horizontal branching habits must be approved for removal regardless of size of diameter. Exception: It is understood that when surveying to establish the property lines of a lot, vegetation may impede the ability of the surveyor to establish a sight line. Any vegetation directly in the sight line that is less than 3 inches in diameter at 48 inches as measured from the base at ground level, may be removed. ARC approval must be granted to remove any vegetation 3 inches or greater in the sight line. Violations of this requirement are subject to mitigation and fines.
3. **Lot clearing for any construction** – All construction sites must adhere to provisions in other sections of this document. The intent when clearing for construction or renovation projects should be to disturb as small an area as possible. An approved site plan is **required prior to any vegetation removal for construction**.
4. **Understory** should be removed only in the designated building area as shown on the approved site plan. A minimum of 60% of the lot should remain undisturbed. This percentage minimum is a general rule that may vary in application. The required percentage of undisturbed area may be greater for larger lots (greater than 10,500 sq. ft.) and less for smaller lots typical in Cape Fear Station. Building materials or equipment should not be allowed to destroy remaining areas of understory or be placed near trees. All trees should be protected with fencing and this fencing must remain in place for the entire construction process.
5. **Lot clearing for improving the view** – Reasonable trimming for maintenance is assumed and encouraged but all rules about trimming trees and eliminating understory must be adhered to. Typically, maintenance does not entail major trimming of trees, clearing understory 1 inch or larger or removing branches that are not impinging on structures. Approval must be received before any regulated trees, vegetation, understory or clustered growth is removed. The practice of tree topping is not permitted. No vegetation trimming or removal is allowed on unimproved (vacant) lots. Clearing for view is not allowed on island except in the controlled area of clearing for fairway lots. Board approval is required for any clearing on BHA Common Area. Prior to any clearing for view please review BHA Common Area Policy for more details and contact the ARC Coordinator for more information.
6. **Canopy and Understory Trimming** - The cutting of the forest canopy, or the thinning of its understory, may expose remaining vegetation to harmful salt-laden winds, resulting in damage.

For this reason, cutting and thinning should be kept to an absolute minimum. In addition to the negative impacts of salt spray, removing vegetation from the understory to “open up” one’s yard or landscape will also create new areas of light in the forest floor that cause vines and other plants that may not be wanted to take hold. This will also eliminate habitat that supports an interesting variety of wildlife. No canopy or understory trimming, and no vegetation removal are allowed on unimproved (vacant) lots. The practice of tree topping is not permitted.

7. **Dune Vegetation:** The removal of vegetation from any dune area is a critical issue. This vegetation (shrubs, grasses or vines) holds the dunes in place preventing erosion and storm damage. Due to the wind and salt environment, most of these plants never grow large enough to be subject to approvals for trees. However, they may be covered by additional ARC approval requirements regarding limbs, clustered growth or understory.
8. **Removal of Understory and Ground Cover** in naturalized areas on existing home sites is prohibited. Do not weed-eat or cut down naturalized areas of understory and ground cover. As a barrier island, understory and ground cover are critical elements to control erosion and protect birds and other wildlife.
9. **Mulch:** The BHA strongly recommends that mulch used comes from the island mulch site or be a pre-bagged product (see Glossary for mulch definition) to help control pests and plant +synthetic/artificial pine straw or mulch is not allowed.
10. **Pine straw:** Pine straw, used as mulch, could create a potential fire hazard and should not be placed, kept, or stored adjacent to structures with combustible exterior construction.
11. **Owners of homes in “drip-line” neighborhoods** without sub-associations (Keeper’s Landing, Sumner’s Crescent and Surfman’s Walk) do not own the land around their homes. This surrounding land is Bald Head Association common area, and all landscaping is done by landscape contractors hired by this organization. This includes all trimming, planting and tree removal. Owners may not trim trees, bushes, vines, grasses, etc. around their homes. If an owner feels that any vegetation needs to be trimmed or removed, contact the Bald Head Association for further details.
12. **Nothing may be affixed to a tree** or vegetation, including but not limited to trash tags, nails, screws and/or any type of fasteners.
13. **Grass:** Installation of turf grass lawns is not permitted. Use of native grasses that are naturally maintained provides a great addition to landscapes. (See Plant Lists)
14. **Water:** Water requirements for plants should be planned for during the first year while the plants become established.
15. **Herbicides:** The use of herbicides is inconsistent with living in harmony with nature. Herbicides can damage the root zones of desirable trees and shrubs. The need for and use of herbicides may best be determined by landscape professionals.
16. **Avoid using bush-hogs** when removing vegetation since it is very easy to scrape and damage desirable trees and shrubs with heavy equipment and to increase undesirable compaction and root system damage.

# Tree and Vegetation Removal/Mitigation

## REQUIREMENTS

1. **For New Construction:** All existing trees 3 inches or greater in diameter, at 48 inches as measured along the trunk from the base of the tree at ground level, shall be entered on a tree survey and submitted to the ARC with proposed site plans. This survey shall depict the exact location, size and drip line or canopy line of the trees and identify clearly the trees that will be removed and the trees that will remain, along with a description of steps that will be taken to protect them. Additionally, for dune lot tree surveys, vegetation, (which exists as two square feet or more of clustered growth at ground level regardless of branching habits or branch diameter) shall also be noted on the survey and if any of this type of vegetation is to be removed, it should be clearly identified.
2. **For existing homes:** ARC review and approval is required for the removal of trees 3 inches in diameter measured 48 inches along the trunk from ground level; tree limbs of 3 inches or more in diameter; clustered growth vegetation two square feet or more at ground level regardless of branching habits or diameter. Within the understory, ARC approval is required to remove vegetation 1 inch or greater in diameter measured 48 inches along the trunk from ground level.
3. **For unimproved lots:** NO CLEARING, TRIMMING or REMOVAL OF VEGETATION is allowed on unimproved (vacant) lots, except as detailed in **Clearing, Trimming and Maintaining** requirements (page 148).
4. A minimum of 60% of the lot should remain undisturbed depending on the approved site plan. This percentage minimum is a general rule that may vary in application. The required percentage of undisturbed area may be greater for larger lots (greater than 10,500 sq. ft.) and less for smaller lots typical in Cape Fear Station. Safety concerns may require the removal of trees in undisturbed areas.
5. The ARC may require a mitigation rate of up to 100% for each inch of diameter of trees or vegetation to be removed.
6. All specimen trees shown on the tree survey outside of the building envelope shall be carefully protected from construction activities in any manner deemed appropriate by the ARC, including protective fencing. This fencing shall remain in place throughout the construction process (see Construction/Site Guidelines).

## Unauthorized Removal of Trees and Vegetation

The unauthorized removal of trees or clustered growth on any property is considered a serious event and violation. Both Village Ordinance and Association Design Guidelines restrict removal of trees and clustered growth. In some cases, you are required to get only ARC approval and in others you need both ARC and Village approval. Regarding the removal of trees, tree limbs, vegetation and clustered growth, in some instances the Association Design Guidelines requirements are stricter than the Village Ordinance. Failure to get ARC approval prior to removal may result in fines and mitigation.

Village Ordinance provides that removal of any tree or trees 3 inches or greater in diameter at 48 inches above grade requires permission and/or a landscape permit from the Village Building Inspector, even if the tree is determined to be dead or diseased. Per Village Ordinance, removal of

branches of 5 inches or more in diameter also requires Village approval. ARC approval is required for the removal of trees 3 inches in diameter and understory vegetation 1 inch or greater in diameter measured 48 inches along the trunk from ground level, tree limbs of 3 inches or more in diameter and clustered growth vegetation two square feet or more at ground level regardless of branching habits or diameter.

Please see Appendix H, at the back of this document, for the Village Ordinance on tree cutting and removal.

The ARC supports the process in the Village Ordinance but also requires its own approvals. Those removing trees or branches without first obtaining ARC approval and / or Village approval and landscaping permit will be required to obtain a Village landscaping permit, pay the required fine, and mitigate loss of such tree or trees. The Village Ordinance allows the Village to assess fines of \$500 per inch of diameter at 48 inches above grade of the cut tree. ARC fines may be imposed, and, in some cases, they may be levied in addition to Village fines.

If mitigation is required, the property owner may be required to plant a tree(s) of like kind and of the same size as the cut tree(s) within 180 days of the fine, guaranteeing the tree to survive for one year after the planting date.

The Building Inspector must approve the location(s) of the planted tree(s). The ARC also has the discretion to require submittal of a landscaping plan to the ARC for approval.

In the case of “competing trees”, the Building Inspector shall make a decision of which tree to remove. The removal of dead trees requires the same ARC and Village approvals as live trees but does not require a Village contractor permit. If a decision by the Building Inspector is disputed, the property owner must provide sufficient evidence to show the tree is dead, represents a danger to individuals or property or that the tree is diseased and will not live.

Removal or altering vegetation of any size on Common Area requires permission of the Board of Directors or its designated committee. Violation of this requirement may result in penalties and fines being imposed for trespassing/vandalism of private property, as authorized by the Village Ordinances.

## Plant Lists

The following lists are based upon plants that have been found to be native to Bald Head Island, native to North Carolina and examples of some of the non-native plants that have been planted on the island. The distinction between native and non-native species is important because native species have generally adapted and evolved with the competing species, predators, and diseases of an area over many centuries or longer. BHI native plants support indigenous wildlife, habitats, ecosystem function and ecosystem services. There are suggestions for which plants typically do well in the various micro-island environments. The “please don’t plant me” list also includes common non-native invasive plants.

In reviewing landscape plans, the ARC will consider plants not on these lists provided they are not considered invasive or aggressive.

**Special Note: Lots bordering the BHI Golf Course, Greenswards, and Surroundings** - Certain plants should be avoided along golf course lots that border lagoons and adjoin the golf course including Torpedo Grass, Common Reed (Phragmites), Greenbriar (smilax), Poison Ivy, Virginia Creeper and Muscadine Grape. While most of these plants are native to BHI and are important to the ecology, all these plants have a history of quickly encroaching onto the golf course environment and surroundings. Every effort should be made to eliminate these plants from adjoining golf course lots. Decorative grasses that are native to NC and the southeastern coast are encouraged because of their effectiveness in stabilizing sand from strong winds.



COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
<b>NATIVE TO BALD HEAD ISLAND</b>					
<b>TREES</b>					
American Holly **	<i>Ilex opaca &amp; its cultivars</i>	✓			X
Cabbage Palmetto/ Sabal Palm (*) (**)	<i>Sabal palmetto</i>	✓		X	X
Carolina Laurel Cherry	<i>Prunus caroliniana</i>	✓			X
Coastal American Hornbeam / Ironwood	<i>Carpinus caroliniana</i> var. <i>caroliniana</i>	✓		X	X
Dogwood / Flowering Dogwood	<i>Benthamidia florida</i> / <i>Cornus florida</i>	✓			X
Eastern Red Cedar	<i>Juniperus virginiana &amp; its cultivars</i>	✓	X		X
Live Oak **	<i>Quercus virginiana</i>	✓		X	X
Loblolly Pine	<i>Pinus taeda</i>	✓		X	X
Pignut Hickory	<i>Carya glabra</i>	✓		X	X
Red Bay	<i>Tamala Persea borbonia</i>			X	X
Red Mulberry	<i>Morus rubra</i>				X
Sand Laurel Oak **	<i>Quercus hemisphaerica</i>	✓			X
Sand Live Oak (tree-form)	<i>Quercus geminata</i>	✓		X	
Southern Red Cedar/ Coastal Red Cedar **	<i>Juniperus silicicola &amp; its cultivars</i>	✓	X	X	X
Southern Toothache Tree/ Hercules' club	<i>Zanthoxylum clava-herculis</i>		X	X	
Wax-myrtle (tree-form)	<i>Morella cerifera</i> / <i>Myrica cerifera</i>	✓	X	X	
Wild Olive/ Devilwood (tree-form)	<i>Cartrema americanum</i> / <i>Osmanthus americanus</i>	✓		X	X
Yaupon/ Yaupon Holly** (tree-form)	<i>Ilex vomitoria &amp; its cultivars</i>	✓	X	X	X

\* NC Rare Species status \*\* Plants of “special concern” per Village of BHI Plant List Revised July 2022

Native to BHI	Native to NC	Non-Native	Invasive
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COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
<b>SHRUBS</b>					
Beautyberry/American Beautyberry	<i>Callicarpa americana</i>	✓		X	X
Dune Marsh-elder	<i>Iva imbricata</i>		X		
Dune Prickly-pear cactus	<i>Opuntia drummondii</i>		X	X	
Dwarf Yaupon	<i>Ilex vomitoria</i> 'Schillings Dwarf' 'Nana' & 'Taylor's Rudolf'	✓	X	X	X
Farkleberry / Sparkleberry	<i>Vaccinium arboreum</i>	✓		X	
Eastern Winged Sumac	<i>Rhus copallinum</i> var. <i>copallinum</i>	✓		X	
Southern Maritime Marsh-elder	<i>Iva frutescens</i> var. <i>frutescens</i>			X	
Mound-lily Yucca/Spanish Bayonet*	<i>Yucca gloriosa</i>		X	X	
Prickly-pear cactus	<i>Opuntia mesacantha</i> spp. <i>mesacantha</i>	✓	X	X	
Sand Live Oak (multi-trunk)	<i>Quercus geminata</i>	✓	X	X	
Silverling/ Mullet Bush	<i>Baccharis halimifolia</i>	✓		X	
Southern Maritime Marsh-elder	<i>Iva frutescens</i> var. <i>frutescens</i>			X	
Spanish Dagger Yucca	<i>Yucca aloifolia</i>		X	X	
Wax-myrtle	<i>Morella cerifera</i> / <i>Myrica cerifera</i>	✓	X	X	
Weeping Yaupon	<i>Ilex vomitoria</i> 'Pendula'	✓	X	X	X
Wild Olive/ Devilwood	<i>Carrema americanum</i> / <i>Osmanthus americanus</i>	✓		X	X
Yaupon/ Yaupon Holly**	<i>Ilex vomitoria</i> & its cultivars	✓	X	X	X
<b>VINES</b>					
Beach Morning-glory*	<i>Ipomoea imperati</i>		X		
Carolina Jessamine	<i>Gelsemium sempervirens</i>	✓		X	X
Carolina Supplejack	<i>Berchemia scandens</i>				X

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Native to BHI	Native to NC	Non-Native	Invasive
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COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
Coastal Morning-glory / Tie Vine	<i>Ipomoea cordatotriloba</i> / var. <i>cordatotriloba</i>	✓	X	X	
Coral Honeysuckle	<i>Lonicera sempervirens</i> & its cultivars	✓		X	X
Peppervine	<i>Nekemias arborea</i> / <i>Ampelopsis arborea</i>			X	X
Saltmarsh Morning-glory	<i>Ipomoea sagittata</i>			X	X
Southern Dewberry	<i>Rubus trivialis</i>			X	
Swallow-wort / Marsh Cynanchun	<i>Pattalias paluster</i>			X	
Yellow Passionflower	<i>Passiflora lutea</i>	✓		X	X
<b>ANNUALS, PERENNIALS AND FERNS</b>					
Annual Sand Bean	<i>Strophostyles helvola</i>		X	X	
Annual Sea-pink	<i>Sabatia stellaris</i>			X	
Beach Blanket-flower	<i>Gaillardia pulchella</i> var. <i>drummondii</i>		X	X	
Camphorweed	<i>Heterotheca subaxillaris</i>		X	X	
Carolina Sea-lavender	<i>Limonium carolinianum</i>			X	
Germander	<i>Teucrium canadense</i>			X	X
Creeping Frogfruit/ Turkey-Tangle	<i>Phyla nodiflora</i>	✓		X	
Dune Blue Curls *	<i>Trichostema nesophilum</i> / <i>Trichostema</i> sp.#1		X	X	
Eastern Horsemint	<i>Monarda punctata</i> var. <i>punctata</i>	✓		X	
Ebony Spleenwort Fern	<i>Asplenium platyneuron</i>	✓		X	X
Elephant's foot	<i>Elephantopus</i> sp.			X	X
Northern Seaside Spurge / Northern Sandmat	<i>Euphorbia polygonifolia</i>		X	X	
Partridge-berry	<i>Mitchella repens</i>	✓		X	X
Perennial Salt-marsh Aster	<i>Symphotrichum tenuifolium</i>			X	
Robin's-plantain	<i>Erigeron pulchellus</i>			X	X

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Native to BHI	Native to NC	Non-Native	Invasive
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COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
Samphire/Glasswort	<i>Salicornia virginica</i>			X	
Seabeach Amaranth *	<i>Amaranthus pumilus</i>		X		
Silverleaf Croton/ Beach-tea	<i>Croton punctatus</i>		X	X	
Silver Seaside Oxeye	<i>Borrchia frutescens</i>			X	
Southern Seaside Goldenrod	<i>Solidago mexicana</i>	✓	X	X	
Southern Seaside Spurge/Dixie Sandmat *	<i>Euphorbia bombensis</i>		X	X	
St. Andrew's Cross	<i>Hypericum hypericoides</i>			X	
<b>GRASSES, SEDGES AND RUSHES</b>					
Bitter Seabeach Grass	<i>Panicum amarum</i> & its cultivars	✓	X	X	
Black Needle Rush	<i>Juncus roemerianus</i>			X	
Dune Hair Grass / Sweet Grass	<i>Muhlenbergia sericea</i>	✓	X	X	
Elliott's Lovegrass	<i>Eragrostis elliottii</i>	✓		X	
Hairgrass/ Purple Muhly	<i>Muhlenbergia capillaris</i>	✓	X	X	
Maritime Bushy Bluestem	<i>Andropogon tenuispathus</i>	✓		X	
Narrowleaf Whitetop Sedge / Starrush	<i>Rhynchospora colorata</i>	✓		X	
Saltmarsh Cordgrass / Smooth Cordgrass	<i>Spartina alterniflora</i>	✓		X	
Saltmarsh Wild-rye	<i>Elymus halophilus</i> / <i>E.virginicus</i> var. <i>halophilus</i>	✓		X	X
Sea Oats **	<i>Uniola paniculata</i>	✓	X		
Seaside Little Bluestem	<i>Schizachyrium littorale</i>	✓	X	X	
Small Saltmeadow Cordgrass/Salt Hay	<i>Spartina patens</i>			X	
Two-flower Melic	<i>Melica mutica</i>			X	X
Woods-grass / Basket-grass*	<i>Oplismenus setarius</i>			X	X

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Native to BHI	Native to NC	Non-Native	Invasive
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COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
<b>NATIVE TO NORTH CAROLINA (Not native to BHI)</b>					
<b>TREES</b>					
American Persimmon	<i>Diospyros virginiana</i>				X
Chickasaw Plum	<i>Prunus angustifolia</i>				X
Eastern Red Maple	<i>Acer rubrum</i> var. <i>rubrum</i>	✓			X
Eastern Redbud	<i>Cercis canadensis</i> & its cultivars				X
Fringe-tree	<i>Chionanthus virginicus</i>				X
Southern Magnolia	<i>Magnolia grandiflora</i> & its cultivars				X
Sweet Bay Magnolia	<i>Magnolia virginiana</i> & its cultivars				X
Water Oak	<i>Quercus nigra</i>				X
Wild Black Cherry	<i>Prunus serotina</i>				X
<b>SHRUBS</b>					
Coastal Sweet-Pepperbush / Summersweet	<i>Clethra alnifolia</i>			X	
Curlyleaf Yucca / Adam's Needle	<i>Yucca filamentosa</i>		X	X	X
Dwarf Palmetto	<i>Sabal minor</i>	✓		X	X
Southern Black Haw	<i>Viburnum rufidulum</i>				X
Southern Wild Raisin/ Possumhaw	<i>Viburnum nudum</i>			X	X
Sweet-shrub / Carolina Allspice	<i>Calycanthus floridus</i>				X
Sweetspire/ Virginia Willow	<i>Itea virginica</i>			X	X
<b>VINES</b>					
Cross-vine	<i>Bignonia capreolata</i> & its cultivars	✓		X	
Maypops / Purple Passionflower	<i>Passiflora incarnata</i>	✓		X	

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Native to BHI	Native to NC	Non-Native	Invasive
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COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
<b>ANNUALS PERENNIALS AND FERNS</b>					
Coral Bean / Cardinal-spear	<i>Erythrina herbacea</i>			X	X
Black-eyed Susan	<i>Rudbeckia hirta</i>			X	
Eastern Butterflyweed	<i>Asclepias tuberosa</i> var. <i>tuberosa</i>			X	
Seashore-mallow	<i>Kosteletzkya pentacarpos</i>			X	
<b>GRASSES, SEDGES AND RUSHES</b>					
American Beachgrass **	<i>Calamagrostis breviligulata</i> / <i>Ammophila breviligulata</i>	✓	X		
Bottlebrush Grass	<i>Elymus hystrix</i>			X	X
Broomsedge	<i>Andropogon virginicus</i> var. <i>virginicus</i>	✓		X	
Eastern Wild-rye	<i>Elymus virginicus</i>			X	
Little Bluestem	<i>Schizachyrium scoparium</i> & its cultivars			X	
Purple Lovegrass	<i>Eragrostis spectabilis</i>	✓		X	
Soft Rush	<i>Juncus effusus</i>			X	
Switchgrass	<i>Panicum virgatum</i> var. <i>virgatum</i> & its cultivars	✓		X	
<b>NON-NATIVE PLANTS</b> (Not native to BHI or North Carolina)					
<b>TREES</b>					
California Fan Palm	<i>Washingtonia filifera</i>			X	
Canary Date Palm	<i>Phoenix canariensis</i>			X	
Edible Fig	<i>Ficus carica</i>			X	
Needle Palm	<i>Rhapidophyllum hystrix</i>			X	
Windmill Palm	<i>Trachycarpus fortunei</i>			X	
<b>SHRUBS</b>					
Chinese Fringe Flower	<i>Loropetalum chinense</i>			X	

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Native to BHI	Native to NC	Non-Native	Invasive
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COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
Chinese Juniper	<i>Juniperus chinensis</i> & its cultivars		X	X	
Indian Hawthorn	<i>Raphiolepis</i> spp. & its cultivars		X	X	
Loquat	<i>Eriobotrya japonica</i>			X	
Oleander (Mediterranean native)	<i>Nerium oleander</i>			X	
Pittosporum	<i>Pittosporum tobira</i> & its cultivars			X	X
Rosemary	<i>Rosmarinus officinalis</i>			X	
Sago Palm	<i>Cycas revoluta</i>			X	X
<b>VINES</b>					
Confederate Jasmine	<i>Trachelospermum jasminoides</i>			X	
<b>GRASSES, ANNUALS, PERENNIALS and FERNS</b>					
Blue Wild Indigo	<i>Baptisia australis</i>			X	
Coreopsis	<i>Coreopsis lanceolata</i>			X	
Florida Gama Grass / Dwarf Fakahatchee (While native to Florida, is used in golf course communities along the eastern seaboard)	<i>Tripsacum floridanum</i>			X	
East Florida Beach Sunflower (Florida native)	<i>Helianthus debilis</i>			X	
Gaura	<i>Gaura lindheimeri</i>			X	
Japanese Holly Fern	<i>Crytomium falcatum</i>				X
Lantana (Central & South America native)	<i>Lantana camara</i>			X	
Mexican Bush Sage	<i>Salvia leucantha</i>			X	
Plains Coreopsis / Calliopsis (Midwest native)	<i>Coreopsis tinctoria</i> var. <i>tinctoria</i>			X	
Prairie Dropseed	<i>Sporobolus heterolepis</i>			X	
Russian Sage	<i>Perovskia atriplicifolia</i>			X	

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COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
Silverleaf Sunflower (Texas native)	<i>Helianthus argophyllus</i>			X	
Weeping Love Grass (Southern Africa native)	<i>Eragrostis curvula</i>			X	
<b>INVASIVE NON-NATIVE “DON’T PLANT ME!”</b>					
<b>TREES</b>					
Callery Pear/ Bradford Pear, etc.	<i>Pyrus calleryana &amp; its cultivars</i>				
Chinaberry tree	<i>Melia azedarach</i>				
Chinese Tallow tree / Popcorn tree	<i>Triadica sebifera</i>				
Mimosa/ Silk Tree	<i>Albizia julibrissin</i>				
Princess Tree	<i>Paulownia tomentosa</i>				
Tree of Heaven	<i>Ailanthus altissima</i>				
White Mulberry	<i>Morus alba</i>				
White Poplar	<i>Populus alba</i>				
<b>SHRUBS</b>					
Amur Honeysuckle	<i>Lonicera maackii</i>				
Autumn Olive	<i>Elaeagnus umbellata</i>				
Burning Bush	<i>Euonymus alata</i>				
Butterfly bush	<i>Buddleia davidii &amp; its cultivars</i>				
Chinese Privet	<i>Ligustrum sinense &amp; its cultivars</i>				
Fragrant Honeysuckle	<i>Lonicera fragrantissima</i>				
Hardy Orange / Wild Orange	<i>Poncirus trifoliata</i>				
Japanese Barberry	<i>Berberis thunbergii &amp; its cultivars</i>				
Japanese Privet	<i>Ligustrum japonicum &amp; its cultivars</i>				
Japanese Spiraea	<i>Spiraea japonica &amp; its cultivars</i>				
Leatherleaf Mahonia	<i>Mahonia bealei &amp; its cultivars</i>				
Morrow Honeysuckle	<i>Lonicera morrowii</i>				

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COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
Multiflora Rose	<i>Rosa multiflora</i>				
Nandina (Asia native)	<i>Nandina domestica</i> & its cultivars				
Russian Olive	<i>Elaeagnus angustifolia</i>				
Salt-cedar	<i>Tamarix spp.</i>				
Thorny-olive	<i>Elaeagnus pungens</i>				
<b>VINES</b>					
Beach Vitex	<i>Vitex rotundifolia</i>				
Chinese Wisteria	<i>Wisteria sinensis</i> & its cultivars				
Chocolate Vine	<i>Akebia quinata</i>				
English Ivy	<i>Hedera helix</i> & its cultivars				
Japanese Honeysuckle	<i>Lonicera japonica</i> & its cultivars				
Japanese Wisteria	<i>Wisteria floribunda</i> & its cultivars				
Kudzu	<i>Pueraria montana</i>				
Mile-a-minute Vine	<i>Persicaria perfoliata</i>				
Oriental Bittersweet	<i>Celastrus orbiculatus</i>				
Porcelain-berry	<i>Ampelopsis brevipedunculata</i> & its cultivars				
Sweet Autumn Clematis (Asia native)	<i>Clematis terniflora</i>				
Wintercreeper	<i>Euonymus fortunei</i> & its cultivars				
<b>ANNUALS PERENNIALS and FERNS</b>					
Bicolor Lespedeza	<i>Lespedeza bicolor</i>				
Common Chickweed	<i>Stellia media</i>				
Gill-over-the-ground/ Ground Ivy	<i>Glechoma hederacea</i>				
Henbit	<i>Lamium purpureum</i>				
Hydrilla	<i>Hydrilla verticillata</i>				
Ivyleaf Speedwell	<i>Veronica hederifolia</i>				

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Native to BHI	Native to NC	Non-Native	Invasive
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COMMON NAME	BOTANICAL NAME	EASILY SOURCED LOCALLY	DUNE	EDGES of DUNE, MARITIME FOREST OR MARSH	MARITIME FOREST
Japanese Knotweed	<i>Polygonum cuspidatum</i>				
Parrotfeather	<i>Myriophyllum aquaticum</i>				
Purple Loosestrife	<i>Lythrum salicaria</i>				
Sericea Lespedeza / Chinese bushclover	<i>Lespedeza cuneata</i>				
Water-hyacinth	<i>Eichhornia crassipes</i>				
Yellow Flag Iris	<i>Iris pseudoacrous</i>				
<b>GRASSES, SEDGES AND RUSHES</b>					
Bamboo Running/Exotic	<i>Phyllostachys spp.</i>				
Chinese Silver Grass / Maiden Grass	<i>Miscanthus sinensis &amp; its cultivars</i>				
Common Reed	<i>Phragmites australis spp. australis</i>				
Japanese Stilt-grass	<i>Microstegium vimineum</i>				
Johnson Grass	<i>Sorghum halepense</i>				
Pampas Grass (South America native)	<i>Cortaderia selloana or Cortaderia jubata</i>				
Torpedograss	<i>Panicum repens</i>				
Wavyleaf Basketgrass	<i>Oplismenus hirtellus ssp. Undulatifolius</i>				
<b>GROUND COVER</b>					
Bigleaf Periwinkle	<i>Vinca major &amp; its cultivars</i>				
Common Periwinkle	<i>Vinca minor &amp; its cultivars</i>				

### Source of Plant information:

The native plant botanical and common names used in this document are based upon the work of Alan S. Weakley of the University of North Carolina Herbarium (NCU), North Carolina Botanical Garden and University of North Carolina at Chapel Hill. His document is titled “Flora of the Southeastern United States”, 2022 Edition, and is available at <http://www.herbarium.unc.edu> under “Floras, Apps & Field Guides”.

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Native to BHI	Native to NC	Non-Native	Invasive
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### References for plants identified as native to Bald Head Island:

Curation (volunteer) of BHA Plant List: Susan Andrews, M.S. Botany, Univ. of Maryland, and BHI homeowner.

LeBlond, R.J. 1995. "Inventory of the Natural Areas and Rare Species of Brunswick County, North Carolina." N.C. Natural Heritage Program, DPR, DEHNR, Raleigh.

Mayes, C. H. 1984. "The Flora of Smith Island, Brunswick County, North Carolina." M.S. Thesis, University of North Carolina-Wilmington.

VegBank Website - [www.vegbank.org](http://www.vegbank.org) (search on Bald Head Island, plots used 1988, 2005, and 2009)

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Native to BHI	Native to NC	Non-Native	Invasive
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# F - BHA COMMON AREA POLICY

## **Introduction:**

The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Association (herein “Association” or “BHA”) recorded in December 2017 (“the Covenants”) state in Article 8.1:

8.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, will manage and control the Common Area and all improvements thereon (including, but not limited to, private roads, rights of way, furnishings, equipment, walkways, gazebos, master walkway and common landscaped areas); and will keep it in good, clean, attractive and sanitary condition, order and repair, consistent with this Declaration and the Community Wide Standard.

## **I. Purpose:**

The purpose of this document is to provide a statement of policy for the management and control of Common Area.

## **II. Definitions:**

Common Area is defined in the Covenants in Article 1.8 as “all real property and facilities owned by the Association for the common use and enjoyment of all Members of the Association, including greenways, recreational areas, dunes, beaches and roadways. It is intended that the Common Area will include all of the Subject Property except platted lots, Multi-Family Sites, and other Non-Residential Areas, the golf course, clubhouse sites and sites established for utility purposes. A map of the Common Area is available for viewing in the Association office.”

Limited Common Area is defined in the Covenants in Article 1.15 as “those portions of the Common Area that serve only a limited number of Units and which may include, but specifically is not limited to, walkways, parking, buildings or areas serving only specified lots, and such other similar areas as may be designated by the Association. The Limited Common Area will be managed and maintained by the Association at the expense of only the Owners of Units served thereby. Service Areas, as defined herein, are included within the term Limited Common Area.”

Limited Common Areas are those serving a specific neighborhood or complex. Examples of Limited Common Areas include Ibis Roost, Timbercreek, Royal James, Palmetto Cove, Surfman’s Walk, Sumner’s Crescent and Keeper’s Landing. Their ownership, maintenance and use are restricted to owners of properties within the pertinent neighborhood or complex. Currently, all properties of this type are either privately owned by multi-family residences or are within the Common Area located within the property described in EXHIBIT B of the

Covenants which are reserved for the exclusive use of one or more, but fewer than all, of the Owners.

Maintenance: The Covenants specify that “maintenance” means keeping homes and lots in a “clean, neat, sightly and attractive” condition. This includes maintenance of the Common Area.

### **III. Map of the Common Area.**

A current map of the Common Area may be viewed at the BHA office.

### **IV. Classification:**

There are three (3) classes of Common Area.

1. Fairway – those tracts adjoining the golf course property.
2. Forest – those tracts located in the forest of Bald Head Island that do not adjoin the golf course.
3. Dune/Beach – those tracts that are located outside of the forested area and that do not adjoin the golf course, including waterfront properties.

### **V. Use:**

Within each Common Area class, there are four (4) potential uses.

1. Natural – left essentially in a natural state.
2. Landscaped – subject to some type of maintenance effort.
3. Utilized – altered for member benefit, e.g., Dog Park, Boat Park, Garden Area, Association Center.
4. Easements – granted where specific use or uses of Common Area are allowed for a specific purpose or purposes, e.g., utility easements, golf course easement, beach access.

Common Area administrative practices should provide that the evaluation of a proposed change in use of any segment of Common Area should include, if reasonably possible, input from members whose property location would cause them to be most directly affected by the change, e.g., a proposed cart or boat parking area adjoining their residential lot.

### **VI. Uses for all Common Area classes:**

1. All Common Area is owned by the BHA.
2. Each property owner has a non-exclusive easement of use, access and enjoyment in and to the Common Area.
3. Every property owner is prohibited from removing or altering existing trees, tree limbs, vegetation and clustered growth and is prohibited from adding to the existing trees, tree limbs, vegetation and clustered growth of any kind or size on the Common Area without prior permission of the BHA Board.
4. The Association will maintain the Common Area.
5. Recreational use of the Common Area cannot violate other ordinances and laws, including those that protect the environment, such as walking on the dunes.

6. Property owners whose property adjoins the Common Area may not have structures that encroach on the Common Area (i.e., setbacks must be followed). Exception: The Association has a specific policy pertaining to the construction of beach accesses for properties located on the beachfront. (See this Section IX, Dune/Beach.)
7. The Common Area is subject to easements for utility installation and cross-drainage as provided in the Covenants in Article 12.1 and 12.2.
8. The Association Center, the Surfman's Walk Gazebo, the Boat Park and the Community Garden can be rented consistent with existing Board policies or policies later amended or adopted by the BHA Board.

## **VII. Fairway: Use and requirements for the Fairway Common Area**

1. Natural: Fairway Common Area adjoined by and located between platted lots and the golf course must be left in its natural state unless permission is obtained from the BHA Board or its designated committee.
2. Landscaping:
  - a. A property owner whose property adjoins fairway Common Area can apply for permission to clear Common Area to achieve a golf course view by submitting in writing a proposed plan of clearing for consideration by the BHA Board or its designated committee. In order for the proposal to be approved, the property must fit the definition of a Fairway lot, noted under the Landscaping section of the Design Guidelines. No wholesale clearing of Common Area for a fairway view is allowed; rather, any proposed clearing must be done in a naturalized manner consistent with the standards set forth in the Covenants and the Guidelines, and the Village of BHI Zoning ordinance. Proposed plans must include a site plan indicating which trees/vegetation would be trimmed or removed; mitigation for removal of any trees; and, details regarding appropriate mulching and future care (i.e., watering). Please review the Landscape Section of the Design Guidelines for further guidance. New plantings are restricted to native plants. Use of herbicides/pesticides is prohibited without permission. The BHA Board has the discretion to decide whether or not to approve the proposal.
  - b. If the proposal is approved by the Board, the BHA shall proceed with the clearing with a contractor hired and controlled by the BHA. The BHA shall pay the contractor and bill and collect the amount paid the contractor from the property owner(s) whose property adjoins the Common Area and who submitted the proposal.
  - c. Requirements of a and b apply only to property that fits the definition of a fairway lot, identified in the Introduction regarding Common Area section of the Design Guidelines.
3. Utilization: See "Easements" (#4 below).

The Association may construct on Forest Common and Limited Common Areas such facilities as it determines are appropriate for the common use and enjoyment of the membership and in accordance with the Covenants and Bylaws of the Association.



4. Easements: The Covenants address this item in Article 12.10 which states:
  - (12.10) Golf Course Restrictions for Fairway Units. The following special restrictions will apply to all Units abutting, adjoining or lying contiguous to the golf course:
    - (a) Owners of such Units will not engage in any activities which would detract from the playing qualities of the Bald Head Island Golf Course or from the Properties and its attractive overall landscaping plan for the entire golf course area.
    - (b) The owner of the golf course ("Golf Course Owner") is hereby granted an assignable "golf course maintenance easement area" of thirty (30) feet from the boundary between the Units and the golf course for the purpose of landscaping, planting of grass, watering the golf area, application of fertilizer to the golf area as needed, and otherwise mowing and maintaining the easement area. This easement privilege will include the removal of underbrush, trees less than three inches in diameter (outside bark to outside bark) when measured four feet along the tree trunk, clustered growth measuring less than two square feet, stumps, trash and debris that would or could be in conflict with the plans and specifications of the golf course area as determined by the Golf Course Owner.
    - (c) Golf Course Owner is hereby granted for itself, its successors or assigns an easement to permit and authorize registered golf course players and their caddies to enter upon the golf course easement maintenance area to recover a ball or play a ball. This easement is subject to the official regulations of the course, and such entering and playing will not be deemed a trespass. Registered golf players or their caddies will not be privileged to enter the golf course maintenance easement area on any Unit with a golf cart or other vehicle. Golf Course Owner, its successors or assigns agree to place and maintain "out of bounds" markers on said lots at the expense of the Golf Course Owner, its successors and assigns.
5. Any conflict between the BHI Club and a property owner over Common Area clearing or maintenance will be resolved by the BHA Board.

**VIII. Forest:** Use and requirements for the use of Forest Common and Limited Common Area.

1. Natural: Forest Common and Limited Common Areas shall be left essentially in a natural state except for segments which the Association determines should be "improved" and utilized for the common use and enjoyment of the membership (see "Landscaping" and "Utilization" below).
2. Landscaping:
  - a. The Association may designate segments of Forest Common and Limited Common Area to be landscaped.
  - b. Landscaping of Forest Common and Limited Common Area for personal/individual use is not allowed.
3. Utilization: The Association may construct on Forest Common and Limited Common Area such facilities as it determines are appropriate for the common use and enjoyment of the membership and in accordance with the Covenants and Bylaws of the Association
4. Easements: Only as noted in this Section VI. "All Common Area Classes."

**IX. Dune/Beach:** Use and requirements for the use of Dune/Beach Common Area.

1. Natural: Dune/Beach Common Area shall be left essentially in a natural state except for segments which the Association determines should be “improved” and utilized for the common use and enjoyment of the membership (see “Landscaping” and “Utilization” below).
2. Landscaping:
  - a. Stabilization Structures and Plantings: Beach front property owners may submit planting proposals which will be reviewed by the Resource Conservation and Beautification Committee and approved by the BHA.
  - b. Clearing for view is not allowed on the island except in the controlled area of clearing for Fairway lots or otherwise with approval of the BHA Board.
  - c. BHA approval is required prior to any clearing on Common Area.
  - d. In the interest of dune stabilization, the Association may, after evaluation, give permission to the Village of Bald Head Island for implementation of structures and plantings on Common Area on the waterfront.
3. Utilization: The Association may construct on Dune/Beach Common Area such facilities as it determines are required for the common use and enjoyment of the membership and in accordance with the Covenants and Bylaws of the Association.
  - a. Beach accesses are considered for waterfront homes only. Waterfront homes are defined as properties from which a straight line may be drawn at a 90-degree angle from the middle point of the water-facing elevation to the water’s edge without crossing any portion of any adjoining lot.
  - b. Structural Requirements for Beach Accesses:
    - 1) Private Beach Accesses constructed after 01-01-2002 must adhere to the concept of “shared accesses for adjacent lots where possible.” If it is possible to join to an adjacent access, a separate access for individual lots will no longer be permitted.
    - 2) The access will be constructed of pressure treated wood, 48 inches in width and at least 18 inches, but no more than 24 inches above grade. Railings or other constructs above or below the beach walk will not be allowed. Specifically, pavilions and permanent seating will not be allowed. The Beach walk will be raised on pilings sunk at least three, but no more than five feet in depth, so that only the pilings touch the dunes. Steps should be used only when necessary, rather the walkway should follow the grade of the dunes as much as possible. Accesses will not follow a straight course but will angle to follow the contour of the dune ridges. Sand walkways will not be permitted.
    - 3) Private accesses will extend from an ocean facing deck and terminate on the ocean side of the frontal dune. The person constructing the access will replace all disruptions of dune plantings immediately. In no case should an access way be permitted if it will diminish the dune's capacity as a protective barrier against

flooding and erosion. If an existing access way should diminish the dune's capacity as a protective barrier against flooding and erosion, it will be corrected, closed or removed immediately.

## **X. AMENDMENTS TO POLICY**

This policy may be amended as needed by a 2/3 vote of the BHA Board of Directors.

## **XI. COMMON AREA ADMINISTRATION COMMITTEE**

Administration of Common Area Policy will be the responsibility of the Board of Directors or its designated committee. Depending on the frequency of issues to be resolved with respect to Common Areas, the Board may at any time decide to establish a standing committee specifically to administer this policy. BHA's Bylaws may be amended, at a regular or special meeting of the members, by a vote of a majority of members present in person or by proxy, subject to the quorum requirement.

## **XII. LIMITATIONS OF POLICY**

In all decisions regarding Common Area, the Board will maintain compliance with Covenant restrictions, Village ordinances and other government code requirements.

The Common Area policy, as with all BHA policies, is not intended to conflict with the Covenants. If a conflict exists, the Covenants prevail.

**\*\* Note – for more details on the application of this policy, please ask the Coordinator for a copy of the Common Area Practices and Procedures document.**

# G - BHA ARTICLE 7

## Covenants

### AMENDED AND RESTATED

### DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BALD HEAD ASSOCIATION

### ARTICLE 7 - DESIGN GUIDELINES December 2017

#### 7.1 General.

(a) No structures, buildings, improvements or construction, which shall include within its definition, clearing, grading, excavation and other sitework, will be commenced, erected, or maintained upon any Unit or the Properties, nor will any exterior addition, change, alteration, or change of color be made, except in compliance with this ARTICLE, the Design Guidelines and until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same will 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 Committee according to the provisions of Section 7.2. Structures, buildings and improvements shall include, but not be limited to any dwelling, garage, fence, wall, sidewalk, walkways, hedge, mass planting, change in grade or slope, drainage pipe, drainage canal, ditch, swale, catch basin, swimming pool, tree house, playhouse, sign, flagpole, exterior illumination, monument or marker, outdoor statuary, exterior lights, security lights, storm door, well utility facility, mailbox, patio, deck, screening for outdoor trash cans or other purposes, sprinkler system, driveway, outdoor decorative objects, shrubbery or landscaping.

(b) Any Owner may remodel, paint or redecorate the interior of structures on his Unit without approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

(c) This ARTICLE will apply to improvements to the Common Area by, or on behalf of, the Association.

(d) This ARTICLE will apply to improvements located on golf course property, but not to the design of the golf course.

#### 7.2 Architectural Review.

(a) Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article will be handled by the Committee as described in this Section 7.2. All members of the ARC shall be

members of the Association with the exception that a maximum of two (2) members of the ARC may be Design Professionals ("Design Professionals" shall include engineers, architects, surveyors, interior designers, landscapers, and other professionals engaged in the business of constructing or designing residential homes or landscaping) who are not members of the Association. No more than one-third of the Committee's membership shall be contractors, builders, architects or others involved in the design or construction of structures on the Properties. The Board may hire such professionals as it deems necessary to assist the Committee in the discharge of its duties. The Board may establish and charge reasonable fees for review of applications hereunder. These fees may include the fees charged by any professional employed by the Board and may require such fees to be paid in full prior to review.

(b) The Committee will consist of at least five (5) persons appointed by the Board beginning on January 1, 2000 and will have jurisdiction over all construction on any portion of the Properties. Thereafter, the Board may change the number of persons serving on the Committee to an odd number of at least five (5) and not more than eighteen (18) persons by a vote of not less than two-thirds (2/3) of the Board.

(c) The Committee will consider as part of the review process the natural beauty and features of the land, adherence to the Community Wide Standards, aesthetic compatibility of architectural style and materials with other structures on Bald Head Island and will maximize the conservation of trees and natural vegetation.

### 7.3 Design Guidelines and Procedures.

(a) The Committee will prepare design guidelines, application and review procedures (the "Design Guidelines"), and amendments thereto which shall apply to all construction activities within the Properties. The Design Guidelines will contain general provisions applicable to all of the Properties. The Design Guidelines will also contain specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, intended use, and applicable covenants. The Design Guidelines, application and review procedures, and any amendments thereto must be adopted and approved by the Board of Directors initially and reviewed at least every five (5) years thereafter.

(b) Any amendments to the Design Guidelines will apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

(c) The Committee will make the Design Guidelines available to Owners and contractors who seek to engage in development or construction within the Properties, and all such Persons will conduct their activities in accordance with such Design Guidelines.

### 7.4 Submission of Plans and Specifications.

(a) No construction or improvements, as defined in Section 7.1(a), will be commenced, erected, placed or maintained on any Unit; nor will any exterior addition, change or alteration be made thereto, until the plans and specifications ("Plans") will have been submitted to and approved by the Committee. The approval of the Plans will be consistent with the Design Guidelines. The Plans will show site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout,

screening, and grading plans. The Design Guidelines will set forth the procedure for submission of the Plans. A reasonable fee for the review of the Plans will be required and submitted, along with the Plans and any other supporting documents required by the Committee. The Board may require a deposit to be posted prior to the commencement of any construction or work, which will be used for administrative costs, fees, damage to any Common Area, fines, or penalties incurred during construction or work. Any sums still due and owing will be a Special Assessment and may be collected in accordance with ARTICLE 5 or to ensure that construction is completed in accordance with the Plans (including landscaping) approved by the Committee. Any sums remaining at the completion of construction will be returned to Owners or contractor.

(b) In reviewing each submission, the Committee will consider such parameters as the suitability of the proposed building, improvements, structure, landscaping, and the materials of which it is to be built; the proposed site; visual aesthetics; natural platforms and finish grade elevations; harmony of external design with nearby structures, property and environment; location in relation to surrounding structures, property and plant life which it deems appropriate and to the extent they are articulated in the Design Guidelines; possible negative impact on other Units; and compliance with the Design Guidelines and this Declaration. The Committee, for the purpose of retaining the natural features of the Lots, may require relocation of native plants within the construction site as a condition of approval of any submission. The Committee may also consider whether the construction methodology to be utilized and the method of transporting the components to be used in construction will cause substantial damage to the private streets or vegetation. Location of any driveways will be subject to the approval of the Committee.

(c) The Committee will have the right to refuse to approve any Plans which, based on the Design Guidelines, are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld.

(d) No bulldozing or clearing of trees or excavation of lakes or ponds will be commenced until the Plans showing the nature, kind, shape and location of work to be done have been submitted to and approved in writing by the Committee and a copy filed permanently with the Committee.

(e) The Committee, within forty-five (45) days from the meeting at which each complete submission has been reviewed, will advise the Property Owner submitting the Plans, in writing, at an address specified at the time of submission of (1) the approval of Plans, or (2) the segments or features of the Plans which are deemed by the Committee to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines. In the event the Committee fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, approval will be deemed to have been given. Notice will be deemed to have been given at the time the envelope containing such notice, properly addressed and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice will, however, be sufficient and will be deemed to have been given at the time of delivery.

(f) If construction does not commence on a project for which Plans have been approved within 24 months of such approval, such approval will be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans for reconsideration.

(g) An applicant of any Unit disagreeing with the finding of the Committee may appeal the decision to the Board of Directors by giving written notice of appeal to the president of

the Association within fifteen (15) days following receipt of notice of denial. The Board may refer the matter to an independent board of appeals of at least three (3) persons appointed by the Board, none of whom shall be a member of the Board or the Architectural Review Committee. Such board of appeals appointed by the Board shall review the decision of the Architectural Review Committee and make a recommendation or take other action as directed by the Board. The rules and procedures under which such board of appeals operates shall be determined by the Board. The Board of Directors will then review the plans, giving the chairman of the Architectural Review Committee, or his designee, the opportunity to present to the Board of Directors specific reasons why the plans were rejected, and the Owner of the Unit or his agent may present information challenging the findings of the Committee. The decision of the Committee will only be overridden by a two-thirds vote of the Board of Directors, and the actions of the Board must be consistent with this Declaration and the Design Guidelines. The Board of Directors will adopt an appeals procedure which is in accordance with the framework set forth in this paragraph.

7.5 No Waiver of Future Approvals. Each Owner acknowledges that the members of the Committee and the Design Guidelines will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of Plans for any work done or proposed, or any other matter requiring approval, will not be deemed to constitute a waiver of the right to withhold approval for any similar Plans subsequently or additionally submitted for approval.

7.6 Variance. The Committee may authorize in its discretion reasonable variances or adjustments from compliance with any of its guidelines and procedures in order to alleviate practical difficulties and hardship in their enforcement and operation. Such variances may only be granted, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing; or (b) stop the Committee from denying a variance in other circumstances. Any such variances shall not violate the spirit or the intent of this document to create a subdivision of Units owned in fee by various persons with each such Owner having an easement upon areas owned by the Association.

7.7 Limitation of Liability. Review and approval of any application pursuant to this ARTICLE will be made on the basis of this ARTICLE and the Design Guidelines only and the Committee will not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board nor the Committee, will be held liable for any injury, damages, or loss arising out of the review and approval of any application. This includes, but is not limited to, the granting of a variance, the manner or quality of construction, defects in any Plans, deficiencies in kind or quality of materials used, or for ensuring compliance with building codes and other governmental requirements.

(a) Any structure placed, or improvement made in violation of this ARTICLE will be deemed to be non-conforming. Upon written request from the Board, Owner shall, at its own cost and expense, remove such structure or improvement and restore the land to substantially the same condition which existed prior to the non-conforming work. Should an Owner fail to remove and restore as required, the Board will have the right to enter the property, remove the violation, and restore the property to substantially the same condition as it previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the Unit Owner and the benefited Unit and collected as a Special Assessment in accordance with the provisions of ARTICLE 5.



(b) The Association shall have the authority to establish fines for violations of this ARTICLE and the Design Guidelines, including fines for continuing violations. The fine amounts may be deducted from any deposit posted. If the fines are not paid, the Association may establish a Special Assessment in accordance with the provisions of ARTICLE 5.

(c) In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available, including injunctive relief and proceedings for contempt, to enforce the provisions of this ARTICLE and the decisions of the Committee in accordance with the provisions of ARTICLE 15.

#### 7.8 Specific Design Guidelines.

(a) Site Placement. To insure that the maximum balance of view, privacy and breeze will be available to each home located within the Properties; and to assure that all structures will be located with regard to the topography of each individual Unit or Multi-Family Site taking into consideration the height of the dunes, the location of trees on each Unit and similar considerations, the Committee will have the right of approval of the precise site and location of any Multi-Family structure, house or dwelling or other structure upon all the Properties. In its right to approve, the following guidelines for building will be used as a minimum standard, be adhered to, and be followed except with the prior written approval of Committee:

(1) On Estate Lots no building or structure will be located within fifty (50) feet of the street property line in front of said Unit, within twenty-five (25) feet of the side or ten (10) feet of the rear of said Estate Lots.

(2) No Lots shall be merged with one another, except as provided in Section 13.1. On Merged Lots, no building or structure will be located within thirty-five (35) feet of the front property line abutting the roadway, within twenty-five (25) feet of the side or ten (10) feet of the rear lines of the resulting Merged Lot.

(3) Any setbacks or any allowed building pad shown on any recorded subdivision plat are incorporated herein by reference. Unless otherwise shown on such a plat or specified in an amended declaration annexing properties hereto, no building or structure will be located (a) on any other Lot within the properties described in **EXHIBIT A**, within thirty-five (35) feet of the street property line in front of said Unit or within ten (10) feet of the side or rear lines of said Unit, and within fifteen (15) feet of any side street and (b) on any Lot within the properties described in **EXHIBIT B**, within thirty-five (35) feet of the street property line in front of said Unit or within ten (10) feet of the side or rear lines of said Unit. To the extent there is a conflict between this sub-section and the requirements of the approved Planned Unit Development (PUD) applicable to all or a portion of the Properties, the PUD shall be controlling.

(b) General Building Restrictions. Construction on numbered single-family Units within the Properties will be governed by the following general minimum requirements:

(1) Except with the prior written approval of the Board, all single family residences will have a maximum height of thirty-five (35) feet as measured from the lowest natural point where the main building perimeter and any attached structures meet grade ("Lowest Point") to the highest point of the roof. For the purpose of determining the Lowest Point on a lot where any elevation beneath the building perimeter falls below an elevation of five feet (5') above mean sea level (AMSL), the Lowest Point shall be considered five feet (5') AMSL. Height limitations for properties annexed hereto may differ from the height limitation set forth

herein; any such limitation on height shall be contained in the amendment subjecting such annexed properties to the terms, provisions and conditions of this Declaration; provided that the Lowest Point for all properties shall be determined as set forth herein. The Board will establish the maximum height of Multi-Family and Non-Residential structures as part of the Design Guidelines, which may not exceed forty-five (45) feet except with the prior written approval of the Board.

(2) Except as provided herein or in the Stage Two Secondary Covenants, single-family residences will have the minimum square footage of sixteen hundred (1600) square feet of enclosed living area, exclusive of garages, boat sheds, terraces, decks and open porches. A maximum of three hundred (300) square feet of the square footage of the floor plan may be included in a fully screened porch, so long as the roof of such porch forms an integral part of the roof line of the main structure.

(3) No temporary structures, such as trailers, tents, canopies or mobile homes, will be placed on any Unit within the Properties; provided, however, that in the course of the construction of the building as set out above, the contractor or builder may have shelters or storage sheds used in the course of the construction and for no other purpose, which will be removed from the premises within ten days after the completion of the building. No tents or canopies will be placed on any Unit without the written consent of the Association.

The Committee will approve the location of any structure, having regard for the foregoing considerations, aesthetic considerations, Community-Wide Standard, size, shape and location of the property, type of housing, and any other reasonable considerations. The Committee has the right to require maintenance and/or removal of plant material to protect an Owner's view.

(c) Completion. Once construction of a dwelling or other improvement is started on any Unit, the exterior improvements, including painting and landscaping must be completed in accordance with the approved plans and specifications within twenty-four (24) months from the Commencement Date. "Commencement Date" will be the date of the issuance of the building permit. Failure to complete construction within twenty-four (24) months from commencement date may result in a fine being imposed in the minimum amount of \$500.00 per month, which shall be payable to the Association. The fine imposed under this Section will be a Special Assessment enforceable in accordance with ARTICLE 5.

(d) Compliance with Local Regulations. Buildings must in all particulars meet the requirements of the Brunswick County Health Department regulations and the Village of Bald Head Island building code and ordinances, including the procuring of a building permit and landscape permit.

(e) Water and Sewer Service. All buildings must hook up to water and sewer service at the time of construction, whether provided by a private utility company or the Village of Bald Head Island.

(f) Non-Residential Guidelines. The Board may adopt specific guidelines governing any Non-Residential structure located within, annexed to, or merged with the Properties.

(g) Braemar Building and Site Restrictions. Lots within the Braemar Subdivision shall be subject to the further building and site restrictions set forth in **EXHIBIT D** hereto.

# H-VILLAGE ORDINANCES

## ARTICLE IV. DUNES PROTECTION

**Charter References**— Sand dunes, § 8.2.

**State Law References**— Coastal area management, G.S. 113A-100 et seq.

**Cross References**—Definitions generally, § 1-2.

### **Sec. 10-121.** Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Access* means those artificial walkways designated as the means of entry to the beach over the sand dunes.

*Buildable lot* means a lot where a dwelling unit may be constructed.

*Dune or Dunes* means the mounds of sand located landward of the ocean beach with sufficient vegetation, height, and configuration to offer protection from ocean storms.

*Owner* means the corporation, or other entity owning the real estate on or from which the access is to be located.

*Private access* means an access constructed in part or in full with private funds.

*Public access* means an access intended for use by the public.

*Street* means any public thoroughfare or privately-owned street, which affords a means of access to abutting property.

*Vegetation* means any significant plant growth, both naturally occurring and planted, on or along the dune such that the plant growth affords stabilization to the dune.

*Waterfront lot* means a buildable lot from which a perpendicular line drawn from the midpoint of the water-facing property line will reach the mean low tide line without crossing any portion of any buildable lot.

(Ord. No. 2001-047, § 1, 10-27-2001; Ord. No. 2006-1103, 11-17-2006; Ord. No. 2015-0601, 6-19-2015)

### **Sec. 10-122.** Beach access points.

(a) It shall be unlawful for any person to traverse or walk upon, over or across or to damage, in any manner whatsoever, the dune at any point within the corporate limits of the village other than at a public access or a duly permitted private access. There shall be maintained at the office of the village clerk a schedule of points designated for use by the public and which shall be duly marked as to be readily identifiable as public access points.

(b) No private access shall hereafter be constructed, erected, remodeled, refaced, relocated, expanded or otherwise altered until such time as a building permit and CAMA permit thereof have been obtained from the building inspector in accordance with the provisions of this article.

(Ord. No. 2001-047, § 2, 10-27-2001; Ord. No. 2015-0601, 6-19-2015)

**Sec. 10-123.** Private accesses--Permit required.

Any person desiring to construct, erect, remodel, reface, relocate, expand or otherwise alter any private access shall make application to the Village inspection department for a permit therefor. Applications for permits shall contain or have attached to them the following information:

(1) The street address, lot number, and tax parcel number of the property from which the private access will be located.

(2) Names, addresses, and telephone numbers of the applicant, owner of the property, and the person or contractor constructing the access.

(3) A site or plat plan of the property, showing accurate location of the proposed access in relation to existing structures, property lines and setbacks.

(4) Two detailed scaled drawings of the plans and specifications of the private access to be constructed. Such plans shall include but shall not be limited to details of dimensions, materials to be used and topographical information.

(5) Other information as the building inspector may require determining compliance with this and other applicable local, state or federal regulations affecting the construction, erection, remodeling, refacing, relocating, expansion or other alteration thereof.

(Ord. No. 2001-047, § 3, 10-27-2001)

**Sec. 10-124.** Same--Construction requirements.

Private accesses shall be constructed in accordance with the following standards and any permit therefor shall require conformity to the following:

(1) Width shall be no more than 48 inches;

(2) Height above grade shall be at least 18 inches, but no more than 24 inches;

(3) Pilings shall be installed at least three feet deep, but no more than five feet in depth;

(4) Stairs shall be used only when necessary to protect the integrity of the dune system and shall be allowed in the discretion of the building inspector for such purpose only;

(5) Construction of any private access shall be in accordance with the state building code;

(6) Handrails on any private access shall be prohibited unless otherwise required by the state building code;

(7) Permitted private accesses shall be constructed to follow the natural contour of the frontal dune; and

(8) Private accesses shall be permitted only from waterfront properties.

(Ord. No. 2001-047, § 4, 10-27-2001)

**Sec. 10-125.** Same--Application for permit.

The building inspector shall review any applications for construction, erection, remodeling, refacing, relocation, expansion or other alteration of any private access. Any

application for such permit which lacks any of the requirements of section 10-123 or which shows nonconformity to the construction standards set forth in section 10-124 shall be rejected as either incomplete or nonconforming. Complete and conforming applications shall be reviewed, and a permit issued therefor unless the building inspector shall determine that the proposed access shall diminish the affected frontal dune's capacity to serve as a protective barrier. Any permit issued shall require conformity to the construction criteria set forth in section 10-124, shall be conditioned upon conformity to plans and specifications of the application and shall permit no alterations to the frontal dune other than those permitted by regulations promulgated pursuant to the Coastal Area Management Act. Any such alterations shall require that the affected portions of the frontal dune be returned to its condition prior to construction within 21 days of such alteration or other disruption.

(Ord. No. 2001-047, § 5, 10-27-2001)

**Sec. 10-126.** Nonconforming private accesses.

(a) Any private access existing on the date of the adoption of this article and which is for any reason noncompliant herewith or any private access which, subsequent to the adoption of this article, becomes noncompliant herewith is hereby determined to be a nonconforming beach access ("nonconforming access"). Owners with a nonconforming access should bring the access into compliance with the specifications herein within six months following the date of adoption of this article or six months following that date the access becomes noncompliant subsequent to the adoption of this article. A nonconforming access may continue to be used during said six-month period. Following the expiration of this six-month period, a nonconforming access may no longer be used and access to the beach will only be permitted through an access that complies with this article. Use of any nonconforming access following this six-month period shall be a violation of this article, and subject to the civil and/or criminal penalties set forth herein.

(b) Any owner who fails to bring a private access into compliance with the regulations of this article shall have a period of two years from the date of adoption of this article or the date the access becomes noncompliant subsequent to the adoption of this article either to bring such private access into compliance or completely remove the nonconforming access. This two-year period in no way permits the continued use of a nonconforming access beyond the six-month period referenced herein.

(c) Any and all improvements, repairs, remodeling, relocation, expansion or other alteration of any private access shall be subject to the provisions of this article. Any expenses to bring a nonconforming access into compliance herewith shall be the sole responsibility of the owner. Any expenses to remove a nonconforming access shall be the sole responsibility of the owner.

(Ord. No. 2006-1103, 11-17-2006; Ord. No. 2015-0601, 6-19-2015)

**Editor's Note**—Ord. No. 2006-1103, adopted Nov. 17, 2006, repealed § 10-126, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 10-126 pertained to existing private accesses. See Code Comparative Table for derivation.

**Sec. 10-127.** Penalty for violation of article.

A violation of this article shall subject the offender to a civil fine in the amount of \$500.00 per offense and any continuing violation thereof shall be deemed a separate offense for each day during or on which the violation shall continue. Any civil penalty shall be paid at the office of the

village clerk within 48 hours of issuance of a civil citation. Additionally, this article may be enforced by injunction and orders of abatement, together with all other remedies available to the village under G.S. 160A-175(e) or other state law.

(Ord. No. 2001-047, § 7, 10-27-2001; Ord. No. 2005-003, § 1, 3-15-2005; Ord. No. 2011-0402, 4-15-2011)

**Sec. 10-128.** Private accesses on village owned properties.

(a) The construction and maintenance of an access on a village-owned property must comply with the provisions of this article and with applicable law. The portion of any access constructed on village-owned property is and shall remain for the benefit of the public and shall be village property. Permission from the building inspector to construct or maintain the portion of any access on village-owned property constitutes a nonexclusive, revocable license and shall not convey, transfer, assign, or create any ownership or other substantial property right in or to the village property in favor of any private property owner. The village may revoke such license at any time, in its discretion.

(b) Unless otherwise agreed in writing by the village, maintenance and modifications, such as extensions or repairs, to the portion of any access on village-owned property constructed pursuant to a permit by the building inspector, shall be the responsibility of the private property owner(s) holding such license. If the access is not maintained in conformity with this article and applicable law by the private property owner(s) responsible for such maintenance, the access may be maintained, modified or removed by the village, in its discretion. The cost of removal shall be due and payable by the private property owner(s). Upon obtaining a license from the building inspector, owners of waterfront lots adjacent to village-owned property may connect to an existing access on village property, unless such connection would violate an ordinance or other law, interfere with public uses of the village property, interfere with village plans or uses of the property or constitute a public nuisance.

(Ord. No. 2015-0601, passed 6-19-2015)

Secs. 10-129--10-160. Reserved.

## **Sec. 32-44. Landscape Permits and Building Permits.**

(a) *Issuance of landscape permit.*

(1) No lot or tract within the village may be cleared, excavated, graded or filled until the building inspector has issued a landscape permit, whether or not such activity is in connection with a proposed construction.

(2) Special consideration must be given to preserving as much natural area as possible and to preserving all plants of special concern as designated in subsection (k) of this section.

(3) The site development plan required by subsection (c) of this section prior to the issuance of a permit shall clearly define those areas where existing dunes, berm and vegetative cover shall remain undisturbed and shall include plans for restabilizing any revegetation areas disturbed. Disturbance of the natural vegetation shall only be permitted in those circumstances in which such disturbance is reasonably necessary to allow safe construction of the proposed dwelling

and its appurtenant facilities, such as septic tank and driveway. Such special consideration must be given to preserving as much natural area as possible.

(4) Provided, however, that nothing in this chapter shall require issuance of a landscape permit under this article for the maintenance of roads within the village right-of-way and hand clearing of three-inch and smaller caliper trees.

(5) Cutting of any tree or trees larger than three inches in caliper at four feet above grade without first obtaining a proper landscape permit will require the offender to obtain a permit, pay the required fine, and mitigate the loss of such tree or trees. Pruning tree branches and/or limbs larger than five inches in caliper without first obtaining a proper landscaping permit will require the offender to obtain a permit, pay the required fine, and mitigate the loss of such branches and/or limbs.

(6) In the case of competing trees, the building inspector shall make the decision of which tree to remove. The removal of dead trees with a three-inch caliper or greater, shall not require a permit but shall require the approval of the building inspector prior to removal. If a decision by the building inspector is disputed, the property owner must provide sufficient evidence to show the tree is dead, represents a danger to individuals or property, or the tree is diseased and will not live.

(7) Failure to comply with the requirements of the approved site plan shall be considered a violation and shall be subject to the immediate issuance of a stop work order by the building inspector and to the other procedures and remedies of subsection (k) of this section.

(b) *Issuance of building permit.* No building or other structure shall be erected, moved, extended, or structurally altered until the building inspector has issued a permit for such work.

(c) *Application for permit; requirements.* Each application to the building inspector for a permit under subsections (a) and (b) of this section shall be accompanied by a site development plan pursuant to section 32-128 of this chapter and building plans, all county, state and federal permits required by law or regulation and such other relevant information as he may require. Each residential lot shall have the lot lines clearly marked on the ground and certified as correct by a registered professional engineer or land surveyor prior to applying for a building permit. All new construction permitted must be located with a distance of 1,000 feet of a pressurized fire hydrant.

(d) *Survey markers located on relevant points.* Surveyors control markers shall be located on each property line, including street right-of-way, at the point of closest approach of the planned structure to that line. No construction shall begin on site until the markers required by this chapter have been properly established and examined and approved by the building inspector. Failure to construct any structure in accordance with these markers shall be a cause for the building inspector to issue a stop work order and to revoke a building permit previously issued.

(e) *Areas of environmental concern.* Each application for a building permit shall include information as to the location of applicable areas of environmental concern. Prior to issuance of a building permit the building inspector shall ascertain whether the proposed structure or facility conforms to the state regulations for areas of environmental concern issued pursuant to the coastal area management act.

(f) *On-site inspection.* Before a permit is issued under subsections (a) or (b) of this section, an on-site inspection of the property shall be made by the building inspector.



(g) *Posting of permits prior to starting work.* Before work is started on any property, the required permit or permits shall be posted in a prominent place on the property.

(h) *Expiration of permit if work not started in specified time.* Each permit issued pursuant to subsection (b) and (c) of this section shall expire six months after the date of its issuance unless work authorized by the permit has been started.

(i) *Landscape permit; when required.* A permit from the building inspector shall be required to remove, relocate, grade, excavate, fill or disturb sand, soil, dirt or earth or remove any naturally occurring trees, shrubbery, grass or other naturally occurring vegetation if such removal is in accordance with site plans for construction of a structure, for which plans a building permit either has been issued by the building inspector, only upon a determination by the building inspector, that the activity requested by the applicant is necessary to achieve one of the following purposes:

(1) Erection or protection of a structure or improvement on the property;

(2) Promote the growth and health of vegetation without significantly destabilizing the soil thereon or otherwise damaging the ecology of the property.

(j) Designation and protection of plants of special concern.

(1) It shall be the policy of the village to protect to the maximum extent feasible those trees and shrubs native to the maritime forest and dune areas of the village. All improvements shall be designed in such a way so as to minimize the destruction of plants of special concern and to preserve and to protect those remaining as much as practicable. Where relandscaping is required by this chapter, relandscaping shall be accomplished as much as feasible through the use of those plants which naturally occur within this area, including plants of special concern.

(2) The village hereby designates the following plants as plants of special concern:

(k) *Replacement of damaged shrubs; time limit; violation.* Any sand, soil, dirt or earth which has been removed, relocated, graded, excavated, added to, filled or disturbed in violation of this chapter and any naturally occurring vegetation which has been killed, damaged, destroyed or removed in violation of this chapter shall be restored or replaced within 60 days of notice from the building inspector. Each day after the 60-day period that the violator fails to perform such restoration or replacement shall constitute a new and separate violation. Any such replacement shall, where feasible, be accomplished through the use of plants which naturally occur within this area, with emphasis upon use of plants of special concern.

(Ord. No. 29, § 3.4, 8-17-1991; Ord. No. 2001-019, 9-15-2001; Ord. No. 2006-0902, 9-15-2006)

# I - GLOSSARY

**Arbor** – An area shaded by trees, shrubs or vines on a latticework structure.

**Caliper** – Diameter of a living tree, this is measured using an instrument called a caliper, hence the name.

**Casement** – A window sash that opens on hinges at the sides.

**Clustered Growth** – ARC approval is required prior to the removal of any clustered growth vegetation covering two square feet or more at ground level regardless of branching habits or diameter.

**Coastal Zone (AE)** – This zone is the Area of Environmental Concern, as defined by CAMA. Properties in this zone can be affected by rising, slow moving or standing water and are typically beach or marsh properties.

**Coastal Zone (VE)** – This is the zone subjected to wave action (velocity) ocean hazard areas as defined by CAMA. Typically refers to beach properties.

**Conceal** – To hide behind grade-level screening within the footprint of a structure, as specified within these Design Guidelines or to keep completely from sight of any public road or fairway view by vegetation, natural terrain or other solution approved by the ARC.

**Cupola** – A dome, especially a small dome on a circular or polygonal base crowning a roof or turret (usually only decorative in modern homes, older cupolas can be reached by stairs).

**Deck** – A roofless, outdoor floored area that adjoins a house.

**Defined Bed** – The manipulation or disturbance of the native ground plane in order to create a spatial relationship within a defined area for non-native and/or indigenous plantings.

**Dormer** – See pictorial example and definition on following page under Roof Terminology.

**Divided Lites** – A description of a window separated into panes by muntins or other forms of dividers.

**Drip Line** – Drip-line communities are areas where property owners' own structures: houses, garages, and crofters and the ground under these structures to the drip line where water dripping off the roof would land. Typically, in these communities, they also own and must maintain walkways, decks, stairs, fences and lights, which are beyond the drip line, and are built for their use only, as opposed to the use of the entire neighborhood. Individual property owners do not own the land under decks, walkways and stairs or any land around or in the vicinity of their houses. Drip line is sometimes referred to as drip edge.

**Dune, Frontal** – The first mounds of sand located landward of the ocean beach with sufficient vegetation, height and configuration to offer protection from ocean storms.

**Dune Ridge** – The dune ridge on Bald Head Island is the raised ridge of land that runs from West to East across the island. It is a structure, like most dune ridges, that has built up over many decades. Its main function is to form a protection from wind and water for the Maritime Forest.

**Fenestration** – The arrangement and design of windows and doors in a building.

**Gable** - See pictorial example and definition on following page under Roof Terminology.

**Grade, Average** – Grade is simply the topography of a lot or the ground surface of a lot. Average grade is the sum of the varying elevations of the ground around the perimeter of the building including, but not limited to decks, staircases, porches etc. and then divided by the number of elevation changes included in the calculations.

**Grade, Mean Finished** – Mean finished grade is the same thing as finished average grade. This is found by adding the varying elevations around the perimeter of the building, after grading is complete, and dividing that to find the mean finished grade.

**Grade (Verb)** – To prepare the topography of a lot for construction by leveling or building up different areas on the lot.

**Impervious Coverage** – In relation to construction, this is the area of the property covered by structures or materials that do not allow water to penetrate or percolate into the ground. For example, this would include any covered structures, paved or graveled walkways/driveways or decking without sufficient spacing between the boards (less than ¼ inch). It would also include marl, for though water can penetrate marl, it does not percolate into the spaces of the ground beneath quickly enough to earn a pervious rating however, a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric is considered pervious. **These guidelines include the building footprint (with cantilevered elements) not the roof overhangs.**

**Invasive plants** – Non-Native plants, not native to BHI that have the potential to spread. Invasive species are a major threat to our environment because they (1) can change habitats and alter ecosystem function and ecosystem services and (2) crowd out or replace native species.

**Knox Box** – Powered by one master key, this secure box enables first responder rapid access while minimizing property damage. The Knox Box must be located on the back side of the street address bollard facing the house.

**Limited Common Area** – Limited Common Area means those portions of the Common Area that serve only a limited number of Units and which may include, but specifically is not limited to, walkways, parking buildings or areas serving only specified lots and such other similar areas as may be designated by the Association. The Limited Common Area will be managed and maintained by the Association at the expense of only the Owners of Units served thereby. Service Areas, as defined herein, are included within the term Limited Common Area.

**Main Structure/Building** – This refers to the main living unit on the lot. The main living unit may not exceed thirty-five feet (35) in height.

**Mulch** – In addition to mulch produced on island, the BHA recommends the use of natural wood mulch distributed by various processing facilities as a pre-bagged product. Typically, this type of mulch is sold at hardware and home improvement stores and garden centers.

**Muntin** – A strip separating panes of glass in a sash.

**Native plants** – For the purposes of these Design Guidelines, native plants are plants that occur naturally in a particular location without direct or indirect human intervention. The distinction between native and non- native species is important because native species have generally adapted

and evolved with the competing species, predators, and diseases of an area over many centuries or longer. BHI native plants support indigenous wildlife, habitats, ecosystem function and ecosystem services.

**Naturalized Area** – An area of native vegetation that consists of undisturbed understory and ground cover. Removal of understory and ground cover in naturalized areas on existing home sites is prohibited. New construction projects must avoid damaging naturalized areas outside the limits of construction fencing. If during the construction process damage to a naturalized area occurs, the area must be restored to its native state.

**Non-Native plants** – For the purposes of these Design Guidelines, any plants not native to BHI or North Carolina are considered non-native. Though these plants may be found on the island, it does not mean they originated on the island.

Susan Andrews wants this added: Non-Native Plants-For the purposes of these Design Guidelines, any plants not native to BHI or North Carolina are considered non-native. Though these plants may be found on the island, it does not mean they originated on the island.

**Pergola** – An arbor with an open roof of rafters supported by posts or columns.

**Porch** – A covered deck attached to a building; may be open or partly enclosed.

**Rake** – A rake is the sloped sides at the end of a gable roof forming a triangle. Most gable rakes have overhangs, extending the roof beyond the end of the house. These rake ends usually have a soffit on the underneath side to enclose the framing and a fascia or trim board to cover the outside edge of the slope.

**Service Area** – Service Area means portions of the Common Area located within the property described in **EXHIBIT B** attached to the Covenants which are reserved for the exclusive use of one or more, but fewer than all, of the Owners.

**Shed** – See pictorial example under Roof Terminology.

**Soffit** – See pictorial example under Roof Terminology.

**Trellis** – Any structure made of pieces arranged in a crossing pattern to form a ladder for climbing plants.

**Understory** – Understory is an underlying layer of vegetation, especially the plants that grow beneath a forest's canopy. Forest density plays a large role in protecting individual trees from being uprooted during storms and hurricanes. Understory is an important component to the survival and health of the ecology of BHI. ARC approval is required prior to the removal of vegetation one inch or greater in diameter measured 48 inches along the trunk from ground level. See exception noted in item 2 under the heading Clearing, Trimming and Maintaining requirements.

**Unit** – Unit means a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed, and which is intended for development, use and occupancy. A "Lot" is a Unit. The term will refer to the land, if any, which is part of the Unit as well as any improvements thereon, including the Living Unit. Nonresidential areas may have more than one Unit assigned to it by the Board as provided in Section 2.3. Unimproved Unit means a vacant Lot with no completed structure built upon it. Improved Unit means a Unit with a completed structure built upon it for which the Village of Bald Head has issued a certificate of occupancy.

**Waterfront Property** – A property from which a perpendicular line drawn from the mid-point of the water-facing property line will reach the mean low tide line without crossing any portion of any adjacent property.

## ROOF TERMINOLOGY

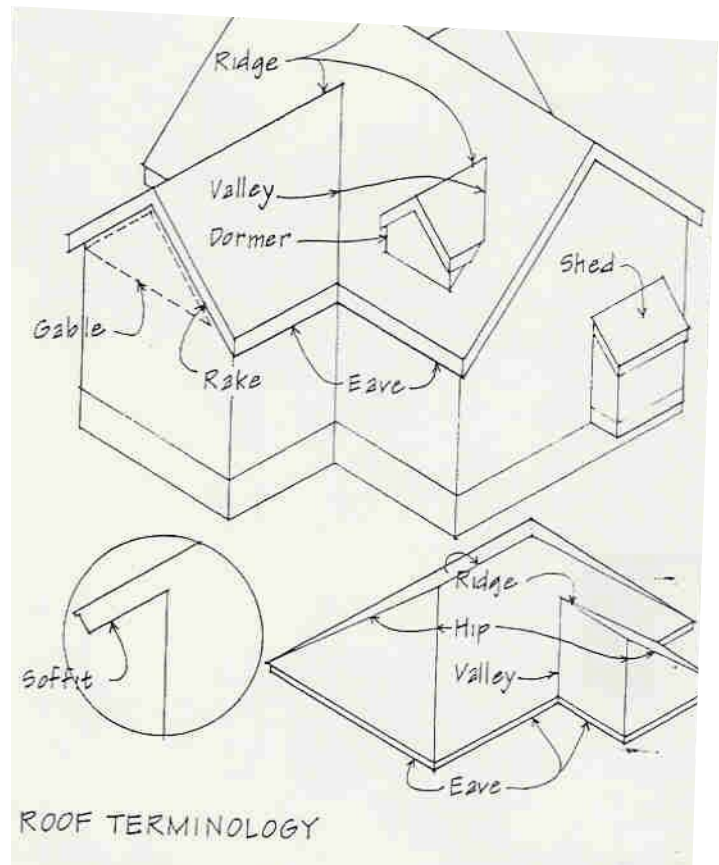
The image to the right includes pictorial definitions of:

Gable, Dormer, Valley, Ridge, Rake, Eave and Shed

Further Description:

**Gable** - The triangular upper-portion of a wall at the end of a pitched roof

**Dormer** - A small house-like structure that projects from a roof and includes a window



# Non-residential Design Guidelines - Approved by BHA Board of Directors on October 14, 2022

## Supplemental (Standards & Rules)

### Introduction & Purpose of the BHA Non-Residential Guidelines

These standards and rules are minimums to protect the interests of Bald Head Association Members pursuant to Bald Head Association Covenants \*Article 1-1.18, Article 7.8- (b) (1), Article 7.8 (f), and Article 7.8 (j).

The most successful nonresidential designs will have the character of Bald Head Island Coastal Vernacular Architecture and meet the quality of construction expected of residential properties. New construction and renovation proposed for multi-family, commercial, municipal, or common area should blend well with surrounding properties and natural areas. Compatible mass, size, proportion, color, and natural appearing materials are encouraged.

Natural and installed buffers are required to mitigate undesirable views, noise, noxious odors, and artificial lighting. Tree and other vegetation clearing is not permitted except as approved by the ARC and consistent with the approved site plan. Reference the Landscape section of the Unified Design Guidelines for a current list of BHI native plants. Additional mitigating components may be required for the noise of pickle ball courts, and parking lot lighting.

The Nonresidential Design Guidelines (Standards & Rules) 1<sup>st</sup> Edition is a supplemental document to the Unified Design Guidelines 26<sup>th</sup> Edition. It is created for the ARC to apply to Nonresidential parcels.

*\*Article 1-1.8 Non-residential Areas means and refers to any plot of land which is a part of or will be annexed to the Properties when permanently developed or established for Non-Residential uses such as the Bald Head Island Club and similar types of facilities golf courses, clubhouse or other facilities owned by the Association, inns motels, hotels, offices, shops, service businesses, maintenance and repair areas and similar commercial or service uses necessary and desirable to the Properties and operation of the community.*

## Landscaping

This Non-Residential Landscaping Section is intended to reduce the visual impact on adjacent uses. Please reference the Plant List in the Unified Design Guidelines. Natural vegetation and understory shall be preserved and the introduction of new plants in the landscaped areas should have an organic natural appearance consistent with Bald Head Island.

1. The full height of the vegetative screening along road right of ways and adjacent properties must be a minimum of 6 ft when initially planted. Plant material in screening areas shall be a minimum mature height of 10 ft. Plant material more than 10 ft in height may be required to block the effects of lighting from adjacent properties, residential dwelling areas, and the beach. 100% site obscuring plant material year-round is required between the nonresidential site and properties of other uses.
2. Fencing up to 6 feet high may be integrated into the plant material avoiding long unobscured views of fence.
3. Landscape plant material should vary in height, variety, texture and color. A natural appearance is encouraged.
4. Irrigation is required.
5. A Plant List is required per the Unified Design Guidelines. The plant origin ratio for Non-Residential requires a Minimum of 70% BHI Native, 20% NC native maximum and 10% Exotic. Plant material used for screening from the road right of way and adjacent properties of different uses are required to provide evergreen coverage. Lower vegetation should be used at intersections within parking lots and at all vehicular and pedestrian entries and exits.
6. A complete site plan and landscape plan is required to blend structures with natural material and shall screen utilities, loading, maintenance and trash areas, and outdoor gathering areas. Include stormwater permit and plan including any retention ponds, drain locations, etc. on the site plan and landscape plan. Also include any downspout location or other drainage on the site plan.

## Parking Areas

1. Parking Areas must be pervious surfaces or located under approved structures.
2. Landscaped medians and low lighting are required to establish screening for the carts and a varied profile of BHI native vegetation. Parking areas shall contain a minimum of one tree 10 ft (at maturity) tall shrub per parking space within landscaped areas of the interior of parking lots.
3. A parking lot lighting plan should be selected to integrate into landscaped areas, not tower above it. Plant material size, variety, color and texture should compliment the overall site landscaping and blend with Bald Head Island native surroundings.
4. Parking areas are not allowed in setbacks and buffer zones. A minimum of 45 feet between any adjacent single-family or multi-family use property is required. The 45 ft buffer around parking areas includes a 25 ft Non-Residential buffer, plus an additional 20 ft requirement for parking areas. See Setback section of these Non-Residential Guidelines. For the purpose of this document the 45 ft total minimum buffer shall apply to dwellings in the same Non-Residential parcel or an adjacent parcel. (Example: The Villas or any new dwellings proposed at The Club.)
5. Landscaping and natural vegetation is required in and around parking areas. The ARC requires a landscape plan with irrigation when the existing vegetation is not substantial in height and density. Trees and shrubs are required to be a minimum of 6 ft in height upon initial planting, with a potential mature height of no less than 10 ft. Staggered placement of lower plants within the depth of the buffer is encouraged to present a more natural appearance. Every effort should be made to preserve the natural vegetation and understory. The very nature of the 25 ft buffer area should exclude it from cutting trees, vegetation, and disturbing the ground except to enhance the area with additional approved plant material.
6. ADA parking must be both close and accessible to entries, pathways, and traversable ramps. Van accessibility should be considered for some facilities.
7. The number of required parking spaces is determined per an establishment's square footage in compliance with Village code. (Example: 1 space per 400 sq ft in a Real Estate Office, or 1 space per 500 sq ft in a Clinic, etc.) Additionally, a minimum of 4 parking spaces per acre is required to accommodate parking for outdoor facilities. (Example: If the tennis and pickle ball courts cover 2 acres of land, a minimum of 8 parking spaces are required.) A separate service parking and loading zone should be considered for businesses with employees and shipments. No parking shall be permitted in the road right of ways.



8. Temporary service parking, loading/unloading zones, and trash pickup areas are required to be screened from other properties of other uses including residential properties and BHA common area. Also see Setbacks and Buffers section of these Nonresidential Guidelines. Conservation of natural vegetation is required and the ARC requires an additional irrigated landscape plan where views of parking are not 100% obstructed from dwelling areas.
9. Water shed from ground water runoff, drains of any kind including but not limited to downspouts and gutters, and engineered pond overspill must avoid shedding water off-site to potentially flood roads, BHA common areas, and nearby properties of any use or kind.

**RED**-Indicates the rules for nonresidential in addition to the residential Unified Design Guidelines.

### **Setbacks and Buffers**

Where State, Brunswick County and BHI Village Commercial Ordinance differ from these BHA Nonresidential requirements, the stricter rule shall apply.

Minimum standard setbacks and buffers for Non-Residential properties are:

1. Proposed site plan and landscape plan must provide a minimum of 25 ft vegetated setback within any property line shared with property of different use, including but not limited to BHA common area, and roads. An additional 20 ft buffer is required in areas adjacent to properties containing dwellings including the Villas, any new dwelling structures within the nonresidential application, and existing residential property. The buffer shall include the conservation of existing trees and vegetation, an irrigated landscape plan with plants and or trees a minimum of 6 ft in height at the time of planting. Clearing is not permitted in the setbacks except according to an approved site plan.
2. Service and construction entrances, loading and unloading areas, trash container areas, tennis and pickle ball courts, parking lots, outdoor entertainment areas will require an additional 20-foot buffer for a total of 45 feet from single-family and multi-family property lines.
3. Specific mitigation measures for noise, noxious odors, and views are required in the application. Special measures may be required for pickle ball courts, trash areas, loading zones, and outdoor entertainment areas.
4. Listed below are structures that are allowed to encroach upon the setbacks and buffers. All others shall be within setbacks and buffers.
  - a. Address bollard
  - b. Driveways
  - c. Fences which shall not exceed 6 feet height- unless additional code requirements need to be met.
  - d. Flagpoles not exceeding 25 feet in height and no taller than the main structure.
  - e. Retaining walls
  - f. Trellises, entry arbors and pergolas not to exceed 10 feet in height.
  - g. Wood walkways (not beach accesses) must not exceed 4 feet in width and 16 inches in height above grade.
5. Sightline Setback –This setback applies to all new construction homes and oceanside additions to existing homes on oceanfront lots. In all cases a new oceanfront house or addition shall be no closer to the waterline than the average of the houses on the three adjoining lots on both sides of the house. Oceanfront decks elevated higher than 18” above finish grade shall be no closer to the waterline than the average of elevated oceanfront decks on the three adjoining lots on both sides of the house. If there are no houses on the first three adjoining lots on each side of the reference house, the location of the house or addition shall be unrestricted by this sightline setback. If there are no oceanfront decks on the first three adjoining lots on each side of the

reference house, the location of the oceanfront deck for the reference house shall be unrestricted by this sightline setback. The sightline setback does not apply to homes with deeded building pads.

Note: Currently the setbacks in the Village Zoning Ordinance Section 32-126 Nonresidential is 10 to 35 feet for different classifications.

**BALD HEAD ASSOCIATION  
FINANCIAL POLICIES AND PROCEDURES  
AS OF AUGUST 13, 2021**

The following items govern routine handling of Association disbursements/payments, financial reporting and recordkeeping. This policy was originally approved by the Bald Head Association (BHA) Board on October 20, 2001 as an item of the regularly scheduled Board meeting. A revision was approved by the Board at its July 8, 2011, regular meeting. A second revision was approved by the Board at its August 13, 2021 regular meeting.

Accounting Procedures

The accounting procedures used by BHA shall conform to Generally Accepted Accounting Principles (GAAP) to ensure accuracy of information and compliance with external standards.

Basis of Accounting Policy and Procedures

BHA's fiscal year begins on January 1st and ends December 31st. BHA uses the accrual basis of accounting. The accrual basis is the method of accounting whereby revenue and expenses are identified with specific periods of time, such as a month or year, and are recorded as incurred. This method of recording revenue and expenses is without regard to date of receipt or payment of cash.

Throughout the fiscal year, expenses are recorded into the month in which they are incurred. The books are closed no later than the 20th of the following month. If the 20th falls on a weekend, they will be closed by the prior business day.

At the close of the fiscal year, this rule is not enforced. Year-end books are closed no later than 60 days after the end of the fiscal year. All expenses that should be accrued into the prior fiscal year, are so accrued, to ensure that year-end financial statements reflect all expenses incurred during the fiscal year. Revenue is always recorded in the month in which it was earned or pledged. BHA uses TOPSOne, or current comparable reputable accounting software, to keep its books.

Annual Audit

As per the Association's governing documents, an audit must be conducted by a public accountant annually at the end of the Association's calendar year. The Executive Director will deliver the accounting records to the certified accountant for the audit promptly after closing the previous years' books. Annual audit should be made available by Auditor no later than the end of the 2<sup>nd</sup> quarter.

The Certified Public Accountant will be chosen by the Association Board every four years through an RFP (Request For Proposal) process submitted to at least three Certified Public

Accountants and/or firms and may include incumbent Certified Public Accountant and/or firm. Or, if the existing audit firm is retained, the auditing team within their firm must change. This will ensure continual evaluation of performance and review of audit costs.

### Budget

The budget will be prepared annually by the Treasurer and the Executive Director and will be reviewed by the Finance Committee. The proposed budget will be submitted to the Board for approval by its October Board meeting, with Board final approval obtained no later than December 1<sup>st</sup> of the fiscal year.

### Disbursements

Access to bank accounts and checks, either physical or online, is limited to the Executive Director and Bookkeeper.

All checks signed on behalf of the Association over \$1,000 in amount will require two signatures, and one of these signatures shall be the Treasurer, except that, in the absence of the Treasurer, another authorized Board member may fulfill the requirement of the second signature. The Executive Director shall be authorized to sign checks. Changes to bank signature authorization will be recorded in the Board minutes as these changes occur.

Checks equal to or under \$1,000 may be signed by the Executive Director.

Reimbursements to BHA employees, volunteers, Board members or officers will require a second signature, as stated above. If the reimbursement is made to a Board member, another Board member must sign.

No Board member, member or committee may incur a cost to BHA, including purchases or services, without prior approval of the Treasurer or President. Committee chairs are permitted to authorize expenditures within their budget limits.

### Disclosure

Any member of BHA is permitted to review the books of BHA in the company of the Executive Director or the Treasurer. Such a request must be made, in writing, with a reasonable advance of time.

### Payments/Deposits

Checks will be received by the Association Accounting staff and entered into the accounting software system. Assessments will be matched/reconciled with the assessment database. All other checks will be received via the accounting software general ledger system.

Deposits under \$2,000 in total will be made weekly. Deposits over \$2,000 must be made

daily. There will always be a deposit done at the end of every month, regardless of the amount of the deposit.

### Reports

Monthly reports will be given to the Treasurer, who will review and return them in a timely manner to the Executive Director. These reports include; payroll liability, payroll detail and deduction detail reports, the general ledger posting report that matches the payroll reports, bank statements and company accounting software reconciliations.

The Board will be provided, prior to their monthly work session, a copy of current aging, balance sheet, actual versus budget, and profit and loss statement.

### Cash and Investments

Cash balances held at banks shall be managed and diversified in a way to take full advantage of FDIC or SPIC insurance whenever possible.

Investment of excess operating cash or cash reserve balances shall be made when appropriate for periods of no longer than one year and shall be invested in securities with a rating of AA- or better or shall be FDIC insured.

### Contracts and Bids

The Executive Director is authorized to enter into contracts for activities that have been approved by the Board as part of budgets or plans. The Board of Directors must authorize any contracts outside of these parameters and all contracts with a financial value greater than \$15,000.

The Executive Director may not make contractual commitments for bank loans, corporate credit cards, or for real estate leases or purchases without specific approval of the Board.

### Asset Protection

In order to ensure that the assets of BHA are adequately protected and maintained, the Executive Director shall:

- Insure against theft and casualty losses to the organization and against liability losses to Board members, staff, or the organization itself to levels indicated in consultation with suitable professional resources.

- Plan and carry out suitable protection and maintenance of property, building and equipment.

- Avoid actions that would expose the organization, its Board, or its staff to claims of liability.

Protect intellectual property, information, and files from unauthorized access tampering, loss, or significant damage.

Receive, process, and disburse funds under controls that are sufficient to maintain basic segregation of duties to protect bank accounts, income receipts and payments.

Annually recommend an appropriate asset reserve policy, procedure and funding to be approved by the Board of Directors, as part of the annual budget process.

Obtain Board approval for all reserve expenditures.

Maintain segregation of reserve funds from operating funds.

#### Financial Transactions with Insiders

No advances of funds to employees, officers, or directors are authorized. Direct and necessary expenses related to carrying out responsibilities shall be reimbursed.

In no case will BHA borrow funds from any employee officer, or director of the organization without specific authorization from the Board of Directors.

The Board of Directors and all employees will complete a conflict of interest disclosure form at the beginning of each year. Any additional potential conflicts shall be disclosed as they arise.

#### Gift Acceptance

Employee – Other than food items given for use by all employees, an employee shall not accept gifts in excess of \$25 without the prior approval from the Executive Director or Board of Directors.

Donations to Bald Head Association – Donations shall require prior approval from the Board of Directors.

# Communications Policy

*Board Approved 12/9/2022*

BHA has several communications vehicles in print and online formats for the purpose of providing members with information on current issues relating to the Association and life on Bald Head Island, including timely updates and news. Vehicles include:

- ✧ *Island Report* Newsletter
- ✧ BHI Community Directory
- ✧ BHA Website
- ✧ Website Forum
- ✧ Website Social Channel
- ✧ *BHA's Compass* Email Bulletin
- ✧ Social media including Facebook, YouTube and Instagram

Bald Head Association (BHA) leverages its communication vehicles to advance its mission of providing leadership on behalf of BHA members. BHA strives to serve its members with reliable information regarding BHA and important items to know about Bald Head Island (BHI), various BHI organizations, living on BHI and renting one's home.

Establishing boundaries between personal messaging by someone who is affiliated with BHA and official messaging on behalf of the organization is important. Clarifying and establishing a guiding policy for online Forum posting serves to help BHA uphold its duties as directed by its Covenants, serves as best practices and serves to reduce potential risks to BHA.

All BHA Board members and staff must be fully informed about this policy and any subsequent updates. Violations of this policy by staff can result in actions up to and including termination of employment. Violations by Board members will be addressed by the full Board.

## ***I. Island Report Newsletter***

The *Island Report (IR)* is a monthly newsletter published by the Association for the purpose of providing members with information on current issues relating to the Association and life on the Island. The Association's Executive Director (ED) acts as the *IR's* Managing Editor. Contributors to the newsletter will observe the following guidelines adopted by the Board.

### **CONTENT APPROVAL**

***All articles are subject to the approval of the Association's ED who reserves the right to approve the Communication Associate's (CA) edits on content or to refuse an article in its entirety that does not promote the interests of the Association. Language disparaging individuals will not be published. The IR is a private newsletter that reports on "such matters as the Board determines affects the welfare of its members."***



### **1: CONTENT/EDITING/LAYOUT/PRINTING/ONLINE RESPONSIBILITY**

The content and layout are the responsibility of the Communications Associate (CA), with contractors hired as needed and managed by the CA. A draft of each issue will be sent to the ED and Board President for final edits prior to printing and posting online. The CA will contract with and coordinate all printing and mailing logistics, as well as post online.

### **2: DISTRIBUTION**

The *IR* is automatically mailed to members of the Bald Head Association unless they choose to read it online. Non-members may receive a hard copy upon request. Copies may be left in Village Town Hall, the post office and other outlets to promote and educate the membership as well as visitors and other Island residents about Island events and issues, as well as the efforts of the Association to administer the Covenants. Current and archived *Island Report* issues are available publicly on the BHA website.

### **3: SCHEDULE**

The deadline for submissions to the *Island Report* is the 1<sup>st</sup> of the month for the following month's issue. The print copy of the *Island Report* will be mailed at the end of the month.

### **4: SUBMISSIONS**

#### **A. STANDARD ARTICLES**

Each issue of the *Island Report* will offer the following standard articles, subject to editing for space and syntax by the CA and/or Executive Director:

##### ⌘ Association News

- Letter from the President
- Committee Highlights
- Covenant Matters
- Member FAQ
- Architectural Review Committee (ARC) Topics
- Other news/events related to the BHA from the Executive Director, CA, BHA staff, committee chairs or Board members

##### ⌘ Village News – Collected by the CA from the Village Public Information Officer (PIO) and/or department heads.

Non-Profit Organization Contributions – Because they contribute significantly to the quality of life on Bald Head Island, on-island non-profit organizations are permitted to provide news of their current activities and fundraisers (in the context of the article) each month, subject to the Content Approval guideline.

##### ⌘ Calendar – The *Island Report* will provide a monthly calendar of events, public meetings and their times.

#### **B. OTHER SUBMISSIONS**

- ##### ⌘ Profiles for candidates running for public office will be included by BHA when appropriate.

- ✎ Letters to the Editor and articles written by property owners about BHI issues and experiences are encouraged, subject to the Content Approval guideline noted at the first of this document, as well as the following space guidelines:

The maximum length of a letter for publication in the *Island Report* will be 250 words. This limit will be strictly enforced. If the article or letter exceeds that length, the contributor may be granted more space by the CA or Executive Director, if appropriate.

Any individual will be limited to one letter every six months. The BHA reserves the right to edit letters in the interests of accuracy and civility or to publish a letter as written, followed by a correction by the editor.

In the interest of covering diverse topics and opinions, the BHA reserves the right to select among submissions for publication.

- ✎ Fundraising Inserts:

The CA will consider allowing fundraising inserts by qualified non-profit BHI organizations on a limited once-a-year basis. Qualified organizations are defined as organizations operating on Bald Head Island for the benefit of the Bald Head Island environment and/or community. Exceptions to this definition will be subject to approval by the Association's ED.

Only one fundraiser insert per issue will be permitted, on a first-come, first-served basis. The insert will be provided via a correctly sized PDF. The organization will agree to pay the additional printing cost of the mailer and postage, if the standard bulk weight rate is exceeded by inclusion of the mailer.

- ✎ All content must be copyright-free.

## II. Advertising

The ED reserves the right to refuse any or all ad content. The *IR* will offer advertising at a discounted rate to BHI property owners in good standing. The CA and/or Executive Director may also choose to offer advertising at a higher rate to non-members. The guidelines for advertising follow.

Members have space priority — if the total number of advertisers exceeds the number of spaces available on any month, members will be given space before non-members. If a non-member has already paid for ad space, this will be refunded or credited to a future ad, whichever the non-member prefers.

### 1. BHA Advertising Vehicles

BHA advertising vehicles include the monthly *Island Report* newsletter and the BHI Community Directory. The purpose of the *Island Report* is to provide members with information on timely issues relating to BHA, other BHI entities and life on BHI. The

purpose of the BHI Community Directory is to provide BHI property owner and service provider information for those who live, work and play on BHI.

The *Island Report* print edition is mailed to members who choose that option, and it is posted on the website homepage monthly, both in Flipbook and PDF formats.

The BHI Community Directory is printed and distributed Island-wide. It is mailed to members who request it for a nominal fee that covers requisite state taxes, postage, an envelope and handling charges. It will also be posted and available online to BHA members via TOPS owner access, in PDF format with a searchable feature.

Advertising in the *Island Report* is not an endorsement of nor a referral for advertisements by BHA. Ad agreements clearly state, “Advertising in BHA publications is not an endorsement of nor a referral for advertisers by BHA.”

BHA’s position on advertisers and service providers is clear. Language on the website service provider page should clearly state, “Please note this list is not an endorsement of nor a referral for service providers by BHA. This is a list of service providers who have worked on BHI in the past or requested to be added to the list. Property owners should exercise their own due diligence in the selection of service providers and should not rely upon the inclusion of a provider on this listing below or advertising from service providers in the *Island Report*. It is recommended to research all companies and company representatives through online resources — be thorough. Beware of companies and/or company representatives who are here today and gone tomorrow, particularly after a significant weather event such as a hurricane. Beware of companies that require full payment for a project up front. Ask your neighbors who they have used that they trust. And get everything in writing.”

## **2. Advertising Content**

All ads are subject to the Content Approval guideline. The BHA Board of Directors reserves the right to refuse any or all ad content that it feels is inappropriate and delegates this responsibility to the Executive Director who serves as the Editor. The deadline for ad reservations and ad artwork is the 1<sup>st</sup> weekday of the month for the following month’s issue (barring unforeseen circumstances).

Any changes to *Island Report* advertising agreements must be made in writing prior to issue deadline (1<sup>st</sup> of the month for the following month’s issue).

All submitted ad artwork must be copyright-free and must be the property of the advertiser. All photos must have permission for use from the source and have appropriate, written permission from applicable parties.

All advertisement page positioning will be rotated periodically for equitable treatment in print publications unless a locked-in or prime ad space is negotiated up front. Prime ad spaces and locked-in ad spaces carry additional fees, noted in the media kit.

Political advertisements can be accepted, in accordance with advertising guidelines. Any political advertisements must clearly indicate that it is a “Paid Political Advertisement” and identify the ad sponsor who paid for the advertisement.

### **3. Sponsored Content / Editorial Contributions**

Because Bald Head Association is a neutral party working on behalf of its members, boilerplate editorial submissions from advertisers is not permitted. However, article research may periodically require additional information. If BHA’s CA uses one or more commercial entities familiar with BHI’s unique challenges, the company representative will be appropriately cited as pertinent and will obtain the appropriate permissions. Advertisers are notified that advertising in a BHA publication of any type is not an endorsement of nor a referral for their services by BHA.

Monthly article contributions from BHI entities are encouraged. Monthly deadline emails are sent approximately one week prior to issue deadlines by BHA’s Communications Associate.

Letters to the Editor are permitted and are subject to the content guidelines approved by BHA’s Board of Directors. They are also subject to space availability and issue timeliness.

BHA committee chairs are encouraged to submit event information, periodic updates and event photos to BHA’s CA.

### **4. Advertising Rates**

Advertising rates for the *Island Report* and the BHI Community Directory are detailed in the respective current media kits. BHI property owners receive a discounted ad rate, detailed in the pertinent media kit.

For any future rate increases, an email notification will be sent to advertisers with a minimum of a 30-day notification.

Real estate companies with an office on Bald Head Island will receive the property owner discount rate. Independent real estate brokers working for an on-island real estate company will receive the non-property-owner rate.

Advertisements will not be accepted from real estate companies and/or independent real estate brokers of companies that do not have an office on Bald Head Island.

### **5. Advertising Specifications and Deadlines**

See Addendum 1 *Island Report* media kit and Addendum 2 BHI Community Directory media kit for advertising specifications.

Deadlines for the *Island Report* are the 1<sup>st</sup> of the month for the following month’s issue. Deadlines for the BHI Community Directory will be published as needed.

### **6. Financial**

*Island Report* advertising invoices will be emailed at the beginning of each quarter, one month prior to publication deadline, and full payment must be received by publication deadline. For example, payment for the January *Island Report* must be received by December 1. If payment is not received, BHA reserves the right to not run that client's advertisement until prior payment is received.

Any advertiser whose account was previously more than 90 days past due or never paid may be subject to full debt payment plus interest and may not utilize BHA property for their services.

### **III. Social Media**

BHA utilizes various social media platforms as needed for timely content, with the understanding of its public access. Current social media outlets include Facebook, YouTube and Instagram, with additional apps evaluated as necessary.

#### **1. BHA — Official Spokespersons**

The President/designated official, the Executive Director (ED) and Communications Associate (CA) are the authorized spokespersons for BHA. This includes posting on social media, interviews and statements to the media. Coordination among them is required to ensure that statements are timely and that consistent messages are appropriate and further BHA's mission.

#### **2. BHA Social Media Content**

The ED and/or CA should utilize appropriate social media vehicles to serve BHA's membership and further BHA's mission. All uses of social media will comply with restrictions on the disclosure of proprietary and confidential information.

Posting defamatory, derogatory, harassing or inflammatory content is not permitted. Posts may not reflect bias or favoritism for or against any individual or group of individuals on the basis of legally protected classifications, including race, gender, national origin, religion, sex, and national origin. No posts will include copyrighted materials unless prior written permission is received.

All posts should reflect the professionalism of BHA.

#### **3. Non-BHA Social Media Vehicles**

BHI property owners often utilize separate social media groups on Facebook that are created and managed by individual administrators, with no connection to BHA. While individual Board members may post their personal opinions, questions or comments on these groups, BHA does not officially respond to posts of any nature. Any posts regarding actionable items for BHA staff should be forwarded to the BHA ED to be handled by staff through other vehicles or means.

#### **4. BHA Board Members**

BHA Board members are also property owners on BHI. A social media post by a BHA Board member may be viewed by others not only as a post from a neighbor but also as a statement from BHA.

While BHA recognizes that BHA Board members may utilize their right of freedom of expression, BHA Board members are asked not to let this right interfere with the goals and work of BHA. While BHA Board members are not prohibited from posting on social media, they should follow the paragraph below and use good judgment.

Unless designated as a spokesperson for BHA, BHA Board members may not represent themselves as a spokesperson for the organization. BHA Board members should refrain from using social media platforms to communicate with BHA staff. BHA Board members should consider that any posts, including commenting, “liking” or forwarding, could be perceived as an endorsement of or reflect negatively upon BHA, the BHA Board as a collective group or BHA staff and that doing so has the potential to conflict with BHA relations with other organizations and with property owner members.

#### **5. Personal Social Media Vehicles**

BHA Board members and staff should consider that though personal messaging posts, comments, forwards or “likes” may be from them personally and not professionally, those actions can reflect on BHA. BHA reserves the right to identify social media comments posted, shared or “liked” by BHA Board members, BHA staff or others that do not accurately reflect BHA’s position on items of interest and is not responsible for their content.

Some basic guidelines for posting on personal sites and pages include:

- a. Use common sense and good judgment.
- b. Remember that all communications remain forever in cyberspace.

Personal social media posts by BHA staff and BHA Board members should comply with all laws. No BHA Board member or staff shall post on personal social media sites any information or photographs that imply or evidence that the Board member or staff has engaged in illegal conduct. Notwithstanding the foregoing, this policy shall not prohibit employees from acting in a manner consistent with the National Labor Relations Board’s guidance on the use of social media as a means of engaging in protected concerted activity to improve pay, benefits and working conditions.

### **IV. Website and Online Forum/News/Alerts/Social Channel Posting**

The BHA website is published by the Association for the purpose of providing members with information on current issues relating to the Association and life on the Island. This policy covers current and future BHA website and online Forum/News/Alerts/Social Channel postings (collectively named “online posts”). Forum, Group and Committee formats may include postings

from members. The Forum will be utilized to help ensure credible responses from BHA in answer to questions/comments from members. All postings are subject to the Content guideline.

## **1. Content**

All content is subject to the approval of the Association President and/or Board, who delegates this responsibility to the ED to manage the website and/or online posts in the best interests of the Association. The BHA website and/or online posts are intended to inform on “such matters as the Board determines affects the welfare of its members.”

All online posts will comply with restrictions on the disclosure of proprietary and confidential information.

Posting defamatory, derogatory, harassing or inflammatory content is not permitted. Posts may not reflect bias or favoritism for or against any individual or group of individuals on the basis of legally protected classifications, including race, gender, national origin, religion, sex, and national origin. No posts will include copyrighted materials unless prior written permission is received.

BHA reserves the right to edit online posts in whole or in part in the interests of accuracy and civility or to publish a post as written, followed by a correction by the moderator. Online posts will be moderated by the Communications Associate and/or Executive Director to disallow personal, derogatory language, including but not limited to defamation of character verbiage and private information.

All online posts should reflect the professionalism of BHA.

## **2. BHA Website and Online Posts**

BHA’s CA posts information, resources, news, updates and more on its website and will do as such for future online posts for its members’ benefit. Posted items include but are not limited to publicly released documents and published news articles. Any publicly filed document that is of interest to BHA members shall be posted by the CA in a timely manner and, if deemed an important topic to members, may be communicated to members via various communication channels including but not limited to online posts, push notifications and email bulletins.

Documents which are in the public realm via FOIA (Freedom of Information Act) requests but not yet publicly published by the affected organization/agency shall be posted only after notification to said organization/agency, if deemed appropriate. If the topic of a document is of importance to BHA members and for any reason is determined that posting should be immediate, the aforementioned process may be altered to do so. The President/Board and ED reserve the right to deviate from this policy if it is determined to be in the best interest of the BHA membership.

## **3. BHA Official Spokespersons**

The President/designated official, the ED and CA are the authorized spokespersons for BHA. This includes posting on BHA’s online posts. Coordination among them is required to ensure



that statements are timely and that consistent messages are appropriate and further BHA's mission.

#### **4. BHA Board Members and Staff**

While individual Board members may post their personal opinions, questions or comments on online forums, any posts regarding actionable items for BHA staff should be forwarded to the BHA Executive Director to be handled by staff through other vehicles or means.

BHA Board members are also property owners on BHI. A forum post by a BHA Board member may be viewed by others not only as a post from a neighbor but also as a statement from BHA.

While BHA recognizes that BHA Board members may utilize their right of freedom of expression, BHA Board members are asked not to let this right interfere with the goals and work of BHA. While BHA Board members are not prohibited from posting on BHA's online forum, they should follow the paragraph below and use good judgment.

Unless designated as a spokesperson for BHA, BHA Board members may not represent themselves as a spokesperson for the organization. BHA Board members should refrain from using BHA's Forum platform to communicate with BHA staff. BHA Board members should consider that any posts could be perceived as an endorsement of or reflect negatively upon BHA, the BHA Board as a collective group or BHA staff and that doing so has the potential to conflict with BHA relations with other organizations and with property owner members.

BHA Board members and staff should consider that though online posts may be from them personally and not professionally, those actions can reflect on BHA. BHA reserves the right to identify online forum posts by BHA Board members, BHA staff or others that do not accurately reflect BHA's position on items of interest and is not responsible for their content.

Some basic guidelines for posting on personal sites and pages include:

- a. Use common sense and good judgment.
- b. Remember that all communications remain forever in cyberspace.

Online posts by BHA staff and BHA Board members should comply with all laws. No BHA Board member or staff shall post on any online sites any information or photographs that imply or evidence that the Board member or staff has engaged in illegal conduct. Notwithstanding the foregoing, this policy shall not prohibit employees from acting in a manner consistent with the National Labor Relations Board's guidance on the use of social media as a means of engaging in protected concerted activity to improve pay, benefits and working conditions.

#### **V. *BHA's Compass* Email Bulletin**

*BHA's Compass* email bulletin is a subscription-based email vehicle that requires subscribers to opt-in and includes an opt-out option on every bulletin, to remain in compliance with anti-spam laws. It is used for timely news/updates/information and provides access to the *Island Report*, BHA news, BHI news, events, Board meetings, ARC details and more.



BHA's CA is responsible for creating bulletins and managing distribution lists as needed, and as directed by BHA's Board and the ED.



*The largest property owners' association  
on Bald Head Island, NC*

# Island Report

## 2023 Media Kit

### Advertising Agreement

**Advertiser:** \_\_\_\_\_

**Advertiser Primary Contact Information (Name, address, phone & email):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Billing Contact Information (Name, address, phone & email):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Artwork Contact Information (Name, address, phone & email):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Ad Size:** \_\_\_\_\_

**Term of Agreement:** \_\_\_\_\_

**Special Instructions:** \_\_\_\_\_

\_\_\_\_\_  
*Authorized Advertiser Signature / Date*

- Any changes to this advertising agreement must be in writing prior to issue deadline (1<sup>st</sup> of the month for the following month's issue).
- Advertising is billed prior to each quarter and must be paid by the first month of the quarter (billed February 1, May 1, August 1 and November 1; payment due March 1, June 1, September 1 and December 1).
- All submitted ad artwork must be copyright-free and must be the property of the advertiser.
- All photos used must have appropriate, written permission from applicable parties.
- Advertising in BHA publications is not an endorsement of nor a referral for advertisers by BHA.
- The BHA Board of Directors reserves the right to refuse any or all ad content.



*The largest property owners' association  
on Bald Head Island, NC*

# Island Report

## 2023 Media Kit

**Your ad is viewed by over 2,000 BHI property owners, BHI business owners and visitors**

- Print copy mailed to approximately 2,000 BHI property owners
- Online flippable version (over 14,500 reads June 2021-June 2022)

**Full-color, 20-page (or 16-page), monthly publication**

### Ad Rates

- **Full Page Ad** \$1,200 / month
- **1/2 Page Ad** \$600 / month
- **1/4 Page Ad** \$360 / month
- **Business Card Ad** \$180 / month

### Additional Charges

- **Back Cover** \$60 / month
- **Specified page (including right read)** \$30 / month

### Ad Sizes

- **Full Page Ad** 7.5" wide x 9.4315" tall  
**Full Page Ad with Bleed** Trim size: 8.5" wide x 11" tall with 1/8" bleed (include crop marks)
- **1/2 Page Ad** 7.5" wide x 4.6215" tall
- **1/4 Page Ad** 3.655" wide x 4.6215" tall
- **Business Card Ad** 3.655" wide x 2.2165" tall

### Ad Specs

- Full color (CMYK)
- Resolution 300 dpi
- Preferred file is PDF
- Graphic design service available on limited basis — submit logo, photos, graphics and ad copy points (PDF, EPS, JPG, PSD, PNG files acceptable)

*The BHA Board of Directors reserves the right to refuse any or all of the content of an ad that it feels is inappropriate.*

910-457-4676 Ext. 28 / 910-457-4677 Fax

PO Box 3030 / 111 Lighthouse Wynd / Bald Head Island, NC 28461  
[www.BaldHeadAssociation.com](http://www.BaldHeadAssociation.com) / [Pam@BaldHeadAssociation.com](mailto:Pam@BaldHeadAssociation.com)



*The largest property owners' association  
on Bald Head Island, NC*

# Island Report

## 2023 Media Kit

**Your ad is viewed by over 2,000 BHI property owners, BHI business owners and visitors**

- Print copy mailed to approximately 2,000 BHI property owners
- Online flippable version (over 14,500 reads June 2021-June 2022)

**Full-color, 20-page (or 16-page), monthly publication**

### Ad Rates — Property Owners

- **Full Page Ad** \$720 / month
- **1/2 Page Ad** \$360 / month
- **1/4 Page Ad** \$180 / month
- **Business Card Ad** \$90 / month

### Additional Charges

- **Back Cover** \$60 / month
- **Specified page (including right read)** \$30 / month

### Ad Sizes

- **Full Page Ad** 7.5" wide x 9.4315" tall  
**Full Page Ad with Bleed** Trim size: 8.5" wide x 11" tall with 1/8" bleed (include crop marks)
- **1/2 Page Ad** 7.5" wide x 4.6215" tall
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### Ad Specs

- Full color (CMYK)
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- Graphic design service available on limited basis — submit logo, photos, graphics and ad copy points (PDF, EPS, JPG, PSD, PNG files acceptable)

*The BHA Board of Directors reserves the right to refuse any or all of the content of an ad that it feels is inappropriate.*

910-457-4676 Ext. 28 / 910-457-4677 Fax

PO Box 3030 / 111 Lighthouse Wynd / Bald Head Island, NC 28461  
[www.BaldHeadAssociation.com](http://www.BaldHeadAssociation.com) / [Pam@BaldHeadAssociation.com](mailto:Pam@BaldHeadAssociation.com)



**Full Page Ad**  
**7.5" wide x 9.4315" tall**

**Full Page Ad with Bleed**  
**Trim size: 8.5" wide x 11" tall**  
**with 1/8" bleed**  
**(include crop marks)**



**Business Card Ad**  
**3.655" wide x 2.2165" tall**

**Business Card Ad**  
**3.655" wide x 2.2165" tall**

**1/4 Page Ad**  
**3.655" wide x 4.6215" tall**

**1/2 Page Ad**  
**7.5" wide x 4.6215" tall**



*The largest property owners' association  
on Bald Head Island, NC*

# BHI Community Directory

## 2020 Media Kit

### Advertising Agreement

**Advertiser:** \_\_\_\_\_

**Advertiser Primary Contact Information (Name, address, phone & email):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Billing Contact Information (Name, address, phone & email):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Artwork Contact Information (Name, address, phone & email):**

\_\_\_\_\_  
\_\_\_\_\_

**Ad Size:** \_\_\_\_\_

**Specified Placement:** \_\_\_\_\_

**Special Instructions:** \_\_\_\_\_

\_\_\_\_\_  
*Authorized Advertiser Signature / Date*

- Any changes to this advertising agreement must be in writing prior to issue deadline (April 1, 2020).
- All submitted ad artwork must be copyright-free and must be the property of the advertiser.
- All photos used must have appropriate, written permission from applicable parties.
- The BHA Board of Directors reserves the right to refuse any or all of the content of an ad that it feels is inappropriate.



*The largest property owners' association  
on Bald Head Island, NC*

# BHI Community Directory

## 2020 Media Kit

**Premiere community directory for BHI property owners,  
guests, renters, BHI non-profits and BHI businesses.**

500 print copies (1<sup>st</sup> printing)

Online, flippable version — with basic search function

<b>Ad Rates:</b>	<b>Property Owner</b>	<b>Non-BHI Property Owner</b>	<b>BHI Nonprofit</b>
• <b>Full Page Ad</b>	\$600.00	\$1,000.00	\$510.00
• <b>1/2 Page Ad</b>	\$300.00	\$500.00	\$255.00
• <b>1/4 Page Ad</b>	\$150.00	\$300.00	\$127.50
• <b>Back Cover Ad (CMYK)</b>	\$800.00	\$1,200.00	\$680.00
• <b>Inside Back Cover Ad (CMYK)</b>	\$700.00	\$1,100.00	\$595.00
• <b>Business Directory Listing</b>	FREE	FREE	FREE
• <b>Business Directory Logo (B/W)</b>	\$25.00	\$50.00	\$21.25

### Ad Sizes

- **Full Page Ad** 5" wide x 8.25" tall
- **1/2 Page Ad** 5" wide x 4" tall
- **1/4 Page Ad** 2.375" wide x 4" tall

### Ad Specs

- Black & white
- Resolution 300 dpi
- Preferred file is PDF
- Minor graphic design service available — submit logo, photos, graphics and ad copy points (PDF, EPS, JPG, PSD, PNG files acceptable). For specialized ad creation design, call for rates.

*The BHA Board of Directors reserves the right to refuse any or all of the content of an ad that it feels is inappropriate.*

910-457-4676 Ext. 28 / 910-457-4677 Fax

PO Box 3030 / 111 Lighthouse Wynd / Bald Head Island, NC 28461  
www.BaldHeadAssociation.com / Pam@BaldHeadAssociation.com





*The largest property owners' association  
on Bald Head Island, NC*

# BHI Community Directory

## 2020 Media Kit

### Directory Rates:

• BHA Property Owner Members — 1 <sup>st</sup> copy	FREE
• BHA Property Owner Members — 2 <sup>nd</sup> + copies (each)	\$5.00
<hr/>	
• BHI Community Directory Advertisers — 1 <sup>st</sup> copy	FREE
<hr/>	
• BHI Property Owners / Non-BHA Members	\$8.00
<hr/>	
• Non-BHI Property Owners	\$10.00
<hr/>	
• BHI Nonprofit Organization	\$5.00
<hr/>	
• BHI Business	\$10.00

910-457-4676 Ext. 28 / 910-457-4677 Fax

PO Box 3030 / 111 Lighthouse Wynd / Bald Head Island, NC 28461  
[www.BaldHeadAssociation.com](http://www.BaldHeadAssociation.com) / [Pam@BaldHeadAssociation.com](mailto:Pam@BaldHeadAssociation.com)



**Full Page Ad**  
**5" wide x 8.25" tall**



**1/4 Page Ad**  
**2.375" wide x 4" tall**

**1/2 Page Ad**  
**5" wide x 4" tall**

## Membership List Policy

**If any member desires to have their contact information withheld regardless of who requests it, please contact the Association Manager. This request will be honored except where the law requires release of the information (see #5).**

### Current Policy

No contact information on a member will be released without that member's permission. The exceptions to this will be:

- 1) Individual address updates or requests for contact information provided to the Conservancy/SILT, Old Baldy Foundation, BHI Utilities, the Village of Bald Head Island, or Village Chapel.
- 2) A neighbor who needs to communicate with a BHA member regarding changes to their property or on their street that may impact that member's property.
- 3) A neighborhood association which needs to communicate with BHA members who have properties in their membership.
- 4) A service provider who is conducting work on the member's property.
- 5) To fulfill requirements related to General Statute 55A, the NC Non-Profit Corporation Act, or other applicable laws.

Under no circumstances will the entire mailing list be given to any organization for sale or fundraising purposes.

## Island Bald Head

---

**From:** Jamillah Bailey [jbailey@bhisland.com]  
**Sent:** Tuesday, February 13, 2007 2:01 PM  
**To:** bhinews@bellsouth.net  
**Subject:** Fwd: REQUESTED LIST

Hi Joey, is there an updated POA list for 2007? If so, can you please email it to me? I will only use it for reference information and will NOT forward it to anyone else.

Thanks!  
Jam

>>> "Island Bald Head" <bhinews@bellsouth.net> 03/02/06 9:51 AM >>>  
Jamillah, here is the list you requested. Let me know if you need anything further.

The usual caveat I include when I send it to Dot : This can only be used for verification purposes in the course of doing Stage II/Harbour ARB work; it cannot be forwarded to anyone else other than Dot without my permission or used for any purposes other than what's noted above.

Thanks so much, and let me know if you have any questions!

Joey W. Hill  
Association Manager

**Bald Head Association**  
**SAFE HARBOR NOTICE**

This is an annual notice and only applies to the Plan Year beginning on 01/01/2023.

This notice covers the following points:

- How much you can contribute to the Plan;
- What other amounts the Employer will contribute to the Plan for you; and
- When your Plan account will be vested (that is, not lost when you leave your job), and when you can receive a distribution of your Plan account.

You can find out more information about the Plan in the Plan's Summary Plan Description (SPD). You can obtain a copy of the SPD from the Administrator.

**I. Employee deferral contributions**

You are allowed to defer a portion of your compensation to the Plan. These amounts are referred to as deferrals and are held in an account for you. When you are permitted to take a distribution from the Plan, you will be entitled to all of your deferrals, as adjusted for any gains or losses. The type of compensation that may be deferred under the Plan is explained in the Section of the Summary Plan Description entitled "What compensation is used to determine my Plan benefits?" (this is in the Article entitled "COMPENSATION AND ACCOUNT BALANCE").

You may elect to defer not more than 90% of your compensation each year instead of receiving that amount in cash. Such election will also apply to irregular pay unless a separate elective deferral election is made for irregular pay.

Your total deferrals in any taxable year may not exceed a dollar limit which is set by law. The dollar limit may increase each year for cost-of-living adjustments.

If you are at least age 50 or will attain age 50 during a calendar year, then you may elect to defer additional amounts (called "catch-up contributions") to the Plan. These are additional amounts that you may defer, up to an annual limit imposed by law, regardless of any other limits imposed by the Plan.

You may make either Regular 401(k) deferrals (pre-tax) or Roth 401(k) deferrals (after-tax). If you make Regular 401(k) deferrals, your deferrals are not subject to income tax until distributed from the Plan. If you make Roth 401(k) deferrals, your deferrals are subject to income tax at the time of deferral. The Roth 401(k) deferrals, however, are not taxed when you receive a distribution from the Plan. In addition, if the distribution of Roth 401(k) deferrals is considered "qualified," then the earnings on the deferrals will not be subject to income tax when distributed from the Plan. Distributions from your Roth accounts will be considered "qualified" only if the distribution is on account of attainment of age 59 1/2, death or disability, and the distribution must not occur prior to the end of the 5-year participation period that begins with the first taxable year for which you made a Roth 401(k) deferral to the Plan, or if earlier, the first taxable year for which you made a Roth 401(k) deferral to another Roth 401(k) plan or Roth 403(b) plan that you rolled over to this Plan. Both types of deferrals are subject to Social Security taxes at the time of deferral. Your Employer will deduct the Social Security taxes, and in the case of Roth 401(k) deferrals will deduct income taxes, from your remaining compensation. Other tax treatments such as State and local income tax could be different. Whatever information is in this Notice is just information; it is not advice. If you need or want advice or help in understanding how a tax rule applies in your situation, you should ask a lawyer or tax professional.

**II. Employer safe harbor contribution election**

To help you make an informed decision on the level of your own salary deferral contributions, if any, your Employer must inform you about the contributions it will make to the Plan. Your Employer has elected to make the contribution described below.

**Safe harbor matching contribution.** In order to maintain "safe harbor" status, your Employer will make a safe harbor matching contribution equal to 100% of your salary deferrals that do not exceed 5% of your compensation. This safe harbor matching contribution is 100% vested.

For purposes of calculating the safe harbor matching contribution, your compensation and deferrals will be determined on a payroll period basis.

**III. Other Employer contributions**

In addition to the above, other contributions may be made to the Plan. You should review the Article of the SPD entitled "EMPLOYER CONTRIBUTIONS" for details regarding these other contributions.

**IV. Suspension or reduction of safe harbor matching contribution.**

The Employer retains the right to reduce or suspend the safe harbor matching contribution under the Plan. If the Employer chooses to do so, you will receive a supplemental notice explaining the reduction or suspension of the safe harbor matching contribution at least 30 days before the change is effective. The Employer will contribute any safe harbor matching contribution you have earned up to that point. At this time, the Employer has no such intention to suspend or reduce the safe harbor matching contribution.

## **V. Vesting**

The following is a general explanation of the vesting provisions of the Plan. More details can be found in the Article of the SPD entitled "VESTING."

**100% vested contributions.** You are always 100% vested (which means that you are entitled to all of the amounts) in your accounts attributable to the following contributions:

- salary deferrals including Roth 401(k) deferrals and catch-up contributions
- safe harbor contributions
- Employer profit sharing contributions
- "rollover" contributions

## **VI. Distribution provisions**

The Plan and law impose restrictions on when you may receive a distribution from the Plan. Below is general information on when distributions may be made under the Plan. See the SPD for more details, including details on how benefits are paid. Also, at the time you are entitled to receive a distribution, the Administrator will provide you with a notice explaining the rules regarding the taxation of the distribution.

If your vested account balance exceeds \$5,000, you may elect to have your vested account balance distributed to you as soon as administratively feasible following your termination of employment. However, if the value of your vested account balance does not exceed \$5,000, then a distribution will be made to you regardless of whether you consent to receive it.

If you elect to delay the distribution of your benefit once it is first available for distribution, then you may elect to receive it at a later date. You are not penalized for delaying the distribution and your account will continue to share in earnings and losses.

You may also withdraw money from the Plan from certain accounts if you have reached age 59.5, or However, there are various rules and requirements that you must meet before any withdrawal is permitted. See the Article in the SPD entitled "DISTRIBUTIONS PRIOR TO TERMINATION" for more details.

You may withdraw money at any time from your 'rollover account'.

If you were/are: (i) a reservist or National Guardsman; (ii) called to active duty after September 11, 2001; and (iii) called to duty for at least 180 days or for an indefinite period, you may take a distribution of your elective deferrals under the Plan while you are on active duty, regardless of your age. The 10% premature distribution penalty tax, normally applicable to Plan distributions made before you reach age 59 1/2, will not apply to the distribution. You also may repay the distribution to an IRA, without limiting amounts you otherwise could contribute to the IRA, provided you make the repayment within 2 years following your completion of active duty.

**Distributions for deemed severance of employment.** If you are on active duty for more than 30 days, then the Plan generally treats you as having severed employment for distribution purposes. This means that you may request a distribution from the Plan. If you request a distribution on account of this deemed severance of employment, then you are not permitted to make any contributions to the Plan for six (6) months after the date of the distribution.

## **VII. Administrative procedures**

You can make or change your deferral election and investment allocations, or opt out of contributing deferrals at any time by completing and filing an election form provided by your Employer, accessing the Plan's participant Website, [WWW.MYKPLAN.COM](http://WWW.MYKPLAN.COM) or calling the automated voice response system at 877-299-4091. If you are a newly eligible employee, this information will be explained in detail in the welcome letter described above. You will be able to make a deferral election and select your investment allocations. Your election will become effective as soon as administratively feasible after receipt and processing of your election.

## **VIII. Investments**

**Right to direct investment/default investment.** You have the right to direct the investment of all of your accounts in any of the investment choices explained in the investment information materials provided to you.

#### **IX. Employer's right to terminate Plan**

Pursuant to the terms of the Plan, your Employer has the right, at any time, to terminate the Plan. Termination of the Plan will result in the discontinuance of all contributions to the Plan (including the safe harbor 401(k) contribution) with respect to any compensation you receive after the effective date of the termination. Termination of the Plan will not affect your right to receive any contributions you have accrued as of the effective date of the termination.

#### **X. Additional information**

**This notice is not a substitute for the Summary Plan Description.** The provisions of the Plan are very complex and you should always look at the Summary Plan Description if you have any questions about the Plan. If, after reading the Summary Plan Description, you still have questions, contact the Administrator.

You may contact the Administrator at:

Contact: Bald Head Association

Address: PO Box 3030

Bald Head Island, NC 28461

Telephone: (910) 457-4676





## **Personnel Handbook**

### **Approved by the BHA Board of Directors**

### **3/10/23**

#### **Handbook Disclaimer**

*The contents of this handbook serve only as guidelines and supersede any prior handbook. Neither this handbook, nor any other policy or practice, creates an employment contract, or an implied or express promise of continued employment with the Organization. Employment with Bald Head Association is "AT-WILL." This means employees or Bald Head Association may terminate the employment relationship at any time, for any reason, with or without cause or advance notice. As an at-will employee, it is not guaranteed, in any manner, that you will be employed with Bald Head Association for any set period of time.*

*This handbook may provide a summary of employee health benefits, however actual coverage will be determined by the express terms of the benefit plan documents. If there are any conflicts between the handbook or summaries provided and the plan documents, the plan documents will control. BHA reserves the right to amend, interpret, modify or terminate any of its employee benefits programs without prior notice to the extent allowed by law.*

*BHA also has the right, with or without notice, in an individual case or generally, to change any of the policies in this handbook, or any of its guidelines, policies, practices, working conditions or benefits at any time. No one is authorized to provide any employee with an employment contract or special arrangement concerning terms or conditions of employment unless the contract or arrangement is in writing and signed by the executive director and the employee.*

## **Welcome Message**

Dear Valued Employee,

Welcome to Bald Head Association! We are pleased with your decision to join our team.

Bald Head Association is committed to providing superior quality and unparalleled customer service to our property owner members, in particular, and to the public in general. We believe each employee contributes to the success and growth of our organization.

This employee handbook contains general information on our policies, practices and benefits. Please read it carefully. If you have questions regarding the handbook, please discuss them with your supervisor or the deputy director, Mary Anne Arata.

Welcome aboard. We look forward to working with you!

Sincerely,

Carrie Moffett  
Executive Director

## **Changes in Policy**

Change at Bald Head Association is inevitable. Therefore, we expressly reserve the right to interpret, modify, suspend, cancel, or dispute, with or without notice, all or any part of our policies, procedures, and benefits at any time with or without prior notice. Changes will be effective on the dates determined by Bald Head Association, and after those dates all superseded policies will be null and void.

No individual supervisor or manager has the authority to alter the foregoing. Any employee who is unclear on any policy or procedure should consult a supervisor or the deputy director.

## **General Employment**

### **At-Will Employment**

Employment with Bald Head Association is "at-will." This means employees are free to resign at any time, with or without cause, and Bald Head Association may terminate the employment relationship at any time, with or without cause or advance notice. As an at-will employee, it is not guaranteed, in any manner, that you will be employed with Bald Head Association for any set period of time.

The policies set forth in this employee handbook are the policies that are in effect at the time of publication. They may be amended, modified or terminated at any time by Bald Head Association, except for the policy on at-will employment, which may be modified only by a signed, written agreement between the executive director and the employee at issue. Nothing in this handbook may be construed as creating a promise of future benefits or a binding contract between Bald Head Association and any of its employees.

## **Immigration Law Compliance**

Bald Head Association is committed to employing only United States citizens and aliens who are authorized to work in the United States.

In compliance with the Immigration Reform and Control Act of 1986, as amended, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 with Bald Head Association within the past three years, or if their previous I-9 is no longer retained or valid.

Bald Head Association may participate in the federal government's electronic employment verification system, known as "E-Verify." Pursuant to E-Verify, Bald Head Association provides the Social Security Administration, and if necessary, the Department of Homeland Security with information from each new employee's Form I-9 to confirm work authorization.

## **Equal Employment Opportunity**

Bald Head Association is an Equal Opportunity Employer. Employment opportunities at Bald Head Association are based upon one's qualifications and capabilities to perform the essential functions of a particular job. All employment opportunities are provided without regard to race, color, religion, sex (including sexual orientation and transgender status), pregnancy, childbirth or related medical conditions, national origin, age, veteran status, handicap, disability, AIDS or HIV, Sickle cell or hemoglobin C trait, genetic information, domestic violence victim status, lawful activity outside the workplace during non-working hours, such as the use of tobacco products or any other characteristic protected by law.

This Equal Employment Opportunity policy governs all aspects of employment, including, but not limited to, recruitment, hiring, selection, job assignment, promotions, transfers, compensation, discipline, termination, layoff, access to benefits and training, and all other conditions and privileges of employment.

BHA will provide reasonable accommodations as necessary and where required by law so long as the accommodation does not pose an undue hardship on the organization. BHA will also accommodate sincerely held religious beliefs of its employees to the extent the accommodation does not pose an undue hardship on the organization. If you would like to request an accommodation, or have any questions about your rights and responsibilities, contact the deputy director. This policy is not intended to afford employees with any greater protections than those which exist under federal, state or local law.

Bald Head Association strongly urges the reporting of all instances of discrimination and harassment, and prohibits retaliation against any individual who reports discrimination, harassment or participates in an investigation of such report. Bald Head Association will take appropriate disciplinary action, up to and including immediate termination, against any employee who violates this policy.

## **Employee Grievances**

It is the policy of Bald Head Association to maintain a harmonious workplace environment. Bald Head Association encourages its employees to express concerns about work-related issues, including workplace communication, interpersonal conflict and other working conditions.

Employees are encouraged to raise concerns with their supervisors. If not resolved at this level, an employee may submit, in writing, a signed grievance to the deputy director.

After receiving a written grievance, Bald Head Association may hold a meeting with the employee, the immediate supervisor and any other individuals who may assist in the investigation or resolution of the issue. All discussions related to the grievance will be limited to those involved with, and who can assist with, resolving the issue, as well as the executive director and the Board of Directors.

Complaints involving alleged discriminatory practices shall be processed in accordance with Bald Head Association's Sexual and other Unlawful Harassment Policy (see page 20).

Bald Head Association assures that all employees filing a grievance or complaint can do so without fear of retaliation or reprisal.

### **Internal Communication**

Effective and ongoing communication within Bald Head Association is essential. As such, BHA maintains systems through which important information can be shared among employees and management.

Bald Head Association uses the Internet and email to facilitate communication and share access to documents. For information on appropriate email and Internet usage, employees may refer to the Computer, Email, and Internet Usage policy (see page 22).

All employees are responsible for checking internal communications on a frequent and regular basis. Employees should consult their supervisor with any questions or concerns on information disseminated.

### **Outside Employment**

Generally, employees may hold outside jobs as long as the employee meets the performance standards of their position with Bald Head Association and the job doesn't create a conflict of interest, as defined in BHA's Conflict of Interest Policy.

Unless an alternative work schedule has been approved by Bald Head Association, employees will be subject to the organization's scheduling demands, regardless of any existing outside work assignments; this includes availability for overtime when necessary.

Bald Head Association's property, office space, equipment, materials, trade secrets and any other confidential information may not be used for any purposes relating to outside employment.

### **Anti-Retaliation and Whistleblower Policy**

This policy is designed to protect employees and address Bald Head Association's commitment to integrity and ethical behavior. In accordance with anti-retaliation and whistleblower protection regulations, Bald Head Association will not tolerate any retaliation against an employee who:

- Makes a good faith complaint, or threatens to make a good faith complaint, regarding the suspected organization or employee violations of the law, including discriminatory or other unfair employment practices;
- Makes a good faith complaint, or threatens to make a good faith complaint, regarding accounting, internal accounting controls or auditing matters that may lead to incorrect, or misrepresentations in, financial accounting;
- Makes a good faith report, or threatens to make a good faith report, of a violation that endangers the health or safety of an employee, patient, client or customer, environment or general public;
- Objects to, or refuses to participate in, any activity, policy or practice, which the employee reasonably believes is a violation of the law;
- Provides information to assist in an investigation regarding violations of the law; **or**
- Files, testifies, participates or assists in a proceeding, action or hearing in relation to alleged violations of the law.

Retaliation is defined as any adverse employment action against an employee, including, but not limited to, refusal to hire, failure to promote, demotion, suspension, harassment, denial of training opportunities, termination or discrimination in any manner in the terms and conditions of employment.

Anyone found to have engaged in retaliation or in violation of law, policy or practice will be subject to discipline, up to and including termination of employment. Employees who knowingly make a false report of a violation will be subject to disciplinary action, up to and including termination.

Employees who wish to report a violation should contact their supervisor or the deputy director directly. Employees should also review their state and local requirements for any additional reporting guidelines.

Bald Head Association will promptly and thoroughly investigate and, if necessary, address any reported violation.

Employees who have any questions or concerns regarding this policy and related reporting requirements should contact their supervisor, the deputy director or any state or local agency responsible for investigating alleged violations.

## **Employment Status & Recordkeeping**

### **Hiring Process/Reporting Relationship**

The executive director is responsible for the recruitment, management and termination of BHA employees. The executive director reports to BHA's Board of Directors.

### **Review Process**

Employees of the Association are reviewed annually as part of the annual budget process. The executive director will make his/her recommendation to the Board for increases, salary changes, allowances or year-end bonuses as appropriate.

### **Employment Classifications**

For purposes of salary administration and eligibility for overtime payments and employee benefits, Bald Head Association classifies employees as either exempt or non-exempt. Non-exempt employees are entitled to overtime pay in accordance with federal and state overtime provisions. Exempt employees are exempt from federal and state overtime laws and, but for a few narrow

exceptions, are generally paid a fixed amount of pay for each workweek in which work is performed.

If you change positions during your employment with Bald Head Association or if your job responsibilities change, you will be informed by the deputy director of any change in your exempt status.

In addition to your designation of either exempt or non-exempt, you also belong to one of the following employment categories:

**Full-Time:**

Full-time employees are regularly scheduled to work greater or equal to 40 hours per week. Generally, regular full-time employees are eligible for Bald Head Association's benefits, subject to the terms, condition, and limitations of each benefit program.

**Part-Time:**

Part-time employees are regularly scheduled to work less than 40 hours per week. Regular part-time employees may be eligible for some Bald Head Association benefit programs, subject to the terms, conditions and limitations of each benefit program.

**Temporary:**

Temporary employees include those hired for a limited time to assist in a specific function or in the completion of a specific project. Temporary employees generally are not entitled to Bald Head Association benefits but are eligible for statutory benefits to the extent required by law. Employment beyond any initially stated period does not in any way imply a change in employment status or classification. Temporary employees retain temporary status unless and until they are notified by Bald Head Association management of a change.

**Personnel Data Changes**

It is the responsibility of each employee to promptly notify their supervisor or the deputy director of any changes in personnel data. Such changes may affect your eligibility for benefits, the amount you pay for benefit premiums and your receipt of important company information.

If any of the following have changed or will change in the coming future, contact your supervisor or the deputy director as soon as possible:

- Legal name
- Mailing address
- Telephone number(s)
- Change of beneficiary
- Exemptions on your tax forms
- Emergency contact(s)
- Training certificates
- Professional licenses

## **Expense Reimbursement**

Bald Head Association reimburses employees for necessary expenditures and reasonable costs incurred in the course of doing their jobs. Expenses incurred by an employee must be approved in advance by the executive director.

Some expenses that may warrant reimbursement include, but are not limited, to the following: mileage costs, air or ground transportation costs, lodging, meals for the purpose of carrying out company business and any other reimbursable expenses as required by law. Employees are expected to make a reasonable effort to limit business expenses to economical options.

To be reimbursed, employees must submit expense reports to their supervisor for approval. The report must be accompanied by receipts or other documentation substantiating the expenses. Questions regarding this policy should be directed to your supervisor.

## **Termination of Employment**

Termination of employment is an inevitable part of personnel activity within any organization.

### **Notice of Voluntary Separation**

Employees who intend to terminate employment with Bald Head Association shall provide Bald Head Association with at least two weeks written notice. Such notice is intended to allow the organization time to adjust to the employee's departure without placing undue burden on those employees who may be required to fill in before a replacement can be found.

### **Return of Company Property**

Any employee who terminates employment with Bald Head Association shall return all files, records, keys, laptops, cell phones, parking cards, ferry passes/tickets and any other materials that are the property of Bald Head Association prior to their last date of employment.

### **Final Pay**

Bald Head Association will provide employees with their final pay in accordance with applicable federal, state and local laws.

### **Benefits Upon Termination**

All accrued and/or vested benefits that are due and payable at termination will be paid in accordance with applicable federal, state and local laws.

Certain benefits, such as healthcare coverage, may continue at the employee's expense, if the employee elects to do so. Bald Head Association will notify employees of the benefits that may be continued and of the terms, conditions, and limitations of such continuation.

If you have any questions or concerns regarding this policy, contact Bald Head Association's executive director.

## **Working Conditions & Hours**

### **Company Hours**

Bald Head Association is open for business from Monday - Friday 9 AM to 4 PM. This excludes holidays recognized by Bald Head Association. The standard workweek is 40 hours.

Supervisors will advise employees of their scheduled shift, including starting and ending times. Business needs may necessitate a variation in your starting and ending times and the total hours you may be scheduled to work each day and each week, as well as any changes to the schedule that may be ferry related.

### **Emergency Closing**

At times, emergencies such as severe weather, fires, or power failures can disrupt company operations. In extreme cases, these circumstances may require the closing of a work facility. The decision to close or delay regular operations will be made by Bald Head Association executive director in consultation with the Board President. When a decision is made to close, employees will receive official notification from Bald Head Association.

**Note:** In a declared state of emergency that prohibits travel, employees shouldn't report to work.

#### **Pay:**

##### Exempt Employees:

If Bald Head Association closes due to an emergency, employees who are classified as exempt from overtime will receive their full salary, provided they have worked any part of the workweek.

##### Non-Exempt Employees:

If Bald Head Association closes due to an emergency, employees who are classified as non-exempt from overtime will receive their typical full salary.

**Note:** If a non-exempt employee is already working when the decision to close is made, the employee will be paid for all hours actually worked and any additional hours that may be required under state and local laws, if applicable. If a non-exempt employee arrives at work and is asked to wait while a decision to close is made, they will receive pay for the time they spent waiting. If you have questions about emergency closing or pay, please contact the executive director.

### **Parking**

Bald Head Association provides parking for employees in the mainland parking lot at no cost. There should be ample space for all employees. Employees may only park in open spaces or those designated for use by Bald Head Association. Vehicles parked in spaces designated for private use will be towed at the owner's expense. Currently, parking is designated in the Contractor Lot. Overnight parking in the Contractor Lot is prohibited.

### **Ferry**

Bald Head Association provides ferry passes/tickets for employees to travel to the Island at no cost. If an employee is a Bald Head Island resident and elects to purchase an annual parking pass in



the General Lot A, BHA will pay the employee an amount equivalent to the annual cost of the Contractor Lot toward the purchase of the General Lot A annual pass.

## **Workplace Safety**

Bald Head Association is committed to providing a clean, safe and healthful work environment for its employees. Maintaining a safe work environment, however, requires the continuous cooperation of all employees. Bald Head Association and all employees must comply with all occupational safety and health standards and regulations established by the Occupational Safety and Health Act and state and local regulations. In addition, all employees are expected to obey safety rules and exercise caution and common sense in all work activities.

### **Complaint and Reporting Procedure:**

Employees should immediately report any unsafe conditions to their supervisor without fear of reprisal. In the case of an accident that results in injury, regardless of how seemingly insignificant the injury may appear, employees must notify their supervisor. If you believe it would be inappropriate to report the matter to your supervisor, you can report it directly to:

Mary Anne Arata  
Deputy Director  
111 Lighthouse Wynd, PO Box 3030  
Bald Head Island, NC 28461  
910-457-4676x31

Employees who violate safety standards, cause hazardous or dangerous situations or fail to report or, where appropriate, remedy such situations may be subject to disciplinary action, up to and including termination of employment.

### **Retaliation Prohibited:**

Bald Head Association expressly prohibits retaliation against anyone who reports unsafe working conditions or work-related accidents, injuries or illnesses. Any form of retaliation will be subject to disciplinary action, up to and including termination of employment.

Questions or concerns regarding this policy should be directed to your supervisor or the deputy director.

## **Security**

The purpose of Bald Head Association's security policy is to protect BHA's assets and to maintain a safe working environment for all employees.

### **Facility Access:**

All regular Bald Head Association employees will be issued a key to gain access to Bald Head Association facilities. Employees who are issued keys are responsible for their safekeeping. All lost or stolen keys must be reported to your supervisor as soon as possible.

Upon separation from Bald Head Association, and at any other time upon Bald Head Association's request, all keys must be returned to your supervisor.

Keyless entry passcodes are utilized for certain access points in the building. The passcodes must be protected and not shared with others outside of BHA.

### **Closing Procedures:**

The last employee, or a designated employee, who leaves the office at the end of the business day assumes the responsibility to ensure that: all doors are securely locked; the alarm system is armed; thermostats are set on appropriate evening and/or weekend setting; and all appliances and lights are turned off with the exception of the timed lights that are normally left on for security purposes.

### **Meal & Break Periods**

Non-exempt employees will be provided with meal and break periods in accordance with applicable federal, state and local rules. Break periods of less than 20 minutes will be paid. Break periods lasting longer than 20 minutes will generally be unpaid.

Non-exempt employees must be fully relieved of their job responsibilities and are not permitted to work during unpaid break and meal periods of more than 20 minutes. If for any reason a non-exempt employee does not take the applicable meal and rest period that they are provided, the employee must notify his or her supervisor immediately.

Bald Head Association will schedule meal and break periods in order to accommodate organizational operating requirements.

### **Break Time for Nursing Mothers**

Bald Head Association accommodates employees who wish to express breast milk during the workday by providing reasonable break times to do so. BHA will provide a designated room, other than a bathroom, that is shielded from view, free from intrusion from coworkers and the public and is in compliance with all other applicable laws for this purpose.

Employees who use regularly scheduled rest breaks to express breast milk will be paid for the break time. If the lactation break does not run concurrently with the employee's regularly scheduled compensated break, the lactation break time will be unpaid.

For questions related to this policy, please contact the deputy director.

## **Employee Benefits**

### **Health Insurance**

Bald Head Association's health insurance benefits are intended to protect you and your family from financial loss resulting from hospital, surgical or other health-related expenses.

Eligible employees may elect to begin health insurance benefits on the first day of the first full month of employment.

This policy provides a summary of the benefits which may be provided at BHA's discretion. Actual coverage is determined by the express terms of the plan documents. We encourage both you and your family to review the plan's Summary Plan Description (SPD) materials carefully.

If there are any conflicts between the handbook or summaries provided and the plan documents, the plan documents will control. BHA reserves the right to amend, interpret, modify or terminate any of its employee benefits programs without prior notice to the extent allowed by law.

For details on the specific health insurance plans offered through Bald Head Association, as well as copies of the plan documents, contact the deputy director.

### **Life Insurance/AD&D**

An important facet of your benefits at Bald Head Association is your life insurance, which is provided at no cost to the employee. Employees may also purchase additional protection at preferred rates, above and beyond what is covered by your plan. Accidental, Dismemberment and Disability insurance is also provided at no cost to the employee.

Eligible employees may elect to begin life insurance/AD&D benefits after one month of continuous service. Upon attaining eligibility for Bald Head Association's life insurance/AD&D coverage, employees will be asked to designate a beneficiary. You may request a change in beneficiary at any time.

This policy provides a summary of the benefits which may be provided at BHA's discretion. Actual coverage is determined by the express terms of the plan documents. We encourage you to review the plan's Summary Plan Description (SPD) materials carefully.

If there are any conflicts between the handbook or summaries provided and the plan documents, the plan documents will control. The Organization reserves the right to amend, interpret, modify or terminate any of its employee benefits programs without prior notice to the extent allowed by law.

For details on the specific life insurance plans offered through Bald Head Association, as well as copies of the plan documents, contact the deputy director.

### **Retirement Plan**

Bald Head Association employees have the opportunity to participate in a company-sponsored 401 K retirement plan following 30 days of service. Full-time and part-time employees are eligible to participate in the plan. BHA provides a 5% match of employee contributions. The vesting period for employees to receive BHA's matching portion will be provided at the end of the standard four-month probationary period for new employees.

This policy provides a summary of the benefits which may be provided at the Organization's discretion. Actual coverage is determined by the express terms of the plan documents. We encourage you to review the plan's Summary Plan Description (SPD) materials carefully.

If there are any conflicts between the handbook or summaries provided and the plan documents, the plan documents will control. The Organization reserves the right to amend, interpret, modify or terminate any of its employee benefits programs without prior notice to the extent allowed by law.

For details on the specific retirement plans offered through Bald Head Association, as well as copies of the plan documents, contact the deputy director.

## Holidays

Bald Head Association observes the following paid holidays for full time salaried employees:

- New Year's Day
- MLK Day
- Good Friday
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving Day
- Christmas Eve
- Christmas Day
- Floating Holiday -take at employees request and supervisor's discretion

Due to the nature of our business, Bald Head Association may require employees to work on a holiday. Employees required to work on holidays will be paid holiday pay in accordance with applicable laws. Generally, if a holiday falls on a Saturday, it is observed on the Friday prior. If the holiday falls on a Sunday, it is observed on the Monday after.

For part-time employees, if a holiday falls on a day that the employee would not normally work, the employee is not paid for the holiday, nor do they receive compensation time during their scheduled hours of employment for that holiday.

Hourly employees do not receive holiday pay under normal circumstances.

## Paid Time Off (PTO)

Paid Time Off (PTO) is an all-purpose time off policy for eligible employees to use for vacation, illness, injury or personal business. PTO combines traditional vacation and sick leave plans into one flexible, inclusive policy. PTO is payable in the same manner as the regular salary and is subject to the same withholding elections.

Permanent full and part-time employees in positions of 9 months or longer in length and at least 60% of full-time (3 days/week) are eligible for PTO. Temporary employees and students do not receive vacation leave benefits.

The amount of PTO is based on number of years of service and is accrued annually by the below schedule:

- Full-time – 100%
- Part-time – 32 hours/week – 80% of full-time rate
- 24 hours/week – 60% of fulltime rate

<u>Years of Service</u>	<u>Days Accrued per Year (Full-time)</u>
0-1	10
1-5	15
6	17
7	19
8	20
9-10	21
11-15	23
15-20	24
20 plus	26

Employees who have up to 5 years of service to BHA may carry over a maximum of 5 days of PTO and employees over 6 years of service may carry over a maximum of 10 days of PTO to the following year.

Employees with an unexpected need (i.e., sudden illness or emergency) to request PTO should notify their direct supervisor as early as possible. Employees must also contact their direct supervisor on each additional day of absence.

Employees requesting planned PTO should complete the Employee Time Off Request form and give it to their supervisor with as notice as possible.

Work-related accidents and illness are covered by Workers' Compensation Insurance, pursuant to the requirements of North Carolina law. The PTO policy outlined above does not apply to those illnesses or injuries that are covered by an applicable Workers' Compensation policy.

### **Bereavement Leave**

Bereavement leave provides paid time off for eligible employees in the event of a death in their immediate family. Employees in the following employment classification(s) are eligible for bereavement leave: Full-time and part-time employees.

An immediate family member for purposes of Bald Head Association's bereavement leave policy includes the following:

- Spouse
- Child (including foster children and step-children)
- Parent (including legal guardian and step-parent)
- In-laws (including mother and fathers-in-law and brother and sisters-in-law)
- Grandparent
- Grandchild
- Sibling
- Same-sex partner

Eligible employees are entitled to 1 day paid time off for a death in the immediate family.

To be eligible for paid time off for bereavement, employees are expected to notify their supervisors at the earliest opportunity so that the supervisor can try to arrange coverage for the employee's absence. In addition, Bald Head Association may require verification of the need for the leave.

## **Military Leave**

Bald Head Association grants employees unpaid time off for service, training and other obligations in the uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and any other applicable state law.

All employees requesting time off for military service must provide advance notice to their immediate supervisor, unless military necessity prevents such notice, or it is otherwise impracticable. Continuation of health insurance benefits is available during military leave subject to the terms and conditions of the group health plan and applicable law.

Employees are eligible for reemployment for up to five years from the date their military leave began. The period an individual has to apply for reemployment or report back to work after military service is based on time spent on military duty and on applicable law. For reinstatement guidelines, contact the deputy director.

Employees who qualify for reemployment will return to work at a pay level and status equal to that which they would have attained had they not taken military leave. They will be treated as though they were continuously employed for purposes of determining benefits based on length of service.

Bald Head Association complies with all rights and protections under all applicable state laws granting time off for service, training and other obligations in the uniformed services. This includes, but is not limited to, benefits entitlement and continuation, notice and recertification requirements and reemployment application requirements.

Questions regarding this policy should be directed to the deputy director.

## **Jury Duty**

Bald Head Association encourages employees to fulfill their civic responsibilities when called upon to serve as a juror. Employees must provide their immediate supervisor with a copy of their jury summons as soon as possible so that the supervisor may make arrangements to accommodate their absence.

Employees on jury duty must report to work on workdays, or parts of workdays, when they are not required to serve. Either Bald Head Association or the employee may request an excuse from jury duty if it is determined that the employee's absence would create serious operational difficulties.

Jury duty will be paid if required by applicable state law. If paid, jury duty pay will be calculated on the employee's base pay rate times the number of hours the employee would otherwise have worked on the day of absence. If exempt employees miss work because of jury duty, they will receive their full salary. However, Bald Head Association may offset any jury-duty fees received by an exempt employee against the salary due for that workweek.

## **Workers' Compensation**

Employees who are injured on the job at Bald Head Association are eligible for Workers' Compensation benefits. Such benefits are provided at no cost to employees and cover any injury or illness sustained in the course of employment that requires medical treatment.

Lost time or medical expenses incurred as a result of an accident or injury which occurred while an employee was on the job will be compensated for in accordance with workers' compensation laws. This protection is paid for in full by Bald Head Association. No premium is charged for this coverage and no individual enrollment is required. Bald Head Association will provide medical care and a portion of lost wages through our insurance carrier.

All job-related accidents or illnesses must be reported to an employee's supervisor immediately upon occurrence. Supervisors will then immediately contact the deputy director to obtain the required claim forms and instructions.

### **Domestic Violence Leave (North Carolina Employees)**

An employee who is a victim of domestic violence or sexual assault may be entitled to a reasonable amount of leave to obtain or attempt to obtain relief under North Carolina's domestic violence law.

Except in cases of imminent danger to the health or safety of the employee, an employee requesting domestic violence leave must inform his or her supervisor of the need for leave as soon as practical.

Employees must be prepared to provide Bald Head Association with certification to verify the employee's eligibility for the leave requested, such as a police report, a court order or evidence that they appeared in court.

Domestic violence leave is unpaid; however, employees may use accrued paid time off for this purpose.

### **Elected Official Leave (North Carolina Employees)**

Employees who serve as precinct officials will be granted leave on Election Day or Canvass Day in order to perform the duties of the position to which they have been appointed. The leave is unpaid; however, employees may opt to use accrued paid time off for this purpose.

An employee must provide at least 30 days advance written notice of his or her intention to take leave to serve as a precinct official. Requests must be submitted to the employee's supervisor.

Employees must be prepared to provide Bald Head Association with certification to verify the employee's eligibility for the leave requested.

### **School Visitation Leave (North Carolina Employees)**

Employees may be eligible to take up to 4 hours per year of leave to attend or otherwise be involved at their child's school. To be eligible for such leave, the employee must be the child's parent, guardian or person standing in the place of a parent of a school-aged child.

To the extent possible, employees must provide 2 days' advance written notice of their need for leave under this policy. When possible, employees should consult with their supervisor to schedule the leave so that it does not unduly disrupt Bald Head Association's operations.

Bald Head Association may require written verification from the child's school that the employee attended or was otherwise involved in that school during the time leave was taken.

Leave is unpaid; however, employees may use accrued paid time off for this purpose.

## **Employee Conduct**

### **Standards of Conduct**

Bald Head Association's rules and standards of conduct are essential to a productive work environment. As such, employees must familiarize themselves with, and be prepared to follow, the BHA's rules and standards.

While not intended to be an all-inclusive list, the examples below represent behavior that is considered unacceptable in the workplace. Behaviors such as these, as well as other forms of misconduct, may result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate removal/possession of property
- Falsification of timekeeping records
- Possession, distribution, sale, transfer, manufacture or use of alcohol or illegal drugs in the workplace
- Fighting or threatening violence in the workplace
- Making maliciously false statements about co-workers
- Threatening, intimidating, coercing or otherwise interfering with the job performance of fellow employees or visitors
- Negligence or improper conduct leading to damage of company-owned or customer-owned property
- Using BHA-owned equipment or property in the pursuit of a crime
- Driving BHA-owned golf carts recklessly or without regard to NC vehicular laws.
- Violation of safety or health rules
- Smoking in the workplace
- Sexual or other unlawful or unwelcome harassment
- Excessive absenteeism
- Unauthorized use of telephones, computers or other company-owned equipment on working time. Working time does *not* include break periods, meal times or other specified periods during the workday when employees are not engaged in performing their work tasks.
- Unauthorized disclosure of any "business secrets" or other confidential or non-public proprietary information relating to BHA's products, services, customers, members, other organizations with which BHA has a contractual relationship or processes. *Wages and other conditions of employment are not considered to be confidential information.*

This policy is not intended to restrict an employee's right to discuss, or act together to improve, wages, benefits and working conditions with co-workers or in any way restrict employees' rights under the National Labor Relations Act.

Other forms of misconduct not listed above may also result in disciplinary action, up to and including termination of employment. If you have questions regarding Bald Head Association's standards of conduct, please direct them to your supervisor or the deputy director.



## Disciplinary Action

Disciplinary action at Bald Head Association is intended to fairly and impartially correct behavior and performance problems early on and to prevent reoccurrence.

Disciplinary action may involve any of the following: verbal warning, written warning, suspension with or without pay and termination of employment, depending on the severity of the problem and the frequency of occurrence. Bald Head Association reserves the right to administer disciplinary action at its discretion and based upon the circumstances.

Bald Head Association recognizes that certain types of employee behavior are serious enough to justify termination of employment, without observing other disciplinary action first.

These violations include but are not limited to:

- Workplace violence
- Harassment
- Theft of any kind
- Insubordinate behavior
- Vandalism or destruction of company property
- Use of company equipment and/or company vehicles without prior authorization
- Indiscretion regarding personal work history, skills or training
- Divulging Bald Head Association business practices or any other confidential information
- Any misrepresentation of Bald Head Association to a customer, a prospective customer, the general public or an employee

## Confidentiality

Bald Head Association takes the protection of Confidential Information very seriously. "Confidential Information" includes, but is not limited to, computer processes, computer programs and codes, members'/customers' lists, preferences, personal information, correspondence or violations, company financial data, marketing strategies, research, pricing information, business and marketing plans, vendor information, software, databases and information concerning the creation, acquisition or disposition of products and services.

Confidential Information also includes BHA's intellectual property and information that is not otherwise public. Intellectual property includes, but is not limited to, trade secrets, ideas, discoveries, writings, trademarks and inventions developed through the course of your employment with Bald Head Association and as a direct result of your job responsibilities with Bald Head Association. *Wages and other conditions of employment are not considered to be Confidential Information.*

To protect such information, employees may not disclose any confidential or non-public proprietary information about BHA's to any unauthorized individual. If you receive a request for Confidential Information, you should immediately refer the request to your supervisor.

The unauthorized disclosure of Confidential Information belonging to BHA, and not otherwise available to persons or companies outside of Bald Head Association, may result in disciplinary action, up to and including termination of employment. If you leave the organization, you may not disclose or misuse any Confidential Information.

This policy is not intended to restrict an employee's right to discuss, or act together to improve, wages, benefits and working conditions with co-workers or in any way restrict employees' rights under the National Labor Relations Act.

Questions regarding this policy should be directed to the deputy director.

### **Personal Appearance**

The purpose of Bald Head Association's personal appearance policy is to ensure a safe and sanitary workplace for all employees. Bald Head Association strives to maintain a professional working environment that promotes efficiency, positive employee morale and promotes a professional image. During business hours or when representing Bald Head Association, employees are expected to use common sense and good judgment in order to meet the goals of this policy.

Generally, employees should wear appropriate clothing, observe high standards of personal hygiene, and dress and groom themselves according to the requirements of their positions. While not intended to be an all-inclusive list, the examples below are considered appropriate workplace attire:

- Slacks
- Blouses
- Button-down shirts
- Polo shirts
- Khaki pants
- Dresses
- Company approved uniforms
- Boots or other sturdy footwear

If management designates "casual days," an employee's casual dress must still be clean, neat and project a professional image.

Generally, employees should maintain a clean and neat appearance and should refrain from wearing stained, wrinkled, frayed or revealing clothing to the workplace. Employees are urged to use their discretion when determining what is appropriate to wear to work. Employees who wear inappropriate attire to work may be sent home for the day.

Bald Head Association understands that in certain situations exceptions may need to be made to this policy based on an employee's religion, disability or other characteristics protected under federal, state or local law. In accordance with all applicable laws, BHA will make every effort to provide reasonable accommodation as necessary unless doing so would cause an undue hardship on Bald Head Association.

Questions regarding appropriate workplace attire should be directed to your supervisor or the deputy director.

### **Workplace Violence**

Bald Head Association strictly prohibits workplace violence, including any act of intimidation, threat, harassment, physical violence, verbal abuse, aggression or coercion against a coworker, property owner member, vendor, customer or visitor.

Prohibited actions, include, but are not limited to the following examples:

- Physically injuring another person
- Threatening to injure another person
- Engaging in behavior that subjects another person to emotional distress
- Using obscene, abusive or threatening language or gestures
- Bringing an unauthorized firearm or other weapon onto company property
- Threatening to use or using a weapon while on company premises, on company-related business, or during job-related functions
- Intentionally damaging property

All threats or acts of violence should be reported immediately to your supervisor. Employees should warn their supervisors of any suspicious workplace activity that they observe or that appears problematic. Employee reports made pursuant to this policy will be investigated promptly, which may or may not involve the Village of Bald Head Island's Public Safety Department and will be kept confidential to the maximum extent possible. Bald Head Association will not tolerate any form of retaliation against any employee for making a report under this policy.

Bald Head Association will take prompt remedial action, up to and including immediate termination, against any employee found to have engaged in threatening behavior or acts of violence.

### **Drug & Alcohol Use**

Bald Head Association is committed to maintaining a workplace free of substance abuse. No employee or individual who performs work for Bald Head Association is allowed to consume, possess, sell, purchase or be impaired by alcohol or illegal drugs, as defined under federal and/or state law, on any property owned by or leased on behalf of Bald Head Association, or in any vehicle owned or leased on behalf of Bald Head Association or while on official BHA business.

The use of over-the-counter drugs and legally prescribed drugs is permitted, as long as they are used in the manner for which they were prescribed and provided that such use does not hinder an employee's ability to safely perform their job. Employees should inform their supervisor if they believe their medication will impair their job performance, safety or the safety of others, or if they believe they need a reasonable accommodation when using such medication.

Bald Head Association will not tolerate employees who report for duty while impaired by the use of alcohol or drugs. All employees should report evidence of alcohol or drug abuse to their supervisor or the deputy director immediately. In cases in which the use of alcohol or drugs creates an imminent threat to the safety of persons or property, employees are required to report the violation. Failure to do so may result in disciplinary action, up to and including termination of employment.

As a part of our effort to maintain a workplace free of substance abuse, Bald Head Association employees may be asked to submit to a medical examination and/or clinical testing for the presence of alcohol and/or drugs. Within the limits of federal, state, and local laws, Bald Head Association reserves the right to examine and test for drugs and alcohol at our discretion.

As a condition of your employment with Bald Head Association, employees must comply with this Drug & Alcohol Use Policy. Be advised that no part of the Drug & Alcohol Use Policy shall be construed to alter or amend the at-will employment relationship between Bald Head Association

and its employees.

Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

### **Sexual & Other Unlawful Harassment**

Bald Head Association is committed to a work environment in which all individuals are treated with respect. Bald Head Association expressly prohibits discrimination and all forms of employee harassment based on race, color, religion, sex, pregnancy, national origin, age, disability, military or veteran status, or status in any group protected by state or local law.

Sexual harassment is a form of discrimination and is prohibited by law. For purposes of this policy sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. Unwelcome sexual advances (either verbal or physical), requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; (2) submission or rejection of the conduct is used as a basis for making employment decisions; or, (3) the conduct has the purpose or effect of interfering with work performance or creating an intimidating, hostile or offensive work environment.

Sexual and unlawful harassment may include a range of behaviors and may involve individuals of the same or different gender. These behaviors include, but are not limited to:

- Unwanted sexual advances or requests for sexual favors.
- Sexual or derogatory jokes, comments or innuendo
- Unwelcomed physical interaction
- Insulting or obscene comments or gestures
- Offensive email, voicemail or text messages
- Suggestive or sexually explicit posters, calendars, photographs, graffiti or cartoons
- Making or threatening reprisals after a negative response to sexual advances
- Visual conduct that includes leering, making sexual gestures or displaying of sexually suggestive objects or pictures, cartoons or posters
- Verbal sexual advances or propositions
- Physical conduct that includes touching, assaulting or impeding or blocking movements
- Abusive or malicious conduct that a reasonable person would find hostile, offensive and unrelated to BHA's legitimate business interests
- Any other visual, verbal or physical conduct or behavior deemed inappropriate by BHA

Harassment on the basis of any other protected characteristic is also strictly prohibited.

### **Complaint Procedure:**

Bald Head Association strongly encourages the reporting of all instances of discrimination, harassment or retaliation. If you believe you have experienced or witnessed harassment or discrimination based on sex, race, national origin, disability or another factor, promptly report the incident to your supervisor. If you believe it would be inappropriate to discuss the matter with your supervisor, you may bypass your supervisor and report it directly to:

Mary Anne Arata  
Deputy Director  
111 Lighthouse Wynd, PO Box 3030  
Bald Head Island, NC 28461  
910-457-4676x31

Any reported allegations of harassment or discrimination will be investigated promptly, thoroughly and impartially.

Any employee found to be engaged in any form of sexual or other unlawful harassment may be subject to disciplinary action, up to and including termination of employment.

### **Retaliation Prohibited:**

Bald Head Association expressly prohibits retaliation against any individual who reports discrimination or harassment or assists in investigating such charges. Any form of retaliation is considered a direct violation of this policy and, like discrimination or harassment itself, will be subject to disciplinary action, up to and including termination of employment.

### **Telephone Usage**

Bald Head Association telephones are intended for the sole use of conducting company business. Personal use of the organization's telephones and individually owned cell phones during business hours should be kept to a minimum or for emergency purposes only. We ask that personal calls only be made or received outside of working hours, including during lunch or break time. Long distance phone calls which are not strictly business-related are expressly prohibited.

Any employee found in violation of this policy will be subject to disciplinary action, up to and including termination of employment.

### **Personal Property**

Employees should use their discretion when bringing personal property into the workplace. Bald Head Association assumes no risk for any loss or damage to personal property.

Additionally, employees may not possess or display any property that may be viewed as inappropriate or offensive on Bald Head Association premises.

### **Use of Company Property**

Company property refers to anything owned by the company: physical, electronic, intellectual or otherwise. The use of company property is for business necessity only.

When materials or equipment are assigned to an employee for business, it is the employee's responsibility to see that the equipment is used properly and cared for properly. However, at all times, equipment assigned to the employee remains the property of BHA and is subject to reassignment and/or use by BHA without prior notice or approval of the employee. This includes, but is not limited to, computer equipment and data stored thereon, voicemail, records and employee files.

Bald Head Association has created specific guidelines regarding the use of company equipment.

Below is a list of employee responsibilities and limitations with regards to company property.

**Personal use of company property:**

Company property is not permitted to be taken from the premises without proper written authority from company management.

**Company Tools:**

All necessary tools are furnished to employees in order to assist them in their required duties. Each employee is, in turn, responsible for these tools. Tools damaged or stolen as a result of an employee's negligence will, to the extent permitted by federal, state and local law, be charged to the employee.

**Care of Company Property:**

Office areas should be kept neat and orderly and all equipment should be well-maintained. The theft, misappropriation or unauthorized removal, possession or use of company property or equipment is expressly prohibited.

Any action in contradiction to the guidelines set herein may result in disciplinary action, up to and including termination of employment.

**Smoking**

Bald Head Association provides a smoke-free environment for its employees, customers and visitors. Smoking, including the use of e-cigarettes and vaporizers, is prohibited throughout the workplace. We have adopted this policy because we have a sincere interest in the health of our employees and in maintaining pleasant working conditions.

**Visitors in the Workplace**

To ensure the safety and security of Bald Head Association and its employees, only authorized visitors are permitted on BHA's premises and in its facilities.

**Computer, Email & Internet Usage**

Computers, email and the Internet allow Bald Head Association employees to be more productive. However, it is important that all employees use good business judgment when using Bald Head Association's electronic communications systems (ECS).

**Standards of Conduct and ECS**

Bald Head Association strives to maintain a workplace free of discrimination and harassment. Therefore, Bald Head Association prohibits the use of the organization's ECS for bullying, harassing, discriminating or engaging in other unlawful misconduct, in violation of BHA's policy against discrimination and harassment.

## Copyright and other Intellectual Property

Respect all copyright and other intellectual property laws. For BHA's protection as well as your own, it is critical that you show proper respect for the laws governing copyright, fair use of copyrighted material owned by others, trademarks and other intellectual property, including BHA's own copyrights, trademarks and brands. Employees are also responsible for ensuring that, when sending any material over the Internet, they have the appropriate distribution rights.

Bald Head Association purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, Bald Head Association does not have the right to reproduce such software for use on more than one computer. Employees may only use software according to the software license agreement. Bald Head Association prohibits the illegal duplication of software and its related documentation.

## ECS Guidelines

The following behaviors are examples of previously stated or additional actions and activities under this policy that are prohibited:

- Sending or posting discriminatory, harassing or threatening messages or images about coworkers, supervisors or the organization that violate BHA's policy against discrimination and harassment.
- Stealing, using or disclosing someone else's code or password without authorization.
- Pirating or downloading BHA-owned software without permission.
- Sending or posting BHA's confidential material, trade secrets or non-public proprietary information outside of the Organization. *Wages and other conditions of employment are not considered confidential material.*
- Violating copyright laws and failing to observe licensing agreements.
- Participating in the viewing or exchange of pornography or obscene materials.
- Sending or posting messages that threaten, intimidate, coerce or otherwise interfere with the job performance of fellow employees.
- Attempting to break into the computer system of another organization or person.
- Refusing to cooperate with a security investigation.
- Using the Internet for gambling or any illegal activities.
- Sending or posting messages that disparage another organization's products or services.
- Passing off personal views as representing those of Bald Head Association.

## Privacy and Monitoring

Computer hardware, software, email, Internet connections and all other computer, data storage or ECS provided by Bald Head Association are the property of Bald Head Association. Employees have no right of personal privacy when using Bald Head Association's ECS. To ensure productivity of employees, compliance with this policy and with all applicable laws, including harassment and anti-discrimination laws, computer, email and Internet usage may be monitored.

This policy is not intended to restrict an employee's right to discuss, or act together to improve, wages, benefits and working conditions with co-workers or in any way restrict employees' rights under the National Labor Relations Act.

Violations of this policy may result in disciplinary action, up to and including termination of employment. Questions or concerns related this policy should be directed to your supervisor or the deputy director.

### **Company Supplies**

Only authorized persons may purchase supplies in the name of Bald Head Association. No employee whose regular duties do not include purchasing shall incur any expense on behalf of Bald Head Association or bind Bald Head Association by any promise or representation without express written approval.

## **Timekeeping & Payroll**

### **Attendance & Punctuality**

Absenteeism and tardiness place an undue burden on other employees and on the organization. Bald Head Association expects regular attendance and punctuality from all employees. This means being in the workplace, ready to work, at your scheduled start time each day and completing your entire shift. Employees are also expected to return from scheduled meal and break periods on time. BHA recognizes the often, unexpected inconsistencies of the ferry schedule and how that impacts its employees. Accommodation is made the employees in an effort to achieve a work/home balance for employees.

All time off must be requested in writing, in advance, as outlined in the Organization's time-off policy utilizing the official PTO request form. If an employee is unexpectedly unable to report for work for any reason, they must directly notify their supervisor as early as possible, and preferably prior to their scheduled starting time. In cases that warrant leaving a voicemail, text, or email message or when an employee's direct supervisor is unavailable, a follow-up call must be made later that day.

If an illness or emergency occurs during work hours, employees should notify their supervisor as soon as possible.

Employees, who are going to be absent for more than one day, should contact their supervisor on each day of their absence. Bald Head Association reserves the right to ask for a physician's statement in the event of a long-term illness (three consecutive days), or multiple illnesses or injuries.

If an employee fails to notify their supervisor after three consecutive days of absence, Bald Head Association will presume that the employee has voluntarily resigned. Bald Head Association will review any extenuating circumstances that may have prevented the employee from calling in before they are removed from payroll.

Should undue or recurrent absence and tardiness become apparent, the employee will be subject to disciplinary action, up to and including termination of employment.

This policy is not intended to restrict an employee's right to discuss, or act together to improve, wages, benefits and working conditions with co-workers or in any way restrict employees' rights under the National Labor Relations Act.



Certain absences may be protected by federal, state, and/or local law. If you have questions about this policy or your entitlement to time off, contact the deputy director.

### **Timekeeping**

It is BHA's policy to comply with applicable laws that require records to be maintained of the hours worked by our employees. Every employee is responsible for accurately recording time worked as required.

For time keeping purposes, the hourly employees' day begins when they arrive at the BHA building and ends upon return to Deep Point Terminal.

In addition to recording arrival and departure time, non-exempt employees are required to accurately record the start and end of each meal period as well as any departure for non-work-related reasons. Any errors in time records, must be immediately reported to your supervisor.

Absent prior authorization, non-exempt employees are not permitted to start work until their scheduled starting time or work past their scheduled ending time.

Bald Head Association strictly prohibits non-exempt employees from working off the clock for any reason. All time spent working must be logged and accounted for; this includes time spent using electronic devices for work-related purposes.

Vacation days, sick days, holidays and absences for jury duty, funeral leave or military training must be specifically recorded by all employees.

It is the responsibility of all employees to submit and approve their time records each week.

Altering, falsifying, tampering with time records or recording time on another employee's time record may result in disciplinary action up to and including termination of employment.

### **Paydays**

Bald Head Association employees are paid on a bi-weekly basis. If a regularly scheduled payday falls on a holiday, employees will be paid on the day preceding the holiday, unless otherwise required by state law.

Employees receive their paychecks via direct deposit. Employees may receive an itemized statement of wages through the employee portal available online.

In the event of employee termination, the employee will receive their accrued pay in accordance with applicable federal, state and local laws.

### **Payroll Deductions**

Bald Head Association makes deductions from employee pay only in circumstances permitted by applicable law. This includes, but is not limited to, mandatory deductions for income tax withholding and Social Security and Medicare contributions, as well as voluntary deductions for health insurance premiums and other related contributions.

If you believe that an improper deduction has been made from your pay, raise the issue with the executive director immediately. Bald Head Association will promptly investigate. If the investigation reveals that you were subjected to an improper deduction from pay, you will be reimbursed promptly.

**Bald Head Association**

**SUMMARY PLAN DESCRIPTION**

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## **Bald Head Association**

### **SUMMARY PLAN DESCRIPTION**

#### **INTRODUCTION TO YOUR PLAN**

##### **What kind of Plan is this?**

Bald Head Association ("Plan") has been adopted to provide you with the opportunity to save for retirement on a tax-advantaged basis. This Plan is a type of qualified retirement plan commonly referred to as a 401(k) Plan.

##### **What information does this Summary provide?**

This Summary Plan Description ("SPD") contains information regarding when you may become eligible to participate in the Plan, your Plan benefits, your distribution options, and many other features of the Plan. You should take the time to read this SPD to get a better understanding of your rights and obligations under the Plan.

In this Summary, your Employer has addressed the most common questions you may have regarding the Plan. If this SPD does not answer all of your questions, please contact the Administrator or other Plan representative. The Administrator is responsible for responding to questions and making determinations related to the administration, interpretation, and application of the Plan. The name and address of the Administrator can be found at the end of this SPD in the Article entitled "General Information About the Plan."

This SPD describes the Plan's benefits and obligations as contained in the legal Plan document, which governs the operation of the Plan. The Plan document is written in much more technical and precise language and is designed to comply with applicable legal requirements. If the non-technical language in this SPD and the technical, legal language of the Plan document conflict, the Plan document always governs. If you wish to receive a copy of the legal Plan document, please contact the Administrator.

The Plan and your rights under the Plan are subject to federal laws, such as the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code, as well as some state laws. The provisions of the Plan are subject to revision due to a change in laws or due to pronouncements by the Internal Revenue Service (IRS) or Department of Labor (DOL). Your Employer may also amend or terminate this Plan. Your Employer will notify you if the provisions of the Plan that are described in this SPD change.

**Types of contributions.** The following types of contributions may be made under this Plan:

- Employee salary deferrals including Roth 401(k) deferrals
- Employer safe harbor contributions
- Employer profit sharing contributions
- Employee "rollover" contributions

## **ARTICLE I**

### **PARTICIPATION IN THE PLAN**

##### **How do I participate in the Plan?**

Provided you are not an Excluded Employee, you may become a "Participant" in the Plan once you have satisfied the eligibility requirements and reached your "Entry Date." The following describes the eligibility requirements and Entry Dates that apply. You should contact the Administrator if you have questions about the timing of your Plan participation.

##### **All Contributions**

**Excluded Employees.** If you are a member of a class of employees identified below, you are an Excluded Employee and you are not entitled to participate in the Plan. The Excluded Employees are:

- union employees whose employment is governed by a collective bargaining agreement under which retirement benefits were the subject of good faith bargaining, unless the collective bargaining agreement requires the employee to be included within the Plan.
- certain nonresident aliens who have no earned income from sources within the United States
- employees who are residents of Puerto Rico

**Eligibility conditions.** You will be eligible to participate in the Plan when you have satisfied the following eligibility condition(s).

However, you will actually become a Participant in the Plan once you reach the Entry Date as described below.

- 4 Months of service. For this purpose, you will be credited for each month during which you perform one Hour of Service.

**Entry Date.** Your Entry Date will be the first day of the month coinciding with or next following the date you satisfy the eligibility requirements.

### **Safe Harbor Contributions**

Participants who are eligible to make salary deferrals to the Plan are eligible for the safe harbor contribution described in the Article entitled "Employer Contributions" in this SPD.

### **What happens if I'm a Participant, terminate employment and then I'm rehired?**

If you are no longer a Participant because you terminated employment, and you are rehired, then you will be able to participate in the Plan on your date of rehire provided you are otherwise eligible to participate in the Plan.

## **ARTICLE II EMPLOYEE CONTRIBUTIONS**

### **What are salary deferrals and how do I contribute them to the Plan?**

**Salary deferrals.** As a Participant under the Plan, you may elect to reduce your compensation by a specific percentage and have that amount contributed to the Plan as a salary deferral. There are two types of salary deferrals: Pre-Tax 401(k) deferrals and Roth 401(k) deferrals. For purposes of this SPD, "salary deferrals" generally means both Pre-Tax 401(k) deferrals and Roth 401(k) deferrals. Regardless of the type of deferral you make, the amount you defer is counted as compensation for purposes of Social Security taxes.

**Pre-Tax 401(k) deferrals.** If you elect to make Pre-Tax 401(k) deferrals, then your taxable income is reduced by the deferral contributions so you pay less in federal income taxes. Later, when the Plan distributes the deferrals and earnings, you will pay the taxes on those deferrals and the earnings. Therefore, with a Pre-Tax 401(k) deferral, federal income taxes on the deferral contributions and on the earnings are only postponed. Eventually, you will have to pay taxes on these amounts.

**Roth 401(k) deferrals.** If you elect to make Roth 401(k) deferrals, the deferrals are subject to federal income taxes in the year of deferral. However, the deferrals and, in most cases, the earnings on the deferrals are not subject to federal income taxes when distributed to you. In order for the earnings to be tax free, you must meet certain conditions. See "What are my tax consequences when I receive a distribution from the Plan?" below.

**Deferral procedure.** The amount you elect to defer will be deducted from your pay in accordance with a procedure established by the Administrator. You may elect to defer a portion of your salary as of your Entry Date. Such election will become effective as soon as administratively feasible after it is received by the Administrator. Your election will generally remain in effect until you modify or terminate it.

**Deferral modifications.** You are permitted to revoke your salary deferral election at any time during the Plan Year. You may make any other modification at least once a year or in accordance with any other procedure that your Employer provides. Any modification will become effective as soon as administratively feasible after it is received by the Administrator.

**Deferral Limit.** As a Participant, you may elect to defer a percentage up to 90% of your compensation each year instead of receiving that amount in cash. Such election will also apply to irregular pay (e.g., bonuses)

Your total deferrals in any taxable year may not exceed a dollar limit which is set by law. The limit for 2022 is \$20,500. After 2022, the dollar limit may increase for cost-of-living adjustments. See the paragraph below on Annual dollar limit.

**Catch-up contributions.** If you are at least age 50 or will attain age 50 before the end of a calendar year, then you may elect to defer additional amounts (called "catch-up contributions") to the Plan as of the January 1st of that year. The additional amounts may be deferred regardless of any other limitations on the amount that you may defer to the Plan. The maximum "catch-up contribution" that you can make in 2022 is \$6,500. After 2022, the maximum may increase for cost-of-living adjustments.

**Annual dollar limit.** You should also be aware that each separately stated annual dollar limit on the amount you may defer (the annual deferral limit and the "catch-up contribution" limit) is a separate aggregate limit that applies to all such similar salary deferral amounts and "catch-up contributions" you may make under this Plan and any other cash or deferred arrangements (including tax-sheltered 403(b) annuity contracts, simplified employee pensions or other 401(k) plans) in which you may be participating. Generally, if an annual dollar limit is exceeded, then the excess must be returned to you in order to avoid adverse tax consequences. For this reason, it is desirable to request in writing that any such excess salary deferral amounts and "catch-up contributions" be returned to you.

If you are in more than one plan, you must decide which plan or arrangement you would like to return the excess. If you decide that the excess should be distributed from this Plan, you must communicate this in writing to the Administrator not later than the March 1st following the close of the calendar year in which such excess deferrals were made. However, if the entire dollar limit is exceeded in this Plan or any other plan your Employer maintains, then you will be deemed to have notified the Administrator of the excess. The Administrator will then return the excess deferrals and any earnings to you by April 15th.

**Allocation of deferrals.** The Administrator will allocate the amount you elect to defer to an account maintained on your behalf. You will always be 100% vested in this account (see the Article in this SPD entitled "Vesting"). This means that you will always be entitled to all amounts that you defer. This money will, however, be affected by any investment gains or losses. If there is an investment gain, then the balance in your account will increase. If there is an investment loss, then the balance in your account will decrease.

**Distribution of deferrals.** The rules regarding distributions of amounts attributable to your salary deferrals are explained later in this SPD.

#### **What are "rollover" contributions?**

**Rollover contributions.** At the discretion of the Administrator, if you are a Participant who is currently employed, an Eligible Employee, or a Participant who is a former employee, you may be permitted to deposit into the Plan distributions you have received from other retirement plans and certain IRAs. Such a deposit is called a "rollover" contribution and may result in tax savings to you. You may ask the Administrator or Trustee of the other plan or IRA to directly transfer (a "direct rollover") to this Plan all or a portion of any amount that you are entitled to receive as a distribution from such plan. Alternatively, you may elect to deposit any amount eligible to be rolled over within 60 days of your receipt of the distribution. You should consult qualified counsel to determine if a rollover is in your best interest.

**Rollover account.** Your "rollover" contribution will be accounted for in a "rollover account." You will always be 100% vested in your "rollover account" (see the Article in this SPD entitled "Vesting"). This means that you will always be entitled to all amounts in your "rollover account." Rollover contributions will be affected by any investment gains or losses.

**Withdrawal of "rollover" contributions.** You may withdraw the amounts in your "rollover account" at any time.

### **ARTICLE III EMPLOYER CONTRIBUTIONS**

In addition to any deferrals you elect to make, your Employer will make additional contributions to the Plan. This Article describes Employer contributions will be made to the Plan and how your share of the contribution is determined.

#### **What is the safe harbor contribution?**

**Safe harbor 401(k) plan.** This Plan is referred to as a safe harbor 401(k) plan. If your Employer elects to satisfy the "safe harbor" rules, then before the beginning of each Plan Year, you will be provided with a comprehensive notice of your rights and obligations under the Plan. However, if you become eligible to participate in the Plan after the beginning of the Plan Year, then the notice will be provided to you on or before the date you are eligible. A safe harbor 401(k) plan is a plan design where your Employer commits to making certain contributions described below. This commitment to make contributions enables your Employer to simplify the administration of the Plan by ensuring that nondiscrimination regulations are met, which is why it is called a "safe harbor" plan.

**Safe harbor matching contribution.** In order to maintain "safe harbor" status, your Employer will make a safe harbor matching contribution equal to 100 % of your salary deferrals that do not exceed 5 % of your compensation. This safe harbor matching contribution is 100% vested (see the Article in this SPD entitled "Vesting").

For purposes of calculating the safe harbor matching contribution, your compensation and deferrals will be determined on a payroll period basis.

#### **What is the Employer profit sharing contribution and how is it allocated?**

**Profit sharing contribution.** Each year, your Employer may make a discretionary profit sharing contribution to the Plan. Your share of any contribution is determined below.

**Your share of the contribution.** The profit sharing contribution will be "allocated" or divided among Participants eligible to share in the contribution for the Plan Year.

Your share of the profit sharing contribution is determined by the following fraction:

$$\text{Profit Sharing Contribution} \times \frac{\text{Your Compensation}}{\text{Total Compensation of All Participants Eligible to}}$$



## Share

For example: Suppose the profit sharing contribution for the Plan Year is \$20,000. Employee A's compensation for the Plan Year is \$25,000. The total compensation of all Participants eligible to share, including Employee A, is \$250,000. Employee A's share will be:

$$\begin{array}{rcccl} \$20,000 & \times & \frac{\$25,000}{\$250,000} & = & \$2,000 \end{array}$$

**Allocation conditions.** You will always share in the profit sharing contribution regardless of the amount of service you complete during the Plan Year.

**Hour of Service.** You will be credited with your actual Hours of Service for:

- (a) each hour for which you are directly or indirectly compensated by the Employer for the performance of duties during the Plan Year;
- (b) each hour for which you are directly or indirectly compensated by the Employer for reasons other than the performance of duties (such as vacation, holidays, sickness, disability, lay-off, military duty, jury duty or leave of absence during the Plan Year); and
- (c) each hour for back pay awarded or agreed to by the Employer.

You will not be credited for the same Hours of Service both under (a) or (b), as the case may be, and under (c).

## ARTICLE IV COMPENSATION AND ACCOUNT BALANCE

### What compensation is used to determine my Plan benefits?

**Definition of compensation.** For the purposes of the Plan, compensation has a special meaning. Compensation is generally defined as your total compensation that is subject to income tax and paid to you by your Employer during the Plan Year. In addition, salary reductions to this Plan and to any other plan or arrangement (such as a cafeteria plan) will be included in Compensation. If you are a self-employed individual, your compensation will be equal to your earned income. The following describes the adjustments to compensation that may apply under the Plan.

### All Contributions

**Adjustments to compensation.** The following adjustments to compensation will be made:

- Any payment which is not directly paid through the payroll system such as group-term life insurance, tips and third party sick pay, will be excluded from the definition of Compensation, as will Company paid housing allowances, but solely to the extent the Prototype Sponsor or an affiliate thereof can accommodate such exclusion of housing allowance operationally.
- disability continuation payments paid after you terminate employment if you are permanently and totally disabled will be excluded

**Is there a limit on the amount of compensation which can be considered?** The Plan, by law, cannot recognize annual compensation in excess of a certain dollar limit. The limit for the Plan Year beginning in 2022 is \$305,000. After 2022, the dollar limit may increase for cost-of-living adjustments.

**Is there a limit on how much can be contributed to my account each year?** Generally, the law imposes a maximum limit on the amount of contributions that may be made to your account and any other amounts allocated to any of your accounts during the Plan Year, excluding earnings. Beginning in 2022, this total cannot exceed the lesser of \$61,000 or 100% of your annual compensation. After 2022, the dollar limit may increase for cost-of-living adjustments.

### How is the money in the Plan invested?

The Trustee of the Plan has been designated to hold the assets of the Plan for the benefit of Plan Participants and their beneficiaries in accordance with the terms of this Plan. The Trust Fund established by the Plan's Trustee will be the funding medium used for the accumulation of assets from which Plan benefits will be distributed.

**Participant directed investments.** You will be able to direct the investment of your entire interest in the Plan. The Administrator will provide you with information on the investment choices available to you, the procedures for making investment elections, the frequency with which you can change your investment choices and other important information. You need to follow the procedures for making

investment elections and you should carefully review the information provided to you before you give investment directions. If you do not direct the investment of your applicable Plan accounts, then your accounts will be invested in accordance with the default investment alternatives established under the Plan. These default investments may be made in accordance with specific rules under which the fiduciaries of the Plan, including the Employer, the Trustee and the Administrator, will be relieved of any legal liability for any losses resulting from the default investments. If so, the Administrator has or will provide you with a separate notice which details these default investments and your right to switch out of the default investment if you so desire.

The Plan is intended to comply with Section 404(c) of ERISA (the Employee Retirement Income Security Act). If the Plan complies with Section 404(c), then the fiduciaries of the Plan, including your Employer and the Administrator, will be relieved of any legal liability for any losses which are the direct and necessary result of the investment directions that you give.

**Earnings or losses.** When you direct investments, your accounts are segregated for purposes of determining the earnings or losses on these investments. Your account does not share in the investment performance of other Participants who have directed their own investments. You should remember that the amount of your benefits under the Plan will depend in part upon your choice of investments. Gains as well as losses can occur and your Employer, the Administrator, and the Trustee will not provide investment advice or guarantee the performance of any investment you choose.

Periodically, you will receive a benefit statement that provides information on your account balance and your investment returns. It is your responsibility to notify the Administrator of any errors you see on any statements within 30 days after the statement is provided or made available to you.

#### **Will Plan expenses be deducted from my account balance?**

**Expenses allocated to all accounts.** The Plan permits the payment of Plan expenses to be made from the Plan's assets. If expenses are paid using the Plan's assets, the expenses will generally be allocated among the accounts of all Participants in the Plan. These expenses will be allocated either proportionately based on the value of the account balances or as an equal dollar amount based on the number of Participants in the Plan. For information about Plan expenses and how they may be assessed, please refer to the "Plan Administrative Expenses" section of your Participant Fee Disclosure Statement, which is provided to you separately and made a part of this document.

**Expenses allocated to individual accounts.** There are certain other expenses that may be paid just from your account. These are expenses that are specifically incurred by, or attributable to, you. For example, if you are married and get divorced, the Plan may incur additional expenses if a court mandates that a portion of your account be paid to your ex spouse. These additional expenses may be paid directly from your account (and not the accounts of other Participants) because they are directly attributable to you under the Plan. For information about these charges, please refer to the "Individual Expenses" section of your Participant Fee Disclosure Statement, which is provided to you separately and made a part of this document.

Your Employer may, from time to time, change the manner in which expenses are allocated.

### **ARTICLE V VESTING**

#### **What is my vested interest in my account?**

**100% vested contributions.** You are always 100% vested (which means that you are entitled to all of the amounts) in your accounts attributable to the following contributions:

- salary deferrals including Roth 401(k) deferrals
- safe harbor contributions
- Employer profit sharing contributions
- "rollover" contributions

#### **What happens if the Plan becomes a "top-heavy plan"?**

**Top-heavy plan.** A retirement plan that primarily benefits "key employees" is called a "top-heavy plan." "Key employees" are certain owners or officers of your Employer. A plan is generally a "top-heavy plan" when more than 60% of the plan assets are attributable to "key employees." Each year, the Administrator is responsible for determining whether the Plan is a "top-heavy plan."

**Top-heavy rules.** If the Plan becomes top-heavy in any Plan Year, then non-key employees may be entitled to certain "top-heavy minimum benefits," and other special rules will apply. These top-heavy rules include the following:

- Your Employer may be required to make a contribution on your behalf in order to provide you with at least "top-heavy minimum benefits."

- If you are a Participant in more than one Plan, you may not be entitled to "top-heavy minimum benefits" under both Plans.
- Instead of the vesting schedule outlined in the question entitled "What is my vested interest in my account?" your nonforfeitable right to benefits or contributions derived from Employer contributions will be determined according to a top-heavy vesting schedule.

## ARTICLE VI DISTRIBUTIONS PRIOR TO TERMINATION AND HARDSHIP DISTRIBUTIONS

### Can I withdraw money from my account while working?

**In-service distributions.** You may be entitled to receive an in-service distribution. However, this distribution is not in addition to your other benefits and will therefore reduce the value of the benefits you will receive at retirement. This distribution is made at your election and will be made in accordance with the forms of distributions available under the Plan.

**Conditions and limitations.** Generally you may receive a distribution from the Plan from certain accounts prior to your termination of employment provided you satisfy the condition described below:

- you have attained age 59.5

The following limitations apply to in-service distributions from certain accounts:

- The minimum amount you can receive as an in-service distribution is \$500.

The law restricts any in-service distributions from certain accounts which are maintained for you under the Plan before you reach age 59½. These accounts are the ones set up to receive your salary deferral contributions and other Employer contributions which are used to satisfy special rules for 401(k) plans (such as safe harbor contributions). Ask the Administrator if you need more details.

### Can I withdraw money from my account in the event of financial hardship?

**Hardship distributions.** You may withdraw money for financial hardship if you satisfy certain conditions. This hardship distribution is not in addition to your other benefits and will therefore reduce the value of the benefits you will receive at retirement.

**Qualifying expenses.** A hardship distribution may be made to satisfy certain immediate and heavy financial needs that you have. Generally a hardship distribution may only be made for payment of the following:

- expenses for medical care (described in Section 213(d) of the Internal Revenue Code) previously incurred by you, your spouse, your dependents or your beneficiaries or necessary for you, your spouse, your dependents or your beneficiaries to obtain medical care.
- costs directly related to the purchase of your principal residence (excluding mortgage payments).
- tuition, related educational fees, and room and board expenses for the next twelve (12) months of post-secondary education for yourself, your spouse, your dependents or your beneficiaries.
- amounts necessary to prevent your eviction from your principal residence or foreclosure on the mortgage of your principal residence.
- payments for burial or funeral expenses for your deceased parent, spouse, children, your dependents or your beneficiaries.
- expenses for the repair of damage to your principal residence that would qualify for the casualty deduction under the Internal Revenue Code without regard to the limit on casualty losses that are deductible for income tax purposes under IRC 165(h).
- expenses for disasters arising from federally declared disasters, such as your expenses and losses (including loss of income) attributable to that disaster, provided your principal residence or place of employment was in an area FEMA designates as qualifying for individual assistance.

**Conditions.** If you have any of the above expenses, a hardship distribution can only be made if you certify and agree that all of the following conditions are satisfied:

- a) The distribution is not in excess of the amount of your immediate and heavy financial need. The amount of your immediate and heavy financial need may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably

anticipated to result from the distribution.

b) You have obtained all distributions, other than hardship distributions, currently available under all retirement plans that the Employer maintains.

c) You certify (via a form for that purpose) that you have insufficient cash or other liquid assets reasonably available to satisfy the need.

**Limitations.** The following limitations apply to hardship distributions:

- The minimum amount you can request as a hardship distribution is \$500.

**Account restrictions.** There are restrictions placed on hardship distributions which are made from certain accounts. The earnings on your salary deferrals and Employer contributions which are used to satisfy special rules that apply to 401(k) plans (such as safe harbor contributions) may not be distributed to you on account of a hardship. Ask the Administrator if you need further details.

## **ARTICLE VII BENEFITS AND DISTRIBUTIONS UPON TERMINATION OF EMPLOYMENT**

### **When can I get money out of the Plan?**

You may receive a distribution of the vested portion of some or all of your accounts in the Plan for the following reasons:

- termination of employment for reasons other than death, disability or retirement
- normal retirement
- disability
- death

This Plan is designed to provide you with retirement benefits. However, distributions are permitted if you die or become disabled. In addition, certain payments are permitted when you terminate employment for any other reason. The rules under which you can receive a distribution are described in this Article. The rules regarding the payment of death benefits to your beneficiary are described in "Benefits and Distributions Upon Death."

You may also receive distributions while you are still employed with the Employer. (See the Article entitled "Distributions Prior to Termination and Hardship Distributions" for a further explanation.)

**Military service.** If you are a veteran and are reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, your qualified military service may be considered service with the Employer. There may also be benefits for employees who die or become disabled while on active duty. Employees who receive wage continuation payments while in the military may benefit from various changes in the law. If you think you may be affected by these rules, ask the Administrator for further details.

**Distributions for deemed severance of employment.** If you are on active duty for more than 30 days, then the Plan generally treats you as having severed employment for distribution purposes. This means that you may request a distribution from the Plan. If you request a distribution on account of this deemed severance of employment, then you are not permitted to make any contributions to the Plan for six (6) months after the date of the distribution.

### **What happens if I terminate employment before death, disability or retirement?**

If your employment terminates for reasons other than death, disability or normal retirement, you will be entitled to receive only the "vested percentage" of your account balance.

You may elect to have your vested account balance distributed to you as soon as administratively feasible following your termination of employment. (See the question entitled "How will my benefits be paid to me?" for additional information.)

**Treatment of "rollover" contributions for consent to distribution.** In determining if the value of your vested account balance exceeds the \$5,000 threshold described above used to determine whether you must consent to a distribution, your "rollover account" will not be considered as part of your benefit.

### **What happens if I terminate employment at Normal Retirement Date?**

**Normal Retirement Date.** You will attain your Normal Retirement Age when you reach age 65. Your Normal Retirement Date is the date on which you attain your Normal Retirement Age.

**Payment of benefits.** You will become 100% vested in all of your accounts under the Plan once you attain your Normal Retirement Age. However, the actual payment of benefits generally will not begin until you have terminated employment and reached your Normal Retirement Date. In such event, a distribution will be made, at your election, as soon as administratively feasible. If you remain employed past your Normal Retirement Date, you may generally defer the receipt of benefits until you actually terminate employment. In such event, benefit payments will begin as soon as feasible at your request, but generally not later than age 70 1/2 (See the question entitled "How will my benefits be paid to me?" for an explanation of how these benefits will be paid.)

#### **What happens if I terminate employment due to disability?**

**Definition of disability.** Under the Plan, disability is defined as a physical or mental condition resulting from bodily injury, disease, or mental disorder which renders you incapable of continuing any gainful occupation and which has lasted or can be expected to last for a continuous period of at least twelve (12) months. Your disability must be determined by a licensed physician. However, if your condition constitutes total disability under the federal Social Security Act, then the Administrator may deem that you are disabled for purposes of the Plan.

**Payment of benefits.** If you become disabled while an employee, you will become 100% vested in all of your accounts under the Plan. Payment of your disability benefits will be made to you as if you had retired. However, if the value of your account balance does not exceed \$5,000, then a distribution of your account balance will be made to you, regardless of whether you consent to receive it. (See the question entitled "How will my benefits be paid to me?" for an explanation of how these benefits will be paid.)

#### **How will my benefits be paid to me?**

**Forms of distribution.** If your vested account balance does not exceed \$5,000, then your vested account balance may only be distributed to you in a single lump-sum payment. In determining whether your vested account balance exceeds the \$5,000 threshold, "rollover" contributions (and any earnings allocable to "rollover" contributions) will not be taken into account.

In addition, if your vested account balance exceeds \$5,000 you must consent to any distribution before it may be made. If your vested account balance exceeds \$5,000, you may elect to receive a distribution of your vested account balance in:

- a single lump-sum payment
- installments over a period of not more than your assumed life expectancy (or the assumed life expectancies of you and your beneficiary)
- partial withdrawals of at least \$500

**Delaying distributions.** You may delay the distribution of your vested account balance unless a distribution is required to be made, as explained earlier, because your vested account balance does not exceed \$5,000. However, if you elect to delay the distribution of your vested account balance, there are rules that require that certain minimum distributions be made from the Plan. If you are a 5% owner, distributions are required to begin not later than the April 1st following the end of the year in which you reach age 70 1/2. If you are not a 5% owner, distributions are required to begin not later than the April 1st following the later of the end of the year in which you reach age 70 1/2 or retire. You should contact the Administrator if you think you may be affected by these rules.

**Medium of payment.** Benefits under the Plan will generally be paid to you in cash only.

## **ARTICLE VIII**

### **BENEFITS AND DISTRIBUTIONS UPON DEATH**

#### **What happens if I die while working for the Employer?**

If you die while still employed by the Employer, then your vested account balance will be used to provide your beneficiary with a death benefit.

#### **Who is the beneficiary of my death benefit?**

**Married Participant.** If you are married at the time of your death, your spouse will be the beneficiary of the entire death benefit unless an election is made to change the beneficiary. IF YOU WISH TO DESIGNATE A BENEFICIARY OTHER THAN YOUR SPOUSE, YOUR SPOUSE (IF YOU ARE MARRIED) MUST IRREVOCABLY CONSENT TO WAIVE ANY RIGHT TO THE DEATH BENEFIT. YOUR SPOUSE'S CONSENT MUST BE IN WRITING, BE WITNESSED BY A NOTARY OR A PLAN REPRESENTATIVE AND ACKNOWLEDGE THE SPECIFIC NONSPOUSE BENEFICIARY.

If you are married and you change your designation, then your spouse must again consent to the change. In addition, you may elect a beneficiary other than your spouse without your spouse's consent if your spouse cannot be located.

**Unmarried Participant.** If you are not married, you may designate a beneficiary on a form to be supplied to you by the Administrator.

**Divorce.** If you have designated your spouse as your beneficiary for all or a part of your death benefit, then upon your divorce, the designation is no longer valid. This means that if you do not select a new beneficiary after your divorce, then you are treated as not having a beneficiary for that portion of the death benefit (unless you have remarried).

**No beneficiary designation.** At the time of your death, if you have not designated a beneficiary or your beneficiary is also not alive, the death benefit will be paid in the following order of priority to:

- (a) your surviving spouse
- (b) your children, including adopted children in equal shares (and if a child is not living, that child's share will be distributed to that child's heirs)
- (c) your surviving parents, in equal shares
- (d) your estate

#### **How will the death benefit be paid to my beneficiary?**

**Form of distribution.** If the death benefit payable to a beneficiary does not exceed \$5,000, then the benefit may only be paid as a lump-sum. If the death benefit exceeds \$5,000, your beneficiary may elect to have the death benefit paid in:

- a single lump-sum payment
- installments over a period of not more than the assumed life expectancy of your beneficiary
- partial withdrawals of at least \$500

#### **When must the last payment be made to my beneficiary?**

The law generally restricts the ability of a retirement plan to be used as a method of retaining money for purposes of your death estate. Thus, there are rules that are designed to ensure that death benefits are distributable to beneficiaries within certain time periods.

Under the Plan, regardless of the method of distribution selected, your entire death benefit must be paid to your beneficiaries within five years after your death.

If your designated beneficiary is a person (rather than your estate or most trusts) then minimum distributions of your death benefit must generally begin within one year of your death and must be paid over a period not extending beyond your beneficiary's life expectancy. If your spouse is the beneficiary, the start of payments may be delayed until the year in which you would have attained age 70 1/2. Generally, if your beneficiary is not a person, then your entire death benefit must be paid within five years after your death.

Regardless of the method of distribution selected, if your designated beneficiary is a person (rather than your estate or some trusts) then minimum distributions of your death benefit will begin by the end of the year following the year of your death ("1-year rule") and must be paid over a period not extending beyond your beneficiary's life expectancy. If your spouse is the beneficiary, then under the "1-year rule," the start of payments will be delayed until the year in which you would have attained age 70 1/2 unless your spouse elects to begin distributions over his or her life expectancy before then. However, instead of the "1-year rule" your beneficiary may elect to have the entire death benefit paid by the end of the fifth year following the year of your death (the "5-year rule"). Generally, if your beneficiary is not a person, your entire death benefit must be paid under the "5-year rule."

Since your spouse has certain rights to the death benefit, you should immediately report any change in your marital status to the Administrator.

#### **What happens if I'm a Participant, terminate employment and die before receiving all my benefits?**

If you terminate employment with the Employer and subsequently die, your beneficiary will be entitled to your remaining interest in the Plan at the time of your death. The provision in the Plan providing for full vesting of your benefit upon death does not apply if you die after terminating employment.

## **ARTICLE IX**

### **TAX TREATMENT OF DISTRIBUTIONS**

#### **Why does this summary include some tax information?**

This summary plan description includes (in this article and other parts) some tax information because it might help you understand and consider how to use rights and choices you might have under the Plan.

The explanations mention only a few points, and omit many others. Whatever is mentioned is only about Federal income tax law; State and local tax treatments could be different. Further, the tax rules of another nation could be different. Whatever information is in this summary plan description is just information; it is not advice. If you need or want advice or help in understanding how a tax rule applies in your situation, you should ask a lawyer, certified public accountant, or other person who is licensed to render tax advice. The Administrator does not provide tax advice. The Plan's recordkeeper does not permit anyone who works for the recordkeeper to give you tax advice.

#### **What are my tax consequences when I receive a distribution from the Plan?**

Generally, you must include any Plan distribution in your taxable income in the year in which you receive the distribution. The tax treatment may also depend on your age when you receive the distribution. Certain distributions made to you when you are under age 59 1/2 could be subject to an additional 10% tax.

You will not be taxed on distributions of your Roth 401(k) deferrals. In addition, a distribution of the earnings on the Roth 401(k) deferrals will not be subject to tax if the distribution is a "qualified Roth distribution." A "qualified distribution" is one that is made after you have attained age 59 1/2 or is made on account of your death or disability and the distribution cannot be made prior to the expiration of a 5-year participation period. The 5-year participation period is the 5-year period beginning on the calendar year in which you first make a Roth 401(k) deferral to our Plan (or to another 401(k) plan or 403(b) plan if such amount was rolled over into our Plan) and ending on the last day of the calendar year that is 5 years later.

#### **Can I elect a rollover to reduce or defer tax on my distribution?**

**Rollover or direct transfer.** You may reduce, or defer entirely, the tax due on your distribution through use of one of the following methods:

**60 day rollover.** The rollover of all or a portion of the distribution to an individual retirement account or annuity (IRA) or another employer retirement plan willing to accept the rollover. This will result in no tax being due until you begin withdrawing funds from the IRA or other qualified employer plan. The rollover of the distribution, however, **MUST** be made within strict time frames (normally, within 60 days after you receive your distribution). Under certain circumstances, all or a portion of a distribution (such as a hardship distribution) may not qualify for this rollover treatment. In addition, most distributions will be subject to mandatory federal income tax withholding at a rate of 20%. This will reduce the amount you actually receive. For this reason, if you wish to roll over all or a portion of your distribution amount, then the direct transfer option described below would be the better choice.

**Direct rollover.** For most distributions, you may request that a direct transfer (sometimes referred to as a "direct rollover") of all or a portion of a distribution be made to either an individual retirement account or annuity (IRA) or another employer retirement plan willing to accept the transfer. A direct transfer will result in no tax being due until you withdraw funds from the IRA or other employer plan. Like the rollover, under certain circumstances all or a portion of the amount to be distributed may not qualify for this direct transfer. If you elect to actually receive the distribution rather than request a direct transfer, then in most cases 20% of the distribution amount will be withheld for federal income tax purposes.

**Automatic IRA rollover.** If a mandatory distribution is being made to you because your vested interest in the Plan exceeds \$1,000 but does not exceed \$5,000, then the Plan will rollover your distribution to an IRA if you do not make an affirmative election to either receive or roll over the distribution. The IRA provider selected by the Plan will invest the rollover funds in a type of investment designed to preserve principal and provide a reasonable rate of return and liquidity (e.g., an interest bearing account, a certificate of deposit or a money market fund). The IRA provider will charge your account for any expenses associated with the establishment and maintenance of the IRA and with the IRA investments unless, if permitted by the IRA provider, you request to pay the fees out-of-pocket. You may transfer the IRA funds to any other IRA you choose. In addition, the Plan may adopt procedures to allow for rollovers of less than \$1,000 in which case, your balance will instead be rolled over to an IRA. You will be provided with details regarding the IRA at the time you are entitled to a distribution. However, you may contact the Administrator at the address and telephone number indicated in this SPD for further information regarding the Plan's automatic rollover provisions, the IRA provider, and the fees and expenses associated with the IRA.

**Tax notice.** WHENEVER YOU RECEIVE A DISTRIBUTION THAT IS AN ELIGIBLE ROLLOVER DISTRIBUTION, THE ADMINISTRATOR WILL DELIVER TO YOU A MORE DETAILED EXPLANATION OF THESE OPTIONS. HOWEVER, THE RULES WHICH DETERMINE WHETHER YOU QUALIFY FOR FAVORABLE TAX TREATMENT ARE VERY COMPLEX. YOU SHOULD CONSULT WITH QUALIFIED TAX COUNSEL BEFORE MAKING A CHOICE.

## **ARTICLE X**

### **LOANS**

#### **Is it possible to borrow money from the Plan?**

Yes, you may request a Participant loan using an application form provided by the Administrator. Your ability to obtain a Participant loan depends on several factors. The Administrator will determine whether you satisfy these factors.

#### **What are the loan rules and requirements?**

There are various rules and requirements that apply to any loan, which are outlined in this question. In addition, your Employer has established a written loan program which explains these requirements in more detail. You can request a copy of the loan program from the Administrator. Generally, the rules for loans include the following:

- Loans are available to Participants on a reasonably equivalent basis. Each loan requires an application which specifies the amount of the loan desired, the requested duration for the loan and the source of security for the loan. All loan applications will be considered by the Administrator within a reasonable time after the Participant applies for the loan. The Administrator may request that you provide additional information to make a determination.

- All loans must be adequately secured. You must sign a promissory note along with a loan pledge. Generally, you must use your vested interest in the Plan as security for the loan, provided the outstanding balance of all your loans does not exceed 50% of your vested interest in the Plan. In certain cases, the Administrator may require you to provide additional collateral to receive a loan.
- You will be charged an interest rate equal to 2% above the prime rate. The interest rate will be fixed for the duration of the loan.
- If approved, your loan will provide for level amortization with payments to be made not less frequently than quarterly. Generally, the term of your loan may not exceed five (5) years. However, if the loan is for the purchase of your principal residence, the Administrator may permit a longer repayment term up to 30 years. Generally, the Administrator will require that you repay your loan by agreeing to payroll deduction or payment by check (for prepayments only). If you have an unpaid leave of absence or go on military leave while you have an outstanding loan, please contact the Administrator to find out your repayment options.
- All loans will be considered a directed investment of your account under the Plan. All payments of principal and interest by you on a loan will be credited to your account.
- The amount the Plan may loan to you is limited by rules under the Internal Revenue Code. Any new loans, when added to the outstanding balance of all other loans from the Plan, will be limited to the lesser of:
  - (a) \$50,000 reduced by the excess, if any, of your highest outstanding balance of loans from the Plan during the one-year period ending on the day before the date of the new loan over your current outstanding balance of loans as of the date of the new loan; or
  - (b) 1/2 of your vested interest in the Plan
- No loan in an amount less than \$500 will be made.
- The maximum number of Plan loans that you may have outstanding at any one time is 1.
- If you fail to make payments when they are due under the terms of the loan, you will be considered to be "in default." The Administrator will consider your loan to be in default if any scheduled loan repayment is not made by the end of the calendar quarter following the calendar quarter in which the missed payment was due. The Plan would then have authority to take all reasonable actions to collect the balance owed on the loan. This could include filing a lawsuit or foreclosing on the security for the loan. Under certain circumstances, a loan that is in default may be considered a distribution from the Plan and could be considered taxable income to you. In any event, your failure to repay a loan will reduce the benefit you would otherwise be entitled to from the Plan.
- If you terminate employment, your loan generally becomes due and payable in full immediately. You may repay the entire outstanding balance of the loan (including any accrued interest). If you do not repay the entire outstanding loan balance, your vested account balance will be reduced by the remaining outstanding balance of the loan. Contact the Administrator for additional details.

The Administrator may periodically revise the Plan's loan program. If you have any questions on Participant loans or the current loan program, please contact the Administrator.

## **ARTICLE XI**

### **PROTECTED BENEFITS AND CLAIMS PROCEDURES**

#### **Are my benefits protected?**

As a general rule, your interest in your account, including your "vested interest," may not be alienated. This means that your interest may not be sold, used as collateral for a loan (other than for a Plan loan), given away or otherwise transferred. In addition, your creditors (other than the IRS) may not attach, garnish or otherwise interfere with your benefits under the Plan.

#### **Are there any exceptions to the general rule?**

There are three exceptions to this general rule. The Administrator must honor a "qualified domestic relations order." A "qualified domestic relations order" is defined as a decree or order issued by a court that obligates you to pay child support or alimony, or otherwise allocates a portion of your assets in the Plan to your spouse, former spouse, children or other dependents. If a "qualified domestic relations order" is received by the Administrator, all or a portion of your benefits may be used to satisfy that obligation. The Administrator will determine the validity of any domestic relations order received. You and your beneficiaries can obtain from the Administrator, without charge, a copy of the procedure used by the Administrator to determine whether a "qualified domestic relations order" is valid.

The second exception applies if you are involved with the Plan's operation. If you are found liable for any action that adversely affects the Plan, the Administrator can offset your benefits by the amount that you are ordered or required by a court to pay the Plan. All or a portion of your benefits may be used to satisfy any such obligation to the Plan.



The last exception applies to federal tax levies and judgments. The federal government is able to use your interest in the Plan to enforce a federal tax levy and to collect a judgment resulting from an unpaid tax assessment.

### **Can the Plan be amended?**

Your Employer has the right to amend the Plan at any time. In no event, however, will any amendment authorize or permit any part of the Plan assets to be used for purposes other than the exclusive benefit of Participants or their beneficiaries. Additionally, no amendment will cause any reduction in the amount credited to your account.

### **What happens if the Plan is discontinued or terminated?**

Although your Employer intends to maintain the Plan indefinitely, your Employer reserves the right to terminate the Plan at any time. Upon termination, no further contributions will be made to the Plan and all amounts credited to your accounts will continue to be 100% vested. Your Employer will direct the distribution of your accounts in a manner permitted by the Plan as soon as practicable. (See the question entitled "How will my benefits be paid to me?" for a further explanation.) You will be notified if the Plan is terminated.

### **How do I submit a claim for Plan benefits?**

You may file a claim for benefits by submitting a written request for benefits to the Plan Administrator. You should contact the Plan Administrator to see if there is an applicable distribution form that must be used. If no specific form is required or available, then your written request for a distribution will be considered a claim for benefits. In the case of a claim for disability benefits, if disability is determined by the Plan Administrator (rather than by a third party such as the Social Security Administration), then you must also include with your claim sufficient evidence to enable the Plan Administrator to make a determination on whether you are disabled.

Decisions on the claim will be made within a reasonable period of time appropriate to the circumstances. "Days" means calendar days. If the Plan Administrator determines the claim is valid, then you will receive a statement describing the amount of benefit, the method or methods of payment, the timing of distributions and other information relevant to the payment of the benefit.

For purposes of the claims procedures described below, "you" refers to you, your authorized representative, or anyone else entitled to benefits under the Plan (such as a beneficiary). A document, record, or other information will be considered relevant to a claim if it:

- was relied upon in making the benefit determination;
- was submitted, considered, or generated in the course of making the benefit determination, without regard to whether it was relied upon in making the benefit determination;
- demonstrated compliance with the administrative processes and safeguards designed to ensure and to verify that benefit determinations are made in accordance with Plan documents and Plan provisions have been applied consistently with respect to all claimants; or
- constituted a statement of policy or guidance with respect to the Plan concerning the denied treatment option or benefit.

The Plan may offer additional voluntary appeal and/or mandatory arbitration procedures other than those described below. If applicable, the Plan will not assert that you failed to exhaust administrative remedies for failure to use the voluntary procedures, any statute of limitations or other defense based on timeliness is tolled during the time a voluntary appeal is pending; and the voluntary process is available only after exhaustion of the appeals process described in this section. If mandatory arbitration is offered by the Plan, the arbitration must be conducted instead of the appeal process described in this section, and you are not precluded from challenging the decision under ERISA §501(a) or other applicable law.

### **What if my benefits are denied?**

Your request for Plan benefits will be considered a claim for Plan benefits, and it will be subject to a full and fair review. If your claim is wholly or partially denied, the Administrator will provide you with a written or electronic notification of the Plan's adverse determination. This written or electronic notification must be provided to you within a reasonable period of time, but not later than 90 days (except as provided below for disability claims) after the receipt of your claim by the Administrator, unless the Administrator determines that special circumstances require an extension of time for processing your claim. If the Administrator determines that an extension of time for processing is required, written notice of the extension will be furnished to you prior to the termination of the initial 90-day period. In no event will such extension exceed a period of 90 days from the end of such initial period. The extension notice will indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the benefit determination.

In the case of a claim for disability benefits, if disability is determined by the Plan Administrator (rather than a third party such as the

Social Security Administration), then instead of the above, the initial claim must be resolved within 45 days of receipt by the Plan. A Plan may, however, extend this decision-making period for an additional 30 days for reasons beyond the control of the Plan. The Plan will notify you of the extension prior to the end of the 45-day period. If, after extending the time period for a first period of 30 days, the Plan Administrator determines that it will still be unable, for reasons beyond the control of the Plan, to make a decision within the extension period, the Plan may extend decision making for a second 30-day period. Appropriate notice will be provided to you before the end of the first 45 days and again before the end of each succeeding 30-day period. This notice will explain the circumstances requiring the extension and the date the Plan Administrator expects to render a decision. It will explain the standards on which entitlement to the benefits is based, the unresolved issues that prevent a decision, the additional issues that prevent a decision, and the additional information needed to resolve the issues. You will have 45 days from the date of receipt of the Plan Administrator's notice to provide the information required.

If the Plan Administrator determines that all or part of the claim should be denied (an "adverse benefit determination"), it will provide a notice of its decision in written or electronic form explaining your appeal rights. An "adverse benefit determination" also includes a rescission, which is a retroactive cancellation or termination of entitlement to disability benefits. The notice will be provided in a culturally and linguistically appropriate manner and will state:

- (a) The specific reason or reasons for the adverse determination.
- (b) Reference to the specific Plan provisions on which the determination was based.
- (c) A description of any additional material or information necessary for you to perfect the claim and an explanation of why such material or information is necessary.
- (d) A description of the Plan's review procedures and the time limits applicable to such procedures. This will include a statement of your right to bring a civil action under section 502(a) of ERISA following an adverse benefit determination on review.
- (e) In the case of a claim for disability benefits if disability is determined by the Plan Administrator (rather than a third party such as the Social Security Administration), then the following additional information will be provided:
  - (i) A discussion of the decision, including an explanation of the basis for disagreeing with or not following:
    - The views you presented to the Plan of health care professionals treating the claimant and vocational professionals who evaluated you;
    - The views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with an adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; or
    - A disability determination made by the Social Security Administration and presented by you to the Plan.
  - (ii) Either the internal rules, guidelines, protocols, or other similar criteria relied upon to make a determination, or a statement that such rules, guidelines, protocols, or other criteria do not exist.
  - (iii) If the adverse benefit determination is based on a medical necessity or experimental treatment and/or investigational treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to your medical circumstances. If this is not practical, a statement will be included that such explanation will be provided to you free of charge, upon request.
  - (iv) A statement that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim.

If your claim has been denied, and you want to submit your claim for review, you must follow the Claims Review Procedure in the next question.

### **What is the Claims Review Procedure?**

Upon the denial of your claim for benefits, you may file your claim for review, in writing, with the Administrator.

- (a) YOU MUST FILE THE CLAIM FOR REVIEW NOT LATER THAN 60 DAYS (EXCEPT AS PROVIDED BELOW FOR DISABILITY CLAIMS) AFTER YOU HAVE RECEIVED WRITTEN NOTIFICATION OF THE DENIAL OF YOUR CLAIM FOR BENEFITS.

IF YOUR CLAIM IS FOR DISABILITY BENEFITS AND DISABILITY IS DETERMINED BY THE PLAN ADMINISTRATOR (RATHER THAN A THIRD PARTY SUCH AS THE SOCIAL SECURITY ADMINISTRATION), THEN INSTEAD OF THE ABOVE, YOU MUST FILE THE CLAIM FOR REVIEW NOT LATER THAN 180 DAYS FOLLOWING RECEIPT OF NOTIFICATION OF AN ADVERSE BENEFIT DETERMINATION. IN THE CASE OF AN ADVERSE BENEFIT DETERMINATION REGARDING A RESCISSION OF COVERAGE, YOU MUST REQUEST A REVIEW WITHIN 90 DAYS OF THE NOTICE.

- (b) You may submit written comments, documents, records, and other information relating to your claim for benefits.
- (c) You will be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits.
- (d) Your claim for review must be given a full and fair review. This review will take into account all comments, documents, records, and other information submitted by you relating to your claim, without regard to whether such information was submitted or considered in the initial benefit determination.

In addition to the Claims Review Procedure above, if your claim is for disability benefits and disability is determined by the Plan Administrator (rather than a third party such as the Social Security Administration), then:

- (a) Your claim will be reviewed without deference to the initial adverse benefit determination and the review will be conducted by an appropriate named fiduciary of the Plan who is neither the individual who made the adverse benefit determination that is the subject of the appeal, nor the subordinate of such individual.
- (b) If the initial adverse benefit determination was based on a medical judgment, including determinations with regard to whether a particular treatment, drug, or other item is experimental, investigational, or not medically necessary or appropriate, the fiduciary will consult with a health care professional who was neither involved in or subordinate to the person who made the original benefit determination. This health care professional will have appropriate training and experience in the field of medicine involved in the medical judgment. Additionally, medical or vocational experts whose advice was obtained on behalf of the Plan in connection with the initial determination will be identified.
- (c) Any medical or vocational experts whose advice was obtained on behalf of the Plan in connection with your adverse benefit determination will be identified, without regard to whether the advice was relied upon in making the benefit determination.
- (d) If the Plan considers, relies upon or creates any new or additional evidence during the review of the adverse benefit determination, the Plan will provide such new or additional evidence to you, free of charge, as soon as possible and sufficiently in advance of the time within which a determination on review is required to allow you time to respond.
- (e) Before the Plan issues an adverse benefit determination on review that is based on a new or additional rationale, the Plan Administrator must provide you with a copy of the rationale at no cost to you. The rationale must be provided as soon as possible and sufficiently in advance of the time within which a final determination on appeal is required to allow you time to respond.

The Administrator will provide you with written or electronic notification of the Plan's benefit determination on review. The Administrator must provide you with notification of this denial within 60 days (45 days with respect to claims relating to the determination of disability benefits) after the Administrator's receipt of your written claim for review, unless the Administrator determines that special circumstances require an extension of time for processing your claim. In such a case, you will be notified, before the end of the initial review period, of the special circumstances requiring the extension and the date a decision is expected. If an extension is provided, the Plan Administrator must notify you of the determination on review no later than 120 days (or 90 days with respect to claims relating to the determination of disability benefits).

The Plan Administrator will provide written or electronic notification to you in a culturally and linguistically appropriate manner. If the initial adverse benefit determination is upheld on review, the notice will include:

- (a) The specific reason or reasons for the adverse determination.
- (b) Reference to the specific Plan provisions on which the benefit determination was based.
- (c) A statement that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits.
- (d) In the case of a claim for disability benefits, if disability is determined by the Plan Administrator (rather than a third party such as the Social Security Administration):
  - (i) Either the specific internal rules, guidelines, protocols, or other similar criteria relied upon to make the determination, or a statement that such rules, guidelines, protocols, or criteria do not exist.
  - (ii) If the adverse benefit determination is based on a medical necessity or experimental treatment and/or investigational treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to your medical circumstances. If this is not practical, a statement will be included that such explanation will be provided to you free of charge, upon request.

(iii) A statement of your right to bring a civil action under section 502(a) of ERISA and, if the Plan imposes a contractual limitations period that applies to your right to bring such an action, a statement to that effect which includes the calendar date on which such limitation expires on the claim.

If the Plan offers voluntary appeal procedures, a description of those procedures and your right to obtain sufficient information about those procedures upon request to enable you to make an informed decision about whether to submit to such voluntary appeal. These procedures will include a description of your right to representation, the process for selecting the decision maker and the circumstances, if any, that may affect the impartiality of the decision maker. No fees or costs will be imposed on you as part of the voluntary appeal. A decision whether to use the voluntary appeal process will have no effect on your rights to any other Plan benefits.

(iv) A discussion of the decision, including an explanation of the basis for disagreeing with or not following:

- the views presented by the claimant to the Plan of health care professionals treating you and vocational professionals who evaluated you;
- the views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with an adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; or
- a disability determination made by the Social Security Administration and presented by you to the Plan.

If you have a claim for benefits which is denied, then you may file suit in a state or federal court. However, in order to do so, you must file the suit not later than 180 days after the Administrator makes a final determination to deny your claim.

### **What are my rights as a Plan Participant?**

As a Participant in the Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan Participants are entitled to:

- (a) Examine, without charge, at the Administrator's office and at other specified locations, all documents governing the Plan, including insurance contracts, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.
- (b) Obtain, upon written request to the Administrator, copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated Summary Plan Description. The Administrator may make a reasonable charge for the copies.
- (c) Receive a summary of the Plan's annual financial report. The Administrator is required by law to furnish each Participant with a copy of this summary annual report.

In addition to creating rights for Plan Participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan Participants and beneficiaries. No one, including your Employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Administrator to provide the materials and pay you up to \$110.00 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Administrator.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. In addition, if you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order or a medical child support order, you may file suit in federal court. You and your beneficiaries can obtain, without charge, a copy of the "qualified domestic relations order" (QDRO) procedures from the Administrator.

If it should happen that the Plan's fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. The court may order you to pay these costs and fees if you lose or if, for example, it finds your claim is frivolous.

**What can I do if I have questions or my rights are violated?**

If you have any questions about the Plan, you should contact the Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in the telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

**ARTICLE XII****GENERAL INFORMATION ABOUT THE PLAN**

There is certain general information which you may need to know about the Plan. This information has been summarized for you in this Article.

**Plan Name**

The full name of the Plan is Bald Head Association .

**Plan Number**

Your Employer has assigned Plan Number 001 to your Plan.

**Plan Effective Dates**

**Effective Date.** The provisions of the Plan become effective on January 01 2023.

**Other Plan Information**

**Valuation date.** Valuations of the Plan assets are generally made every business day. Certain distributions are based on the Anniversary Date of the Plan. This date is the last day of the Plan Year.

**Plan Year.** The Plan's records are maintained on a twelve-month period of time. This is known as the Plan Year. The Plan Year begins on January 1st and ends on December 31st.

The Plan will be governed by the laws of NC to the extent not governed by federal law.

Benefits provided by the Plan are NOT insured by the Pension Benefit Guaranty Corporation (PBGC) under Title IV of the Employee Retirement Income Security Act of 1974 because the insurance provisions under ERISA are not applicable to this type of Plan.

Service of legal process may be made upon your Employer. Service of legal process may also be made upon the Administrator.

**Employer Information**

Your Employer's name, contact information and identification number are:

Bald Head Association

PO Box 3030

Bald Head Island NC, 28461

56-1354136

Telephone: (910) 457-4676

The Plan allows other employers to adopt its provisions. You or your beneficiaries may examine or obtain a complete list of Employers, if any, who have adopted the Plan by making a written request to the Administrator.

**Administrator Information**

The Administrator is responsible for the day-to-day administration and operation of the Plan. For example, the Administrator maintains the Plan records, including your account information, provides you with the forms you need to complete for Plan participation, and directs the payment of your account at the appropriate time. The Administrator will also allow you to review the formal Plan document and certain other materials related to the Plan. If you have any questions about the Plan or your participation, you should contact the Administrator. The Administrator may designate other parties to perform some duties of the Administrator.

The Administrator has the complete power, in its sole discretion, to determine all questions arising in connection with the administration, interpretation, and application of the Plan (and any related documents and underlying policies). Any such determination by the Administrator is conclusive and binding upon all persons.

Your Administrator is the Committee appointed by your Employer. The Committee can be contacted at the following address:

PO Box 3030

Bald Head Island NC, 28461

Telephone: (910) 457-4676

**Plan Trustee**

All money that is contributed to the Plan is held in a Trust Fund. The Trustee is Reliance Trust Company responsible for the safekeeping of the Trust Fund. The Trust Fund is the funding medium used for the accumulation of assets from which benefits will be distributed. While all the Plan assets are held in a Trust Fund, the Administrator separately accounts for each Participant's interest in the Plan.

The Plan's Trustee is listed below with their contact information:

If there is more than one Trustee, the Trustees are collectively referred to as Trustee throughout this Summary Plan Description.

Trustee Name: Reliance Trust Company

Address 1: 1100 Abernathy Road

Address 2: 500 Northpark, Suite 400

City, State, ZIP: Atlanta, GA, 30328



BALD HEAD ASSOCIATION  
P.O. BOX 3030  
BALD HEAD ISLAND, N.C. 28461

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## 2023 Garden Lot Lease Agreement

The Bald Head Association Garden Lot is a facility provided for Bald Head Island property owners in good standing with the Bald Head Association who wish to conduct gardening activities. Garden Lots are provided on a first come, first serve basis and the BHA office staff will maintain a waiting list as needed. The Association may make provisions to utilize the available lots in the most effective manner, while preserving the aesthetic beauty of the site. The Bald Head Association's Executive Director shall be responsible for administering the BHA Garden Lots and can be contacted as noted at the conclusion of this document.

The following constitutes the agreement between the Bald Head Association ("BHA") and ("LESSEE").

This Agreement dated for the purposes of reference only this 1<sup>st</sup> day of January 2023 by and between BHA and LESSEE.

In consideration of the mutual promises and covenants set out herein, BHA does hereby let, permit and rent to LESSEE that certain Garden Lot area identified as Garden Lot # at 230 North Bald Head Wynd, Bald Head Island, North Carolina 28461

1. **Rental.** LESSEE shall pay to BHA as rent for the term of this lease, the sum of **\$100.00 per small lot and \$250.00 per large lot/ per year** (or prorated portion thereof), due and payable in advance upon the execution of this Lease Agreement. This rental amount is based upon the current rate of expenses incurred by the BHA to pay for LESSEE's water, electrical usage and other expenses to maintain the garden lots. Upon expiration of the Term of this Rental, a determination of the actual total annual costs of water, electrical usage and other expenses for all Garden Lots will be undertaken. Should the actual total annual costs exceed the annual total projected costs for all lots for January 1 through December 31, 2023, all Garden Lot LESSEES will be assessed, equally and individually, that portion of the costs in excess of the anticipated annual expenses for 2023. This assessment will be payable to the BHA. **Garden lots are to be watered via a hand held hose or water from the rain barrels. No overhead irrigation or mechanical/unattended drip irrigation will be allowed.**
2. **Term.** The term of this lease shall not exceed 12 months, commencing on the signing of this lease, and terminating at midnight on December 31 of the lease year. A LESSEE who may enter into this Lease Agreement for a Term of less than 12 months shall pay a prorated portion of the Rental. If a LESSEE terminates the lease prior to the end of the term, no refund of rent will be returned to the LESSEE. A notice of renewal or extension of the Lease Agreement will be sent in writing to the LESSEE, dated at least thirty (30) days prior to the expiration hereof. No renewal of the Lease is guaranteed, and the rental rate for each renewal (if any) may be increased by BHA.

3. Use. The Garden Lot(s) leases hereby shall be utilized solely for the purpose of Gardening Activities by LESSEE only.

4. **PLEASE FILL OUT BLANKS OR CORRECT INFORMATION BELOW**

Name of BHI Property	
Owner:	_____
Address/City/State/Zip:	_____
	_____
Telephone Off Island:	_____
Fax:	_____
Telephone On Island:	_____
Email:	_____

5. LESSEE agrees to maintain Garden Lot so as not to interfere with adjacent Garden Lots and to keep the designated Garden Lot in a clean and sightly manner; to abide by the rules and regulations of BHA as promulgated from time to time, and to promptly return the Garden Lot to a reasonably natural state upon the expiration of the Lease term if the LESSEE or BHA elects not to renew the agreement. Tools will be kept stored in the garden tool shed when not in use. Violation of this provision shall be grounds for immediate termination of this Lease Agreement, at the option of BHA.

The LESSEE is responsible for ensuring that the visitor/guest adheres to the requirements of this agreement. Children and pets are not to be left unattended or without adult supervision.

6. Risk of Loss. BHA is not responsible for theft, damage or other loss to materials, LESSEE's Garden Lot, or any part thereof, nor will BHA accept possession or bailment of any such articles left on the LESSEE's Garden Lot. LESSEE will hold the BHA harmless from Personal Injury associated with LESSEE's activities in association with the Garden Lot and will hold the BHA harmless for loss of or damage to materials used, left or used in association with, Garden Lot activities.
7. Remedies. Upon failure of LESSEE to pay rent, or upon failure of LESSEE to comply with any other terms or provisions of this Agreement, BHA may immediately terminate this lease agreement. Notice of such removal action shall be given by BHA to LESSEE's last known address, and LESSEE shall be given ten (10) days to tender all monies owed to BHA for any outstanding rents or costs.
8. Insurance. BHA provides no insurance relating to utilization of the Garden Lots under this Lease Agreement or otherwise.
9. Assignment. This Lease Agreement, and LESSEE's rights hereunder, may not be assigned, transferred or conveyed to any other person or entity, and any attempted assignment, transfer or conveyance shall be grounds for immediate termination of this Lease Agreement, at the option of BHA.



10. Rental Rates. Subject to change without notice or permission.

WITNESS our hands and seals as of the date herein first above written.

BALD HEAD ASSOCIATION:

By: \_\_\_\_\_

Carrie Moffett

Executive Director

Date: December 12, 2022

\_\_\_\_\_

Mailing address for rent and notices:

Bald Head Association

PO Box 3030

Bald Head Island, NC 28461

(910) 457-4676 x 21

carrie@baldheadassociation.com

LESSEE:

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**SECTION XII****SERVICE PROVIDER / KEY AGREEMENT**

Members wishing the Association to hold their keys for service provider pickup will sign an agreement prior to this arrangement being implemented. The agreement will contain the following points:

- ⌘ Acknowledgement that the Bald Head Association will maintain a key to their home, which may be provided by an agent of Bald Head Association, upon request, to those who represent themselves as agents of the service providers noted on the agreement form.
- ⌘ The member agrees to release the Association from any incident of damage, theft or other liability that may occur relating to providing this service, including, without limitation, the verification of identification of persons requesting keys.
- ⌘ The member acknowledges that "this service will be provided during the reasonable business hours of 9:00 am - 4:00 pm Monday through Friday only, or as they may from time to time change, and that this key service is being offered to facilitate maintenance services for our Unit only, not to provide access for renters to our Unit".
- ⌘ The member acknowledges responsibility for promptly notifying the Association of any changes to the list of service providers permitted to use the key. They further acknowledge that the Association offers this service as a convenience only, and that the Association reserves the right to suspend or revoke the service at any time for any reason, or no reason whatsoever.

The Association Manager will maintain the keys in her office and provide back up support to provide keys when she is absent.



BALD HEAD ASSOCIATION  
PO BOX 3030  
BALD HEAD ISLAND, NC 28461

Form should be mailed  
to the Association  
address. A faxed copy  
to 910-457-4677  
is also acceptable.

### KEY HOLDING AGREEMENT

I (we), the following deed holder(s),

Email Address: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_ Island House Address: \_\_\_\_\_

do request that the Bald Head Association maintain a key to our home, which may be provided by an agent of that organization, upon request, to those who represent themselves as agents of the service providers below. We release the BHA from any incident of damage, theft or other liability that may occur relating to providing this service, including, without limitation, the verification of identification of persons requesting keys.

We further understand that this service will be provided during the reasonable business hours of 9:00am - 4:00 pm Monday through Friday only, or as they may from time to time change, and that this key service is being offered to facilitate maintenance services for our Unit only, not to provide access for renters to our Unit.

We understand that we are responsible for promptly notifying the Association of any changes to the list of service providers. We further understand that the Association offers this service as a convenience only, and that the Association reserves the right to suspend or revoke the service at any time for any reason, or no reason whatsoever.

Signature(s): \_\_\_\_\_ Mother's Maiden Name\* \_\_\_\_\_

\*for call-in updates to list

Printed Name(s): \_\_\_\_\_ Date: \_\_\_\_\_

Please print below the names of the service providers you use that are authorized to come pick up keys to your home. You may call in and add or delete from this list at any time, but that company must be on this list for us to release your key.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

*(Please use the back if you need more room)*

## **SECTION X VII**

### **Welcome Packets**

**Approved 10/18/02**

Upon notification of the sale of a property to a new property owner (i.e. one who does not currently own property in Stage I), the Association Manager will send out Welcome Packets to the new property owner. The Welcome Packet will include:

- 1). Cover letter with overview of the Association and highlights of certain Covenant issues and amenities
- 2). Article about the Covenants written by Bob Marshall for the Island Report
- 3). Member FAQ's
- 4). Brief history of Association
- 5). Copy of Covenants.
- 6). Latest newsletter.
- 7). Property Owner's Guide (services provided by Village, Developer and Association, commonly requested phone numbers, etc.)
- 8). If the property owner purchases a lot adjacent to a fairway common area, a copy of the letter sent to all property owners in May 2002 regarding relevant restrictions.

## **Property Related Policies**

**Original Approved 7/23/04**

**Revision Approved 3/12/21**

### **1. REQUEST TO SPLIT OR MERGE LOTS**

#### Fees

- When BHI Property Owner(s) request that two or more lots be combined into one lot and such action is agreed to by the BHA Board an Administrative Fee of \$1,000 will be charged to the Property Owner.
- When Property Owner(s) request that previously combined lots be split back to single lots and such action is agreed to by the BHA Board, an Administrative Fee of \$1,000 for each lot split off from the original will be charged to the Property Owner.
- If the purpose of a split is to donate the split-off lot to SILT or to provide a Conservation Easement, the \$1,000 Administrative Fee may be waived.
- The revised Administrative fee will apply to any actions approved by the BHA Board after March 12, 2021.
- The Administrative Fee amount will be reviewed and adjusted periodically by the Bald Head Association Board.

#### Restrictions on splitting a merged lot

1. Covenant provision 13.1 must be met, specifically regarding the requirement that the total number of Units as indicated on Exhibit A shall not be increased.
2. The lots must be split on the original plat, in the absence of any building variances granted since the combination.
3. A merged lot that is designated improved may not be split unless the property will conform to all Design Guideline and Covenant restrictions when the split occurs. If the structure will be nonconforming after a split, approval to split the merged lot will not be granted until the property is brought into conformance.



BALD HEAD ASSOCIATION  
P.O. BOX 3030  
BALD HEAD ISLAND, N.C. 28461

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**SECTION XX of the BHA POLICY MANUAL**

**SINGLE FAMILY UTILIZATION POLICY TO GUIDE AND SUPPORT  
ENFORCEMENT OF ARTICLE 10.5(a) OF THE COVENANTS**

**APPROVED OCTOBER 21, 2005**

Article 10.5(a) of the Covenants restricts all Units to use "only for single family residential purposes." In trying to determine if the use of a unit is "single family residential" (and therefore permitted by Article 10.5a), or "commercial" (and therefore prohibited by Article 10.5a), the BHA will be guided by the definition of "family" under the existing Zoning ordinance of the Village of BHI. In its ordinance, the Village defines a Family as follows:

"one or more persons related by blood, marriage or adoption living together as a single housekeeping unit and having a recognized head of household. For the purposes of this ordinance such persons may include gratuitous guests and domestic servants employed on the same premises. Also may be 2-5 unrelated persons sharing a common household."

Thus, an occupancy will not generally be deemed to be a "single family residential" occupancy unless it appears, in the totality of the circumstances, that the occupants are truly "sharing a common household."



Bald Head Association  
Assessment/Lien Process Policy  
As adopted by the Board of Directors – July 13, 2012

Assessments are due by March 15 of each calendar year. Late notices for unpaid assessments are sent out at 60, 90 and 120 day intervals, with 1.5% per month interest noted on the overdue invoice.

At 180 days after the annual assessment due date, remaining unpaid properties will be turned over to the attorney for notification and lien processing. The Board has the discretion to exercise these liens at any time, and the Executive Director will keep them apprised of the status of the unpaid assessments to enable them to do so.



# Community Wide Standards

## Maintenance of Properties on Bald Head Island

Bald Head Association

910-457-4676

111 Lighthouse Wynd / PO Box 3030 / Bald Head Island, NC 28461

[www.BaldHeadAssociation.com](http://www.BaldHeadAssociation.com)



## **A. Background**

Bald Head Island is a unique and special Island where human development is joined in harmony with natural beauty — a balance that has drawn most property owners to the Island. The Bald Head Association’s vision for the Island is to promote “A community working together to cultivate a unique quality of life and to preserve the ageless appeal of Bald Head Island for generations to come.”

To that end, the BHA is charged with the effective management of Covenants, Design Guidelines and Common Areas. The Covenants provide that all property owners maintain and preserve their lots and all structures on them in a clean, neat, sightly and attractive condition and provide for the removal of trash and refuse from their homes, all in conformity with the Community Wide Standards and all in order to assist in maintaining the aesthetics of the Island and the property values of the owners.

This document has been adopted by the BHA Board of Directors to define specifically the Community Wide Standards for Maintenance of Properties on Bald Head Island. Each property owner can make an important difference by following these guidelines which will enhance not only their property’s aesthetics and value, but those of all property owners on the Island.

## **B. Community Wide Standards For Maintenance of Properties on Bald Head Island**

### ***Guiding Principle***

It is the intent and purpose of the Association to ensure development and maintenance of the Bald Head Island complex as an exclusive residential community of the highest quality and at the same time to endeavor to retain the natural, unspoiled beauty of the Island.

To that end, all structures shall be cared for, maintained and repaired in a manner such that the external appearance of each structure remains consistent with the other well-maintained structures in the community and consistent with the general tone and nature of the community. All property owners shall maintain and preserve their lots and all structures located on their lots in a “clean, neat, sightly and attractive” condition and provide for the removal of all trash or refuse from their homes. Maintenance will include, but not be limited to, repair and replacement as needed.

## **C. The Duty to Maintain and Preserve Structures and Lots**

### ***1. Structures***

The words “clean, neat, sightly and attractive” are clear, plain and easy for all to understand. To determine whether or not a structure is “clean, neat, sightly and attractive,” one shall consider, among other factors, whether or not the structure has a visible appearance of mold, mildew, rot, algae or peeling, cracked, faded, chipped, torn or missing exterior surface materials. The surface materials include, but are not limited to, paint, stain, stucco, siding, shingles or roof materials. Exterior surface materials include, but are not limited to, materials on the roof, building walls, door, garage doors, porches, patios, awnings, screens, windows, window frames, casements, ledges, retaining walls, bulkheads, fencing, fascia, eaves, steps, driveways, walkways and building trim.

In the normal course of reasonable maintenance, it is expected that homeowners shall:

- a. Maintain a clean, neat, sightly and attractive condition of exterior surfaces by removing mildew, dirt, mold, algae, moss and chipped or cracked paint;



**Not Acceptable**



**Acceptable**

- b. Maintain a clean, neat, sightly and attractive exterior surfaces by replacing trim and damaged or rotted boards, shingles, screens, awnings, windows, railings, roofing, doors, fences, lighting, overhangs, trash receptacles, walkways, stairways, driveways and all other parts of the exterior that exhibit failure or are unsightly;



**Not Acceptable**



**Acceptable**

- c. Maintain a proper coat of stain or paint on exterior surfaces;



**Not Acceptable**



**Acceptable**

- d. Cause to be done all other proper maintenance necessary to keep their property clean, neat, sightly and attractive.



## 2. *Lots*

Lots are also to be maintained “clean, neat, sightly and attractive.”

- a. Improved Lots

On improved lots the landscaping shall be maintained in a healthy condition and consistent with the approved landscaping plan.

As to what steps should be taken in maintenance of their improved lots, owners are directed to the BHA Landscaping Design Guidelines. In general, reasonable trimming for maintenance is assumed and encouraged. However, yard maintenance should involve only minimal trimming to maintain a controlled and guided landscape in character with the charm and beauty of Bald Head Island. Tree branches and other vegetation should be maintained in a reasonable manner so as not to impinge on structures. “Natural landscaping is not defined as a total abandonment of planting maintenance, but rather a controlled and guided landscape in character with the charm and beauty of Bald Head Island.”

- b. Unimproved (Vacant) Lots

On unimproved (vacant) lots the natural environment shall be left intact. In general, no clearing, trimming or removal of vegetation is allowed on unimproved (vacant) lots.

## D. The Duty to Remove Trash and Refuse from the Homes

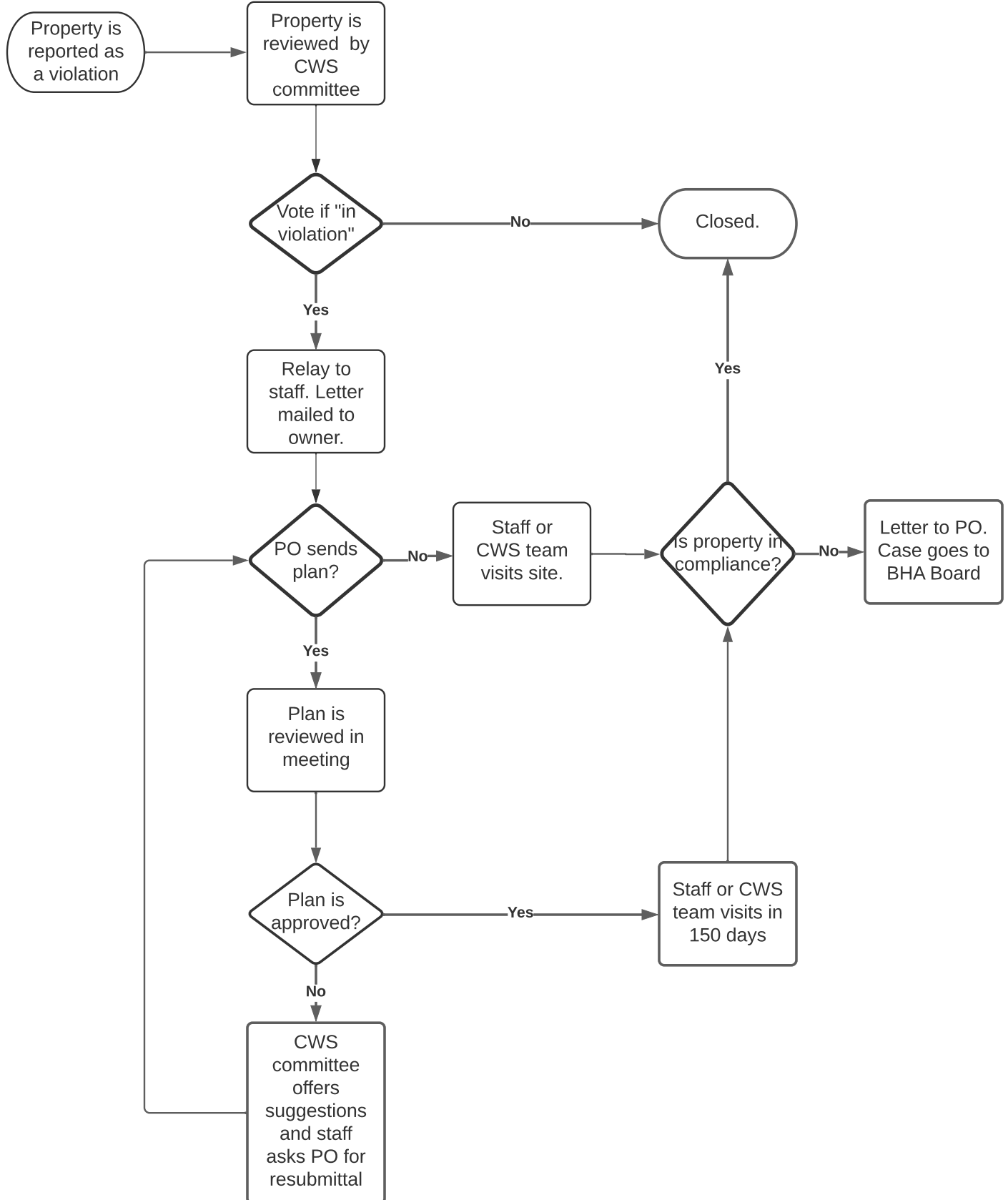
All homeowners shall provide for the removal of all trash or refuse from their homes. The Village of BHI provides for the regular pickup of trash or refuse. Alternatively, or additionally, the homeowners can take trash or refuse to the Village of BHI Public Works facility themselves. Either or both of the above are fine.

## E. Covenants Violation Procedure

In the normal and ordinary course, members of the CWS Committee will make regular evaluations of the neighborhoods in order to permit BHA to identify properties in need of maintenance to comply with the Community Wide Standards. If that member(s) observes a violation or if a property owner complains about a possible violation, then the process set forth in the attached Community Wide Standards Compliance Procedure Diagram will begin.

## CWS Process

Carol Collins | March 4, 2022







**BALD HEAD ASSOCIATION**  
**PO Box 3030, 111 Lighthouse Wynd**  
**Bald Head Island, NC 28461**  
**910-457-4676 x24**

## **RULES AND REGULATIONS FOR BALD HEAD ASSOCIATION MEMBER USE OF THE SURFMAN'S WALK GAZEBO**

The Surfman's Walk Gazebo in Cape Fear Station is owned by Bald Head Association (BHA). It is available for use by any BHA member. Since the Surfman's Walk Gazebo is located in a residential area use times are restricted. Events may not commence earlier than 10:00 a.m. and must be concluded by 10:00 p.m. unless otherwise approved by the Association. Set-up and break-down for an event may occur outside these hours with Association approval. Reservations for use must be made with BHA at 910-457-4676 x24 and will be accepted on a first come first serve basis. No more than one (1) event will be allowed on any given day.

BHA Members and guests shall comply with the following:

1. The BHA Member(s) who reserves the gazebo shall be solely responsible for damages, injuries or violations that occur to or at the Surfman's Walk Gazebo during the period of use.
2. A security deposit of \$250 must be paid before the event. It will be returned after the gazebo has been checked for cleanliness or damages after the event.
3. The Member shall provide access to toilet/restroom facilities sufficient for the number of expected guests, all in accordance with applicable health and sanitation regulations and other governmental requirements.
4. The Member is responsible for leaving the Surfman's Walk Gazebo in a clean, orderly and trash-free condition.
  - a. Personal property, equipment, facilities, decorations (including flowers and floral arrangements), trash and debris must be removed immediately after the event.
  - b. All trash must be bagged and removed from the premises.
  - c. The gazebo, gazebo deck and surrounding area must be left free of trash and debris, in broom-clean condition.
  - d. Events requiring extraordinary cleaning may be subject to deductions from the security deposit.
5. The Surfman's Walk Gazebo is a smoke-free environment. Smoking is prohibited anywhere in or around the gazebo. Members and their guests should be cognizant of the danger of fire in the forest, around the gazebo and to the homes in the neighborhood.
6. Decorations may be placed on the deck or in the gazebo. However, the use of nails, screws or staples is prohibited.

7. Open flames of any sort, candles, fires, sparklers and other pyrotechnics are prohibited. Birdseed and natural petals may be used, but synthetic materials, silk petals, glitter, confetti and rice **are prohibited**.
8. No tents are allowed.
9. If alcohol will be served, the Member must submit, at least 14 days prior to the event, a certificate of insurance providing liquor liability coverage for the event with limits not less than one million (\$ 1,000,000.00) dollars per occurrence, naming Bald Head Association as an additional insured. Liquor may not be served without a Special Occasion Permit. Beer and wine may be served only in accordance with state law. No brown-bagging is allowed. Loud, offensive, and disorderly conduct will not be tolerated. If neighboring homeowners chose to call Public Safety regarding noise or behavior that is offensive, the Association assumes no responsibility.
10. The Member is responsible for violation of these rules and regulations during the period of use or associated with Member's event, whether by Member, Member's agents or contractors, guests or other event participants.

I hereby reserve the Surfman's Walk Gazebo for use on \_\_\_\_\_, 20\_\_\_\_  
beginning at \_\_\_\_\_ a/m or p/m (circle one).

The event will conclude and the Gazebo will be returned to its original condition by:  
\_\_\_\_\_ a/m or p/m (circle one).

I ACKNOWLEDGE that I have read the above rules and AGREE to abide by them:

\_\_\_\_\_  
Responsible Party

\_\_\_\_\_  
Date

## **Nominating Committee Policy**

### **Approved May 14, 2021**

In order to assist and focus the Nominating Committee the Board of Directors would like to identify the specific provisions of the By-Laws that relate to the composition of and work of the Nominating Committee. Thereafter the Board would like to identify certain policy consideration the Board suggests the Nominating Committee should consider in carrying out its work. The policy suggestions are only suggestions. The By-Law provisions control the work of the Nominating Committee and make it clear the Nominating Committee shall act “in its discretion.”

#### **I. Relevant By-Laws Provisions for Nominating Committee:**

First, below are the relevant By-Laws provisions for the Nominating Committee:

### **ARTICLE V**

#### **NOMINATION AND ELECTION OF DIRECTORS**

**Section 1. Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall make as many nominations for elections to the Board of Directors as it shall in its discretion determine, but not less than one (1) nominee for each vacancy to be filled. The Nominating Committee shall submit its nominees at the regular September meeting of the Board of Directors...

## **Article XI**

**\*\*\***

**The Nominating Committee shall consist of a Chairperson, who shall be a member of the Board of Directors and four (4) members of the Association who are not currently members of the Board of Directors. The Nominating Committee shall be appointed by the Board of Directors.**

That completes the relevant By-Laws provisions regarding the Nominating Committee.

### **II. Who can the Nominating Committee select to be a director?**

The Nominating Committee can only consider for selection to the Board someone who is formally “qualified” by the By-Laws to be a Director. The By-Laws state:

## **ARTICLE IV**

### **BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE**

#### **Section 1. Number.**

**The affairs of this Association shall be managed by a Board of Directors consisting of six Directors, who need not be members of the Association. There shall be a minimum of**



**three (3) who are "living unit" owners (home, villa, condo, etc.).**

## **Section 2. Term of Office.**

**The Directors shall serve for a term of three (3) years or until a successor is duly elected or appointed. The Directors shall be divided into classes, composed of as nearly equal numbers of directors as is practicable. Each Director shall hold office until his/her term expires, death, resignation, removal, disqualification or his/her successor has been elected or appointed. No Director, whether elected or appointed, may serve more than six consecutive years. After a one-year hiatus a former Director may serve again.**

## **III Policy Considerations:**

The Board of Directors requests the Nominating Committee give consideration to the following policy considerations in selecting board candidates:

### **1-Diversity of membership of the Board Members-**

The Board believes it functions most effectively if it has diversity among its members. This includes, but is not limited to: sex, gender, sexual or gender preference, national origin, religion, race, age, educational background, employment experience, prior HOA experience, prior BHA committee experience and any and all of the other differentiating characteristics that makes each of us special and unique.

## **2-Financial and/or Accounting Education and/or Experience**

One of the most important duties we, the BHA, has is to responsibly manage the millions of dollars of money we collect from our members. One of our elected officers is the Treasurer. His/Her responsibilities are:

### **TREASURER**

**The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all promissory notes of the Association, and shall keep proper books of accounts. The Treasurer shall cause an annual audit of the Association books to be made by a public accountant at the completion of each calendar year; shall prepare an annual budget and a statement of income and expenditures, any of these to be made available to any member upon request; and shall deliver a copy of the most recent audited yearly statement of assets and liabilities to all members at each annual meeting. Any officer of the Association may sign checks.**

This is a very important position. We must have someone filling this position who is qualified by education and/or experience to perform these duties. In the normal course this means someone who is formally educated in either Finance and/or Accounting and has had meaningful work experience in these areas.

As the duties of Treasurer are complicated and very important, it is not unreasonable for the Nominating Committee to place on the Board slate a candidate with these qualifications even if there is on the Board a well-qualified Treasurer. A year as an apprentice is not a bad thing.

**3-Legal Background-** The BHA is regulated by an incredible number of formal rules and regulations. Articles of Incorporation, By-Laws, Covenants (many, many, many covenants), Design Guidelines, A Policy Manual, Informal Policies, North Carolina Non-Profit Laws, the Village of Bald Head Island Ordinances — to name just a few. Many countries do not have as many rules and regulations governing their actions as we do.

It is best that at least one member of the Board be a lawyer. He/she need not be a member of the NC Bar but that is a plus. He/she does not to be active but can be retired. He/she would not be our “lawyer” as we have and should have an outside capable lawyer and law firm. But he/she should be willing to take on the responsibly if elected to the Board to become familiar with all of the rules and regulations that govern the actions of the BHA.

At present we not have a formal officer position of “General Counsel” and we are not suggesting we create such a position as we have for the Treasurer. Rather we feel we need a director who does have legal background and experience and is willing to assist the Board in working with the rules and regulations that govern us. This will not create any legal attorney-client

relationship between this person and the BHA or any member of the Board but will provide the Board appropriate help.

#### **4-Prior Experience as a Member of the BHA Board**

History tells us that prior experience as a BHA Board member permits that person to perform better. There is a lot to learn to serve our members well. Therefore when we have a Director who has completed his/her first term and wants to continue we believe it is in the best interest of the BHA for that person to be given that opportunity.

**BALD HEAD ASSOCIATION  
RESERVE POLICY  
AS OF NOVEMBER 12, 2021**

Consistent with the Articles of Incorporation, Bylaws and the Covenants it is the responsibility of the Bald Head Association to create and maintain adequate reserves to provide for the orderly maintenance, repair and replacement of the common areas of the BHA so as to minimize the risk to the members of special assessments, deferred maintenance or unfunded losses.

In recognition of this responsibility the BHA had performed a reserve study by Global Solution Partners on December 4, 2020. In accordance with that reserve study and in accordance with The Reserve Study 103 April 2020 the following reserve policy is adopted.

1. It is the goal of the BHA to establish and maintain reserves at 70% of anticipated replacement cost;

2. It is the goal of the BHA to reach that 70% goal within five years by December, 2025.

3. It is the goal of the BHA to reach 35% of that goal by December, 31, 2022; 46.5% by December 31, 2023, 58% by December 31, 2024 and 70% by December 31, 2025.

4. The Board of Directors feels that this level of reserve funding reasonably protects the members from the risk of special assessments and deferred maintenance.

5. We authorize expenditures from reserve funds for:

a- Projects or purchases pre-approved in the annual budget;

b-Projects or purchases anticipated in the Reserve Study;

c-Repairs or replacements determined to be of an Emergency Nature determined by the Executive Director or the President or Vice President;

d-Other expenditures approved by the Board of Directors.

6. We authorize borrowing from reserve funds for unexpected expenses with the requirement to restore the amount borrowed over a reasonable period of time all as approved by the Board of Directors.

Adopted by the BHA Board of Directors  
November 12, 2021

## **DOCUMENT RETENTION AND DESTRUCTION POLICY**

### **BALD HEAD ASSOCIATION**

#### **Purpose**

In accordance with the Sarbanes-Oxley Act, which makes it a crime to alter, cover up, falsify or destroy any document with the intent of impeding or obstructing any official proceeding, this policy provides for the systematic review, retention and destruction of documents received or created by BHA in connection with the transaction of organization business. This policy covers all records and documents, regardless of physical form, contains guidelines for how long certain documents should be kept, and how records should be destroyed (unless under a legal hold). The policy is designed to ensure compliance with federal and state laws and regulations, to eliminate accidental or innocent destruction of records and to facilitate BHA's operations by promoting efficiency and freeing up valuable storage space.

#### **Document Retention**

Effective 10-14-22, BHA will follow the document retention procedures outlined below. Documents that are not listed, but are substantially similar to those listed in the schedule, will be retained for the appropriate length of time.

#### ***Corporate Records***

Articles of Incorporation	Permanent
Bylaws	Permanent
Board Meeting and Board Committee Minutes	Permanent (hard copies retained 3 yrs; then scanned)
Board Policies/Resolutions	Permanent (hard copies retained 3 yrs; then scanned)
Fixed Asset Records	Permanent
Contracts (after expiration)	7 years
Correspondence (general)	3 years

#### ***Accounting and Corporate Tax Records***

Annual Audits and Financial Statements	Permanent (hard copies retained 3 yrs; then scanned)
Depreciation Schedules	Permanent
Tax Returns	Permanent
Business Expense Records	7 years
IRS Forms 1099	7 years
Invoices	5 years

#### ***Bank Records***

Check Registers	Permanent
Bank Deposit Slips	7 years
Bank Statements and Reconciliation	7 years

### ***Payroll and Employment Tax Records***

Payroll Registers	Permanent
State Unemployment Tax Records	Permanent
Earnings Records	7 years
Garnishment Records	7 years
Payroll Tax Returns	7 years
W-2 Statements	7 years

### ***Employee Records***

Employment and Termination Agreements	Permanent (hard copies retained 3 yrs; then scanned)
Retirement and Pension Plan Documents	Permanent
Records Relating to Promotion, Demotion, or Discharge	7 years after termination
Accident Reports and Worker's Compensation Records	5 years
Salary Schedules	5 years
Employment Applications	3 years
I-9 Forms	3 years after termination
Time Cards	2 years

### ***Member Records***

Voting Records	Permanent (hard copies retained 3 yrs; then scanned)
Membership Records	Permanent (hard copies retained 3 yrs; then scanned)
ARC Records	Permanent

### ***Legal, Insurance, and Safety Records***

Appraisals	Permanent
Copyright Registrations	Permanent
Environmental Studies	Permanent
Insurance Policies	Permanent
Real Estate Documents	Permanent
Stock and Bond Records	Permanent
Trademark Registrations	Permanent
Leases	6 years after expiration
OSHA Documents	5 years
General Contracts	3 years after termination
Liens and litigation pleadings*	Permanent (hard copies for 3 years; then scanned)

\* Upon learning of a potential litigation claim, a "hold" is placed on any pertinent documents, including emails, which are pertinent to that claim and preserve them until the claim is resolved.

### ***Electronic Documents and Records***

Electronic documents will be retained as if they were paper documents. Therefore, any electronic files, including records of payments made online, that fall into one of the document types on the



above schedule will be maintained for the appropriate amount of time. If a user has sufficient reason to keep an e-mail message, the message should be printed in hard copy and kept in the appropriate file or moved to an "archive" computer file folder. Backup and recovery methods will be tested on a regular basis.

### **Emergency Planning**

BHA's records will be stored in a safe, secure and accessible manner. Documents and financial files that are essential to keeping BHA operating in an emergency are duplicated or backed up at least every week and maintained off-site.

### **Document Destruction**

BHA's executive director is responsible for the ongoing process of identifying records that have met the required retention period, and overseeing their destruction. Destruction of member-, financial- and personnel-related documents will be accomplished by shredding.

Document destruction will be suspended immediately, upon any indication of an official investigation or when a lawsuit is filed or appears imminent. Destruction will be reinstated upon conclusion of the investigation.

### **Compliance**

Failure on the part of employees to follow this policy can result in possible civil and criminal sanctions against BHA and its employees and possible disciplinary action against responsible individuals. The executive director and finance committee chair will periodically review these procedures with legal counsel and/or the organization's certified public accountant to ensure that they are in compliance with new or revised regulations.

APPROVED BY BALD HEAD ASSOCIATION BOARD OF DIRECTORS ON:

October 14, 2022  
Date

Robert Drumheller  
Secretary/Treasurer

Courtney A. Hill  
Executive Director



## **CONFLICT-OF-INTEREST POLICY AND PROCEDURES POLICY BALD HEAD ASSOCIATION**

### **Reason for Policy**

BHA, as a nonprofit corporation property owner's association, is reliant on member assessments and other income streams both for its continued financial stability and for the continuance of its responsibilities outlined in its bylaws and Covenants and as governed by North Carolina law.

Consequently, there exists between BHA and its directors, officers, committee members and employees a fiduciary duty that carries with it a broad and unbending duty of loyalty and fidelity. The directors, officers, committee members and employees have the responsibility of administering BHA's affairs honestly and prudently, and of exercising their best care, skill and judgment for the sole benefit of BHA and its members. Those persons shall exercise the utmost good faith in all transactions involved in their duties, and they shall not use their positions with BHA or knowledge gained there for their personal benefit. BHA's interests must have the first priority in all decisions and actions.

### **Persons Concerned**

This statement is directed not only to directors and officers, but to Architectural Review Committee (ARC) members and employees who can influence the actions of and have proprietary information concerning BHA.

### **Key Areas in Which Conflict May Arise**

Conflicts of interest may arise in the relations of directors, officers, ARC members and employees with any of the following third parties:

- Persons and firms supplying goods and services to BHA
- Persons and firms from whom BHA leases property and equipment
- Persons and firms with whom BHA is dealing or planning to deal in connection with the gift, purchase or sale of real estate, securities or other property
- Competing or affinity organizations
- Members and others supporting BHA
- Agencies, organizations and associations that affect the operations of BHA
- Family members, friends and other employees

### **Nature of Conflicting Interest**

A material conflicting interest may be defined as an interest, direct or indirect, with any persons and firms such as those mentioned above. Such an interest might arise, for example, through:

1. Owning stock or holding debt or other proprietary interests in any third party dealing with BHA
2. Holding office, serving on the board or a committee, participating in management or being otherwise employed (or formerly employed) by any third party dealing with BHA
3. Receiving remuneration for services with respect to individual transactions involving BHA
4. Using BHA's time, personnel, equipment, supplies or good will other than for approved BHA activities, programs and purposes
5. Receiving personal gifts or loans from third parties dealing with BHA. Receipt of any gift is disapproved except gifts of nominal value that could not be refused without discourtesy. No personal gift of money should ever be accepted.

**Interpretation of This Statement of Policy**

The fact that one of the real or perceived interests described above exists does not mean necessarily that a conflict exists, or that the conflict, if it exists, is material enough to be of practical importance, or if material that upon full disclosure of all relevant facts and circumstances that it is necessarily adverse to the interests of BHA.

However, it is the policy of the board that the existence of any of the interests shall be disclosed on a timely basis and always before any transaction is consummated. It shall be the continuing responsibility of board, officers, committee members and employees to scrutinize their transactions and outside business interests and relationships for potential conflicts and to immediately make such disclosures.

**Disclosure Policy and Procedure**

Disclosure should be made according to BHA standards. Transactions with related parties may be undertaken only if all of the following are observed:

1. A material transaction is fully disclosed in BHA's audited financial statements;
2. The related party is excluded from the discussion and approval of such transaction;
3. A competitive bid or comparable valuation exists; and,
4. BHA's board has acted upon and demonstrated that the transaction is in the best interest of BHA.

Staff disclosures should be made to the executive director (or if s/he is the one with the conflict, then to the Board's secretary/treasurer), who shall determine whether a conflict exists and is material, and if the matters are material, bring them to the attention of the full board. Disclosure involving directors should be made to the president of the board.

The board shall determine whether a conflict exists and is material, and in the presence of an existing material conflict, whether the contemplated transaction may be authorized as just, fair and reasonable to BHA. The decision of the board on these matters will rest in its sole discretion, and its primary concern must be the welfare of BHA and the advancement of its purpose.

The minutes of the meeting of the board or its committee shall reflect that the conflict of interest was disclosed, that the interested person was not present during discussion or decision on the matter, and did not vote.

**Certification**

The policy and its application shall be reviewed annually for the information and guidance of directors, officers, ARC members and employees, each of whom has a continuing responsibility to scrutinize their transactions, outside interests and relationships for potential conflicts of interest, and make such disclosures as described in this policy.

As administered by the executive director, each director will be asked to complete a certification of agreement with the policy and disclosure of any known conflicts of interest upon his or her election or re-election to the board or committee and annually thereafter. As administered by the executive director, each employee will be asked to complete such a certification upon his or her employment and on an annual basis thereafter. All certifications shall be reviewed by the board as appropriate.



ANNUAL CONFLICT OF INTEREST CERTIFICATION  
BALD HEAD ASSOCIATION

I acknowledge receipt of and have read a copy of BHA's Conflict of Interest Policy and Procedures Policy and agree to abide by it. To the best of my knowledge, I have no conflicts as described in this Policy. I further agree to report to the executive director of the organization any possible conflicts that may develop before completion of the next annual statement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (please print)

— OR —

I have read and agree to abide by BHA's Conflict of Interest Policy and Procedures Policy and agree to abide by it. To the best of my knowledge, I have no conflicts as described in this Policy, **except those noted below or on the attached paper.** I further agree to report to the executive director of the organization any possible conflicts (other than those stated below) that may develop before completion of the next annual statement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (please print)