

Prepared by:

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STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

AMENDED AND RESTATED  
DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS  
SABAL PALM COTTAGES

**THIS DOCUMENT REGULATES OR  
PROHIBITS THE DISPLAY OF POLITICAL SIGNS.**

**THIS DOCUMENT REGULATES OR  
PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED  
STATES OF AMERICA OR STATE OF NORTH  
CAROLINA.**

WHEREAS, an original Declaration of Covenants, Conditions and Restrictions ("Declaration") for Sabal Palm Cottages was recorded on December 27, 1995, in Book 1068 at Page 106 of the Brunswick County Register of Deeds, binding the real property known as Phase 1 of Sabal Palm Cottages, shown on a plat recorded as Phase One Sabal Palm Cottages in Map Cabinet 17 at Page 153 of the Brunswick County Register of Deeds;

WHEREAS, the Declaration was thereafter corrected supplemented and amended via a Notice of Correction filed on July 26, 1996 in Book 1100 at Page 828 of the Brunswick County Register of Deeds; via a Supplemental Declaration filed on September 25, 1996, in Book 1109 at Page 758 of the Brunswick County Register of Deeds, adding the real property shown on the plat recorded in Map Cabinet 18 at Page 14 of the Brunswick County Register of Deeds; via an Amendment filed on March 23, 1998 in Book 1209 at Page 821 of the Brunswick County Register of Deeds; and via an Amendment filed on August 10, 2010 in Book 3071 at Page 664 of the Brunswick County Register of Deeds;

WHEREAS, the members of the Sabal Palm Homeowner's Association, Inc. ("Association"), by and with the consent of at least sixty percent (67%) of the lot owners, hereby adopt and declare that this Amended and Restated Declaration shall supersede and replace the original Declaration, and shall hereafter bind all real property within the Sabal Palm community, including Phase One Sabal Palm Cottages, shown on a plat recorded in Map Cabinet 17 at Page 153 of the Brunswick County Register of Deeds, and the real property shown as Phase Two Sabal Palm Cottages on the plat filed in Map Cabinet 18 at Page 14 of the Register of Deeds (collectively the "Properties"), as well as any additional property brought under the jurisdiction of the

Association. This Amended and Restated Declaration shall further subject the property within the community to all terms of Chapter 47F of the North Carolina General Statutes, the Planned Community Act.

## **ARTICLE I** **DEFINITIONS**

SECTION 1. Association shall mean and refer to the Sabal Palm Homeowner's Association, Inc., a North Carolina nonprofit corporation, its successors and assigns, the owner's association organized for the mutual benefit and protection of the Properties. All property owners of Sites in Sabal Palm Cottages and any areas hereafter developed subjected to this Declaration, if any, shall be Members of the Association, which Membership shall be appurtenant to and may not be separated from the ownership of such single family Site.

SECTION 2. Amenities shall mean the facilities constructed, erected, or installed on any Common Area for the use, benefit and enjoyment of Members. The amenities for Sabal Palm Cottages shall consist of all improvements constructed on Common Areas (exclusive of Limited Common Areas), including, without limitation, an open-air gazebo and walkway (located between Sites 8 and 9.)

SECTION 3. Board of Directors or Board shall mean those persons elected or appointed and acting collectively as the directors of the Association.

SECTION 4. Common Area shall mean and refer to all property owned by the Association from time-to-time for the common use and enjoyment of the Owners. Common Area shall include all areas shown on the Plat or the Plat of Additional Properties, not designated as a Site, except that, to the extent that the size or location of any Site is altered pursuant to Article II, Section 5, the Property so designated as a Site shall not be Common Area. The recordation of the Plat (or the Plat of any Additional Properties) shall not be deemed a dedication of any Common Area.

SECTION 5. Common Expense shall mean and include (a) expenses of administration, maintenance, repair or replacement of Common Areas, and improvements thereon, excluding those areas identified as Limited Common Areas; (b) expenses declared to be common expenses under the provisions of this Declaration or the By-Laws of the Association; (c) hazard, liability or such other insurance premiums as the Declaration or By-Laws may require or the Association shall, from time-to-time, purchase; (d) expenses agreed by the Owners to be Common Expenses of the Association.

SECTION 6. Declaration shall mean this instrument as it may be from time-to-time amended or supplemented.

SECTION 7. Limited Common Area shall mean those Common Areas and improvements thereon which are reserved for the use and benefit of a certain Site or Sites to the exclusion of all other Sites as more specifically shown and designated on the Plat or maps of any and all phases of Sabal Palm Cottages and Additional Properties, and which shall include garages and walkways leading from the roadway to any entrance of a Site as shown on said Plat or maps.



SECTION 8. Member shall mean and refer to every person or entity who has a Membership in the Association.

SECTION 9. Membership shall mean and refer to the rights, benefits, duties and obligations which shall inure to the benefit of and burden each Member as hereinafter set forth in Article V. Every person who is a record owner of a fee or undivided fee interest in any Site which is subject, by covenants of record, to assessment 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 both of Bald Head Association and the Association. Ownership of such interest shall be the sole qualification for such membership. Membership shall be appurtenant to and may not be separated from ownership of any Site which is the subject of this Declaration. The Board of Directors may make reasonable rules regarding proof of ownership.

SECTION 10. Owner shall mean and refer to the entire set of record owners, whether one or more persons or entities, of a fee simple title to any Site 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.

SECTION 11. Site shall mean and refer to any of the numbered building pads in any phase of Sabal Palm Cottages as shown on the Plat or recorded maps of Additional Properties, as recorded in the Brunswick County Registry, together with all improvements, including any structure or dwelling unit, constructed thereon.

## **ARTICLE II**

### **PROPERTY RIGHTS**

SECTION 1. Owners' Easements of Enjoyment. Every Owner shall have right and easement of enjoyment in and to the Common Area (but not the Limited Common Area), if any, which shall be appurtenant to and shall pass with the title to every Site, subject to the following provisions:

- A. The right of the Association to suspend the voting rights and privileges of an Owner for any period during which any assessment against their Site remains unpaid and for a period not to exceed sixty (60) days for any infraction of the published rules and regulations, but access to the Owner's Site shall not be denied.
- B. The right of the Association to dedicate or transfer all or part of the Common Area, if any, to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective until approved by vote of at least two-thirds (2/3) of the Owners as indicated in an instrument executed by the Association and recorded in the Brunswick County Registry.
- C. The right of the Association to impose regulations for the use and enjoyment of the Common Area, if any, and improvements thereon, which regulations may further restrict the use of the Common Area.

- D. The right of the Association to limit the number of guests of Members allowed to utilize any Site or Common Area.
- E. The Association may not restrict the right of utilization of any Limited Common Area nor may any Limited Common Area be conveyed without the consent of the Member entitled to utilization thereof.
- F. The right of the Association to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of each Site and all Common Areas. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in the Book of Restrictions which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

SECTION 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, their right of enjoyment to the Common Areas to the members of their family, their tenants or contract purchasers provided that such shall occupy the Owner's Site.

SECTION 3. Off-Street Parking. The Association, in its reasonable discretion, may adopt rules and policies to control or prohibit the use of Common Areas for parking of private vehicles, boats, trailers, campers or recreational vehicles in order to make certain that none of these block any ingress or egress over or across any road, driveway or other portion of the Common Area for vehicular or emergency services passage. The Owner shall be entitled to the right of ingress and egress to their Site.

SECTION 4. Site Restrictions. Each Site shall constitute an allowed residential building pad and shall be used for residential purposes only. No Site or group of Sites may be resubdivided so as to produce a greater number of Sites than shown on the aforementioned Plat, and no structure shall be erected, altered, placed or permitted to remain on any Site other than one detached single-family dwelling unless otherwise approved by the Association.

SECTION 5. Housing Easement. Should any primary residential structure be constructed with an encroachment on Common Areas, there is hereby granted to the Owner of such structure from time to time a perpetual easement (for so long as said structure remains, including any replacement structure) for the sole use and benefit of said Owner for the purpose of maintaining said structure thereon, and the area covered by such structure shall be Limited Common Area. The Association shall have authority to convey such area to the Owner without consent of any Member.

### **ARTICLE III** **EASEMENTS**

SECTION 1. Utilities. Perpetual, alienable easements are reserved as necessary in the Properties and the Common Areas thereof for the installation and maintenance of underground utilities and drainage facilities. The Association shall have the power and authority to create and 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 Property.

SECTION 2. Encroachments. All Sites, Common Areas and Limited Common Areas are hereby subjected to an easement for encroachments created before the end of the calendar year 2021 by construction, settling and overhangs for all buildings including, without limitation, the overhanging eaves, gutters, down spouts, exterior storage rooms, walls, boardwalks or walkways thereof, constructed by Declarant, its successors and assigns or by Owners. A valid easement for said encroachments and any encroachments created later in compliance with this Declaration is hereby created and shall exist for the maintenance of same so long as such encroachments shall stand.

SECTION 3. Emergency. An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services to enter upon the Sites, Common Areas, and Limited Common Areas in performance of their duties.

SECTION 4. Entry. In case of any emergency originating or threatening any Site or the Common Areas, regardless whether any Site Owner is present at the time of such emergency, the Board of Directors or any other person authorized by it, shall have the right to enter any Site for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs, and such right of entry shall be immediate.

SECTION 5. Survival. All easements and rights described herein are easements appurtenant, running with the Property, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any owner, purchaser, mortgagee and other person(s) having interest in the Property, 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 trust deed or other evidence of obligation.

#### **ARTICLE IV**

##### **UTILITIES**

Water service for Sabal Palm Cottages shall be provided by Bald Head Island Utilities, Inc., its successors or assigns. No Site owner may drill or otherwise construct a water well on any Site in Sabal Palm Cottages, or use any other source of water supply for household or irrigation purposes. Periodic charges for water usage shall be the responsibility of each individual Site owner. Landscaping on Common Area shall be maintained and watered by Association.

#### **ARTICLE V**

##### **MEMBERSHIP AND VOTING RIGHTS**

SECTION 1. Qualification. Every Owner of a Site in the Properties shall be a member of Bald Head Association and the Association. Membership in both Associations shall be appurtenant to and may not be separated from ownership of any Site.

SECTION 2. Voting Rights. All Owners of Sites in Sabal Palm Cottages shall be entitled to one vote in the affairs of the Association for each Site owned. When more than one person holds an interest in any Site, all such persons shall be Members. The vote for such Site shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Site.

## **ARTICLE VI**

### **COVENANTS FOR ASSESSMENTS**

SECTION 1. Creation of the Lien: Personal Obligation of Assessments. Each Owner of any Site by acceptance of a deed whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- A. Annual assessments or charges, and
- B. Special assessments, such assessments to be established and collected as hereinafter provided.

The Annual and Special assessments, together with interest, costs and reasonable attorney's fees incurred for collecting such assessments, shall be a charge on the land and shall be a continuing lien upon the Site against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Site at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to their successors in title unless expressly assumed by them.

SECTION 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of all easements, utilities and the Common Areas, to carry out the obligations of the Association and to administer the Association.

SECTION 3. Annual Assessments. Annual assessments shall be in an amount to be fixed from year-to-year by the Board of Directors which may establish different rates from year-to-year as it may deem necessary for the purposes set forth in Section 2 above. The amount of the annual assessment against each Site for any given year shall be fixed at least thirty (30) days in advance of the annual assessment period. Written notice of each annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors and the Board of Directors shall have the authority to require the assessments to be paid in pro rata monthly or quarterly installments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether any assessment of a specified Site has been paid.

SECTION 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, one or more special assessments, applicable to the year only, for any purpose for which the Association is authorized to expend funds provided that



any such assessment shall have the assent of two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

**SECTION 5. Insurance.** The Board of Directors on behalf of the Association, as a Common Expense, shall at all times keep the property of the Association insured against loss or damage by fire or other hazards and other such risks, including but not limited to directors' liability and public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time-to-time to protect the Properties and Common Areas, which insurance shall be payable in case of loss to the Association for all Members. The Association shall have the sole authority to deal with the insurer in the settlement of claims. Such insurance shall be obtained without prejudice to the right of each Member to insure their personal property for their own benefit at their own expense.

Notwithstanding this provision or any other provision of this Declaration or the Bylaws of the Association, it shall be the responsibility of each Owner to maintain insurance against loss by hazard of improvements located on Limited Common Area, including garages, which improvements are reserved for the exclusive benefit of said Owner. Such insurance shall be either a part of or included by endorsement to the primary hazard insurance policies required to be maintained by each Owner in accordance with the following paragraph.

The Owner of each dwelling shall procure at Owner's sole cost and expense, full replacement cost insurance against loss or damage by fire, wind and other hazards normally insured against in a typical residential (non-commercial) homeowner's policy, with the exception that flood insurance is not required. The decision of the Association as to whether any insurance is reasonably available, and therefore required, shall be binding on the Owners. Unless otherwise approved by the Association, all insurance shall contain a waiver of subrogation provision. Proof of required insurance shall be maintained by each Owner and with the Association at all times. The Association may, if any Owner fails to maintain required insurance, procure such insurance on behalf of said Owner, and charge to said Owner the premium cost of such insurance, plus an administrative fee equal to twelve percent of the cost of the premium of said insurance to be collected in the manner of an assessment.

In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by Members or their mortgagees. The Association shall insure no personal property of an Owner, even if located on or in a Common Area (whether Limited Common Area or not).

**SECTION 6. Insurance Assessments.** All insurance policy premiums on the Common Areas for the benefit of the Association purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a Common Expense and the Association may either levy against the Owners equally as an additional annual assessed said amount, which shall be in addition to the amounts provided for under Section 2 above, in an amount sufficient to pay the annual cost of all such insurance premiums, or shall include such amount in its annual budget as a Common Expense.

SECTION 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at the same rate for each Site and may be collected on a monthly, quarterly or annual basis as determined by the Board.

SECTION 8. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The Association shall have the right to collect any unpaid assessments, related costs (including costs of collection) and attorney fees via a civil action on account, or in the manner set out in the Planned Community Act, including lien and foreclosure. No Owner may waive or otherwise escape liability for any assessments provided for herein by non-use of the Common Area or abandonment of their Site.

SECTION 9. Subordination of the Lien to Mortgagee. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Site shall not affect the assessment lien. However, the sale or transfer of any Site pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Site from liability for any assessments thereafter becoming due or from the lien thereof.

## **ARTICLE VII**

### **ARCHITECTURAL CONTROL**

SECTION 1. Building and Site Improvements. No dwelling, fence, wall or other structure shall be commenced, erected, or maintained upon any Site in the Properties, nor shall any exterior addition to or change in or alteration thereof (including painting or repainting of exterior surfaces) be made until the plans and specifications have been submitted and approved as more fully set out hereinafter.

The Board of Directors of the Association shall, as determined by it, either sit as an architectural review board, or shall appoint a three (3) person committee to sit as an architectural review board. The designation "Architectural Review Board" will refer to either the three (3) person committee (if the Board of Directors appoints such a committee) or the Board of Directors itself (if it chooses to sit as the Architectural Review Board rather than appoint a separate committee). The Architectural Review Board shall review all changes in the initially approved landscape or site plans for each Site and shall further review all alterations to previously approved improvements (in either case, including renovations and repairs impacting exterior appearance).

All new construction and initial landscaping plans must be approved unanimously by the Architectural Review Board under these Restated Covenants, in accordance with the provisions adopted by the Architectural Review Board created in accordance with these Restated Covenants. Notwithstanding any other provisions of these Restated Covenants, the Board of Directors shall not be required to review any construction or improvements delegated hereunder to the jurisdiction of its Architectural Review Board if the Architectural Review Board votes unanimously for approval. In the event that a proposal is denied because of a less than unanimous vote of the Architectural Review Board, and the Board of Directors is not itself acting as the Architectural Review Board, an appeal may be taken by the applicant to the Board of



Directors. In the case of such an appeal, approval shall require a unanimous vote of the Board of Directors.

At least thirty (45) days prior to the anticipated commencement of any landscaping or the construction, erection, establishment or modification of any structure or improvement on any Site, the Owner of such Property (or their duly appointed agent) shall submit to the Chairman of the Architectural Review Board, a plat of the Site, which plat shall show each Site corner, as to new construction, and there shall be shown thereon the proposed location of all proposed and existing structures or improvements, including driveways, bulkheads, piers, patios, decks and walkways. There shall further be provided sufficient building elevations and other site plans, including a statement of exterior building materials and proposed exterior colors, to allow the Architectural Review Board to accurately evaluate all structures and improvements proposed for construction on the Site. Plans for a primary residence must be prepared by an Architect licensed to practice by the State of North Carolina or by a state which shares licensing reciprocity with the State of North Carolina. There shall be submitted four (4) copies of all information required to be submitted.

Within forty-five (45) days after the receipt of all required information, the Architectural Review Board shall submit in writing to the Owner of the Site whether or not the requested construction and/or landscape plans are approved. Unless a response is given by the Architectural Review Board within forty-five (45) days, the plan shall be deemed approved. The response of the Architectural Review Board may be an approval, a denial, an approval with conditions or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate, and the forty-five (45) day time for response shall only commence upon receipt of the requested additional information. If approval with conditions is granted, and construction then begins, the conditions imposed shall be deemed approved by the Owner of the Site. Any improved landscape plan shall be approved subject to the express condition, whether or not so stated in the Letter of Approval that the landscape plan shall be fully implemented in a professional way as soon as reasonably possible following completion of construction of improvements on the Site, and shall be further conditioned upon the commitment of the Owner of the Site to complete timely such landscape plan, and once implemented, said landscaping shall be maintained in a professional manner at all times. Nothing shall prohibit the Owner of a Site from leaving portions of their Site in a natural condition; furthermore, the Association may and is encouraged to maintain Common Areas in a natural condition or to allow areas that were cleared during construction to reestablish natural vegetation. It is the intent that ultimately the areas within approximately eight feet (8') of housing foundations be maintained with plants, but that the remaining portions of Sites and Common Areas be allowed to establish natural vegetation.

The Architectural Review Board shall approve the plans as submitted, if all required information is submitted, if all specific requirements imposed by this Declaration are met, and if the following affirmative findings are made:

- A. That the improvements sought to be constructed will not have negative economic impact on any other Sites;

- B. That all required specific building standards and other conditions contained within this Declaration, the guidelines established by the Architectural Review Board for utilization throughout Sabal Palm Cottages, and other applicable legal documents have been complied with;
- C. That the improvements are architecturally compatible with proposed or constructed improvements on other Sites;
- D. That the natural features of the Site have been retained to the maximum extent feasible; and
- E. That the construction methodology to be utilized and the method of transporting the components to be used in construction can be installed on the Site without substantial damage to the natural vegetation on the Site or without substantial damage to streets or vegetation and that the components, when incorporated into a structure, do not create a structure otherwise inconsistent with the standards imposed hereby.

**SECTION 2. Approval of Plans.**

- A. No house plans will be approved unless the proposed house shall have a minimum of 1,600 square feet of enclosed dwelling area. The term "enclosed dwelling area" as used in the minimum requirements shall be the total enclosed area within a dwelling; provided, however, that such term does not include garages, terraces, decks, open porches, and like areas; provided further, that shed-type porches, even though attached to the house, are specifically excluded from the definition of the aforesaid term "enclosed dwelling area."
- B. Since the establishment of inflexible building setback lines for location of house on Sites tends to have detrimental effects on privacy, view, preservation of important trees and other vegetation, and may have ecological consequences which are undesirable, no specific setback lines are established by this Declaration. In order to assure, however, that the foregoing considerations are given maximum effect, the Site and location of any house or other structure upon any Site shall be controlled by and must be approved by the Architectural Review Board.
- C. No structure shall be erected, altered, placed or permitted to remain on any Site, except one single-family dwelling not to exceed two stories in height, and one or more accessory buildings (which may include detached private garage, or guest facilities) provided the use of such dwelling or accessory building does not in the opinion of the Architectural Review Board overcrowd the Site, and provided further, that such buildings are not used for any activity normally conducted as a business. Architectural features extending above the roof line may be approved if compatible with the primary structure.
- D. All service utilities, fuel tanks, clothes lines, wood piles and trash and garbage accumulations are to be enclosed within a fence, wall or plant screen of a type and



size approved by the Architectural Review Board, so as to preclude the same from causing an unsightly view from any highway, street or way within the Property, or from any other Site.

- E. Any fences must be approved as to location and style by the Architectural Review Board.
- F. Off-street parking for not less than two (2) authorized passenger vehicles must be provided on each Site prior to the occupancy of any dwelling constructed on said Site, utilizing materials approved by the Architectural Review Board for use within Sabal Palm Cottages.

**SECTION 3. Maintenance by Association.** The Association, at its expense, shall be responsible for maintaining, repairing and replacing the planted areas, the storm water drainage system, including any retention ponds, all drainage lines, pipes and ditches which are located on the Properties, except those constructed by individual Site owners and located within individual Sites. The Association shall have the right to go onto the Sites at reasonable times for the purpose of maintaining, repairing and replacing all utility and drainage lines and pipes which might be located on such Sites; and each Owner hereby grants permission to the Association for its representatives to enter their Site for such purposes.

In the event that such need for maintenance, repair or replacement (other than such being caused by fire, lightning, windstorm, hail, explosion, riot, riots attending a strike, civil commotion, aircraft, vehicles, and smoke, as the foregoing is defined and explained in North Carolina Standard Fire and Extended Coverage Insurance Policies) is caused through the willful, or negligent act of the Owner, their family, guest(s) or invitee(s), the cost of such maintenance, replacement, or repairs shall be added to and become a part of the assessment to which such Site is subject. Insurable risks are not the responsibility of the Association.

The Association shall maintain all Common Areas, including the maintenance of boardwalks, walkways and gazebos designed for use by more than one Lot Owner, and the exterior lighting systems (including light bulbs and the costs of operation thereof); the trimming of trees, palms, and shrubbery located in the Common Areas; and the premiums associated with general liability insurance insuring the Association from liability arising from ownership and operation of said Common Areas. Provided, however, that Lot Owners shall be responsible for maintaining, repairing and replacing any portion of any walkway designed to exclusively serve their Lot to provide access to their home and garage.

In addition to the maintenance and repair of the Common Areas, the Association shall be responsible for the painting of the following:

- A. House trim and the exterior of house.
- B. Garages, garage trim and the outside of garage.

Except as set forth above, each Owner shall be responsible for all exterior surfaces and improvements located on a Site including, but not limited to, repairing and replacing exterior siding, roofs, decks, windows, porches, patios, walks and all other exterior parts of the structures and improvements located on the Site. All materials used to repair or replace portions of the structure shall be identical in color and appearance to the materials being replaced or must be specifically approved in accordance with this Declaration.

In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over, on, upon, through and across each Site and the structures and improvements thereon and its Limited Common Area, if any, at all reasonable times, to perform the maintenance and repair required under this Article.

In the event that any maintenance or repair of the Site, and any structures and improvements thereon, is required to be done or performed as a result of the negligent or willful acts of the Owner or their guests, as determined by the Board of Directors of the Association, or the family, tenants, contract purchasers, guest(s) or invitee(s) of the Owner, or is caused by fire, wind, rain, blowing water, lightning, smoke or other hazard or casualty, then, in the sole discretion of the Board of Directors, the costs of such maintenance or repairs, not fully covered by insurance, may be levied as a special assessment against only the Site sustaining such damage, which assessment the Owner shall pay to the Association within fifteen (15) days of the date of written notice to the Owner from the Association requesting such payment.

## **ARTICLE VIII**

### **USE RESTRICTIONS**

**SECTION 1. Land Use and Building Type.** No Site in Sabal Palm Cottages shall be used for any purposes except for residential purposes. Any building erected, altered, placed or permitted to remain on any Site shall be subject to the provisions of this Declaration relating to architectural control. No Site or any portion thereof that is rented may be used by or advertised for use by more than eight occupants at any one time. No Lot may be subdivided.

**SECTION 2. Nuisances.** No noxious or offensive activity shall be carried on upon any Site, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, or unpleasant so as to diminish or destroy the enjoyment of other properties by the Owners thereof. It shall be the responsibility of each Site owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds on such Site which would tend to substantially debase the beauty of the neighborhood as a whole or the specific area. The Board of Directors shall have complete authority to determine what activities are restricted by this section.

**SECTION 3. Site Maintenance.** All personal property of the owners, including yard furniture, firewood, bicycles, motorbikes, boats, beach furniture, toys, trash cans and all other personal property, must be stored or kept concealed within the improvements to any Site and no such item may be kept in the yard of any Site. In the event that any Site owner shall fail or refuse to keep



their Site free from weeds, underbrush or refuse piles, or unsightly growth or objects, then, after thirty (30) days' notice from the appropriate committee, the appropriate association, or its designee, shall enter upon such Site and remove the same at the expense of the Owner, and such entrance shall not be deemed a trespass. In the event of such removal, a lien shall arise and be created in favor of the appropriate Association for the full amount of the cost thereof chargeable to such Site, including collection costs and a 15% administrative charge, and such amounts shall be due and payable within thirty (30) days after the Owner is billed therefor. Such liens shall be enforceable by judicial proceedings as provided by law for enforcement of liens.

SECTION 4. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, bam or other outbuildings shall be used on any Site any time as a residence either temporarily or permanently.

SECTION 5. Boats; Mobile Homes and Construction Trailers. No boat or motorboat shall be allowed to remain within the Properties unless enclosed within a garage, house or crawl space under a house. No mobile home or similar type structure, except for temporary construction trailers necessary during construction, shall be permitted to remain on any Site or on any street in the Properties, and such items shall require advance approval of the Association.

SECTION 6. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Site or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and proved further that they are not allowed to run free and are at all times properly leashed.

SECTION 7. TV Satellite Dishes and Outside Antennas. No TV satellite signal receiving dishes or antenna of any kind will be permitted on any Site at any time unless, in the opinion of the Architectural Review Board, such dish or antenna are adequately screened from view from Common Areas and other Sites. No outside radio or television antenna shall be erected on any Site or dwelling unit within the Properties unless and until permission for the same has been granted by the Architectural Review Board.

SECTION 8. Window Coverings. All drapes, curtains or other similar materials hung at windows, or in any manner as to be visible from the outside, the home shall be of a white or neutral background material.

SECTION 9. Exterior Lights. All light bulbs or other lights installed in any fixture located on the exterior of any building or any Sites shall be clear, white or nonfrosted lights or bulbs.

SECTION 10. Junk Vehicles. No inoperable vehicle or vehicles will be permitted on the Property. The Association shall have the right to have all such vehicles towed away at the Owner's expense.

SECTION 11. Signs. No political signs shall be allowed to remain on any Lot. A political sign shall be defined as any representational object, regardless of material, which is designed to influence the outcome of an election, including supporting or opposing an issue on the election ballot; designed to promote a person, political group, political party or similar organization

espousing social or political causes; or which indicates support for or opposition against any politician, political party, or social movement. No commercial signs, including "For Sale" or "For Rent" signs, shall be erected or maintained on any Lot or on the Common Areas nor shall any such sign be allowed within any home or structure if readily visible from any Site or street, except that advertising information may be placed on lots as allowed under Bald Head Association's rules and regulations. Nothing contained herein, however, shall prohibit the erection and maintenance on any Common Area of one or more subdivision identification signs, which signs shall be maintained by the Association.

SECTION 12. Flags. No flag may be flown within the Properties, except as follows:

- A. One United States flag, and one flag of the State of North Carolina, may be flown, provided that each flag shall be no larger than three feet by five feet, and is flown from a pole attached to the residence and not installed in the ground outside the residence.
- B. Small, seasonal, holiday and school/university signs may be displayed in reasonable numbers, not to exceed three at any given time, if they are each no larger than three by five feet in size.

## **ARTICLE IX**

### **ANNEXATION AND AMENDMENT**

SECTION 1. Approval. Annexation of Additional Property shall require the assent of two-thirds (2/3) of the Members at a meeting called for this purpose. Written notice of such meeting shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

SECTION 2. Association. Every owner of a Site in Sabal Palm Cottages shall become and be a member of the Bald Head Association as well as a member of the Association. A membership in one association does not exclude the requirement of membership in the other association.

SECTION 3. Amendment. This Declaration may be amended consistent with the provisions of N.C.G.S. 47F-2-117, by and with the consent of at least sixty-seven percent (67%) of the votes of the Association.

## **ARTICLE X**

### **ENFORCEMENT; SEVERABILITY**

SECTION 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 2. Enforcement of Storm Water Runoff Regulations. The State of North Carolina is hereby made a beneficiary of this Declaration to the extent necessary to enforce its storm water runoff regulations as the same may be amended from time-to-time.



SECTION 3. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise effect any other provisions which shall remain in full force and effect.

SECTION 4. Sites Subject to Declaration. All present and future owners, tenants and occupants of Sites and their guest(s) or invitee(s), shall be subject to, and shall comply with the provisions of the Declaration, and as the Declaration may be amended from time-to-time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Site shall constitute an agreement that the provisions of this Declaration area accepted and ratified by such owner, tenant or occupant. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable by the Association, or the Owner of any Site. Their respective legal representative's heirs, successors and assigns, and shall run with and bind the land and shall bind any person having at any time any interest or estate in any Site as though such provisions were made a part of each and every Deed of Conveyance or Lease.

Wherefore, this Amended and Restated Declaration is adopted as of the 17<sup>th</sup> of May, 2022.

Jay A. Copan  
President  
Sabal Palm Homeowner's Association, Inc.

State of North Carolina  
Wake County

I certify that the on this date, Jay Allen Copan (print name) personally came before me and acknowledged that he/she is the President of the Sabal Palm Homeowner's Association, Inc., and executed the foregoing document in its name and by and with the requisite consent of its membership.

This the 17 day of MAY, 2022.

[Signature]  
Notary Public

Print name: MICHAEL MILLER

My commission expires: 03/02/2027

