

SOUTHWIND SHORES, SECTION II, PROPERTY OWNERS ASSOCIATION, INC.
Amended and Restated Declaration of
Protective Restrictions and Covenants
And By-Laws

Amended and Restated Declaration of
Protective Restrictions and Covenants

Introduction

Strong restrictions protect your investment. The provisions of the Declaration of Protective Restrictions and Covenants, as hereinafter set forth, have been designed with the thought that most persons, ideally, would like to be a part of a community having an ecologically balanced atmosphere. This specifically includes each individual property owner's right to enjoy his privacy, individual needs and desires without infringing upon that of his neighbors. Consequently, in this Declaration an attempt has been made to provide for the reasonable exercise of maximum freedom and enjoyment for those activities which may be engaged in upon the individual lots comprising your community.

Southwind Shores Subdivision

WHEREAS, a plat of survey by James H. Bell, Jr. P.C., dated September 17, 1992, recorded among the land records of Spotsylvania County, Virginia (the "Land Records"), subdivided real property into Lots 27-84, which along with the common areas applicable to Section II, Southwind Shores Subdivision, were then subjected by Southwind Shores Development Corp., Inc. (the "Declarant") to a Declaration of Protective Restrictions and Covenants and By-laws for the Southwind Shores Subdivision recorded in Deed Book 981 at Page 607, among the Land Records (the "Declaration");

WHEREAS, the Members of the Southwind Shores, Section II Property Owners Association, Inc. (the "Association") believe it is in the best interest of the Association and its Members, to consolidate and subject the Declaration and By-laws and their various amendments for the properties in the Section II, Southwind Shores Subdivision into a single Amended and Restated Declaration of Protective Restrictions and Covenants and By-laws and to amend the Declaration and By-laws; and

WHEREAS, the proposed amendments to the Declaration do not affect mortgagee rights; and

WHEREAS, the President and principal office of the Association has signed the certification attached hereto as Exhibit "A," certifying the requisite number of Owners have voted in favor approving this Amended and Restated Declaration of Protective Restrictions and Covenants and

By-laws, as required to amend the Declaration and By-laws.

NOW THEREFORE, WITNESSETH: This Deed of Declaration for the attached plats is made subject to all of the following provisions of this Amended and Restated Declaration of Protective Restrictions and Covenants and By-laws, which provisions shall be deemed to run with the land for the mutual protection and benefits of all land owners, and apply to each and every numbered lot shown on the current plat of Southwind Shores Subdivision, recorded in the Clerk's Office of the Court of Spotsylvania County, Virginia, Plat File 3, Pages 292-294, except where reserved as herein provided to wit:

ARTICLE I. USE AND IMPROVEMENT STANDARDS

SECTION 1: STATEMENT OF PRINCIPLES AND PURPOSE.

1.1: Considerable effort and expense was given to the master planning of Southwind Shores to ensure a thoughtful and harmonious development process. A major concern in the planning is the integration of development with its immediate environment and a strong conviction that man made improvements should, as much as possible, blend with the existing environment and nature rather than stand in stark contrast with it. The quality of the development and that of the homes constructed at Southwind Shores shall determine, to a great extent, the character of the community, the value and the nature of life within the community.

1.2: In order to assure that these objectives are achieved and to assure a continuity of physical development such that future development will be compatible with existing development, the Developer has declared and recorded these covenants, conditions and restrictions applicable to all platted lots within Southwind Shores Subdivision, further establishing a community Board of Directors, an Environmental Control Committee and setting forth its jurisdiction, powers, obligations and the rules and regulation under which this community will conduct its review of proposed improvements.

1.3: Whereas Southwind Shores is a community with a strong visual identity, the Developer has established architectural and environmental control guidelines to ensure that all residents and lot owners within the community of Southwind Shores can enjoy the unique and distinctive natural environment.

1.4: Whereas this Declaration of Protective Restrictions and Covenants shall constitute a covenant running with the land, the Architectural and Environmental Control Guidelines made part hereof shall be administered by the Environmental Control Committee, as directed by the Board of Directors, who will review all plans for residences to be constructed within Southwind Shores Subdivision. The purpose of the Committee is not to restrict design freedom or to make design decisions, but to review all plans to ensure that individual residences comply with the provisions of the Declaration of Protective Restrictions and Covenants and the Architectural and Environmental Control Guidelines

and that any proposed residence or construction within the subdivision reflects the overall design objectives of the entire community.

1.5: Whereas Southwind Shores shall constitute a substantial subdivision with public roads, community access areas, common areas, waterfront park areas, it is essential that the ongoing maintenance, management and preservation of its integrity are assured. Preservation of these community assets and the value of each lot within the community can only be assured when an annual operating budget has been realistically adopted by the Association. A primary factor in community failure has often been attributed to lack of operating funds due to inadequate budgets and operating dues initiated at the commencement of sales. It is for these reasons that the Association has initiated an annual due imposed upon each lot within the subdivision to be used exclusively for the maintenance and management of the community common areas.

ARTICLE II. ARCHITECTURAL AND ENVIRONMENTAL CONTROL GUIDELINES

SECTION I. EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS.

1.1: All platted numbered lots within Southwind Shores Subdivision are specifically restricted to residential use for single family private dwellings.

1.2: There shall be no requirements to build upon any platted lot within Southwind Shores Subdivision, however the exterior of any structure approved by the Committee and County must be completed within Ten (10) months from commencement unless a written extension is granted by the Committee for hardship.

1.3: No structure or building of any kind or construction of any sort, including private boat docks and boat houses, including any excavation of the natural soil surface, shall be placed or permitted upon any lot prior to the written approval of the Environmental Control Committee. It shall remain mandatory that a properly executed Construction Application and Agreement is submitted to the Committee and approved by the Committee prior to construction of any sort on any lot within the subdivision. Renting of assigned boat slips in the common area is not allowed. Use of boat slips by NON-Southwind Shores II property owners for more than one (1) week is not allowed without (prior) approval of the Board. Slip owners may install at their own expense, freestanding, boatlifts in their designated slips, as approved by the environmental committee. The boatlifts may have a canopy -if the appropriate procedures are followed. Procedures can be found in the Southwind Shores II Informational Guide.

1.4: A properly executed Construction Application and Agreement, attached and made part hereof, shall include as attachments one complete set of the proposed construction plans, floor plans, exterior elevations, specifications, materials list, site plan and samples

of proposed exterior colors and material. All local building setbacks, sewage disposal, water well and building requirements shall prevail.

1.5: Applicant shall agree under seal to be responsible for any damages or repair costs which are directly attributable to Applicant, or Applicant's assigns, to common areas, roads, road edges, drainage easements and adjoining lots during clearing and construction.

1.6: Upon receipt of the Construction Application and Agreement, including all required attachments, the Committee shall review the Application and report its finding to the Applicant within twenty-one (21) calendar days it is in receipt thereof. The proposed construction or improvement shall be reviewed for full compliance of these Protective Restrictions and Covenants. In the event approval is denied, the Committee shall state the reasons for denial and shall offer its recommendations for compliance and subsequent approval. Following written approval of an Application by the Committee, the Committee shall return one set of the attachments to the Applicant and shall deliver a copy of such written approval to the Spotsylvania County Building Department. Following issuance of an official Building Permit, as issued by the County Building Department, Applicant shall provide the Committee with a copy thereof for the association files.

1.7: The placement, storage or occupancy of mobile homes, mobile houses, tents, truck campers or pop-up campers on any lot within the subdivision shall remain strictly prohibited. This provision shall not prohibit the parking of unoccupied motor homes, pop-up campers or recreational trailers with wheels and current state vehicle licenses affixed, in driveway or parking areas adjacent to approved single family homes which have been issued an occupancy permit by the local building authority, providing there shall be no more than one recreational vehicle parked on any lot at a time. This provision shall not prohibit the storage and parking of three boats/trailers in view.

1.8: Camping of any sort shall remain strictly prohibited within the community at any time. Under no circumstance shall a garage or any type of outbuilding be occupied on a temporary or permanent basis.

SECTION II. COMMERCIAL USE, EASEMENTS OR RE-SUBDIVISION

2.1: No model or exhibit house shall be erected or occupied on any platted lot, nor shall the owner of any lot or his agent permit the use of his residence or house as such, without the specific and prior written approval of the Association. Under no circumstance shall a model home be occupied as a residence, temporarily or otherwise. Occupancy of a model home shall be strictly limited to demonstration or sales stall under normal business hours. Under no circumstance shall any structure, other than an approved residential dwelling, be occupied as a temporary or permanent residence. The Committee may grant permission for a temporary structure to be used specifically for storage of building materials during construction of an approved residence.

2.2: No commercial or business enterprise shall be allowed on any platted residential lot.

2.3: Approval for construction by the Committee shall not preclude the legal necessity for obtaining an official Building Permit from the Spotsylvania County Building Department, nor shall the re-subdivision of any lot or parcel occur prior to the official approval of the Spotsylvania County Zoning authority.

2.4: No platted lot may be subdivided, or easement granted without the specific written approval of the Association, provided that any further re-subdivision is at the minimum consistent with the existing caliber of the community and that of local zoning ordinance. If two or more adjoining lots are acquired by the same owner, no part or parts of said lots shall be conveyed unless each lot being conveyed is a minimum of 43,560 square feet in size and each lot being retained are in compliance with all these restrictions and covenants.

2.5: For the benefit and enjoyment of all lot owners and the Community Association, the Association reserves unto itself, a perpetual, alienable, releasable and assignable twenty (20) foot easement along all rear lot lines and a fifteen (15) foot easement along all side lot lines of all lots as shown on the plats of survey, attached to and made part hereof, for the installation of public utilities and drainage for the protection and appearance of property, and the safety and health of the property owners, reserving unto the Association, the sole right to convey the rights reserved.

2.6: No heavy equipment, industrial, equipment, commercial equipment or vehicles greater than $\frac{3}{4}$ tons shall be regularly parked or stored on any lot or common area within the subdivision.

2.7: The breeding or keeping of any domesticated animal or wild animal on any lot, or within any residence, shall be strictly prohibited. This restriction shall not apply to dogs, cats, or other small domestic animals that are kept as household pets and of a quiet inoffensive nature; but it does apply to any animal that is permitted to run free, to the breeding of such as a business or for profit, and the keeping of such a commercial basis. Dogs shall not be permitted to run free within Southwind Shores.

SECTION III. STREETS, ROADWAYS AND JOB SITE MAINTENANCE.

3.1: Under NO circumstances shall construction, excavation or site work of any kind commence on any lot until such time as an appropriate driveway entrance culvert meeting state specification has been installed and a minimum three (3) inch aggregate (gravel) base construction entrance driveway has been installed over a minimum length of sixty (60) lineal feet extending from the community road edge and into the property. Said aggregate shall be maintained during all phases of construction so as to prevent the tracking of dirt and mud onto the community roadways. Any dirt or soil accumulation on

the road surfaces shall be fully removed by the property owner or contractor responsible for said accumulation due to improper driveway maintenance.

3.2: Portable outdoor toilet facilities must be provided during construction of any residence. They may not be emplaced prior to final written construction approval of the Committee, must be properly maintained according to acceptable health standards and must be removed within ten (10) days of completion of construction.

3.3: The use of adjoining lots or common property for access to the construction site or for the storage of materials without the specific written approval of the adjacent owner is prohibited.

3.4: The disposal of construction debris, surplus materials, trash, cans, wrappers, paper, etc., shall be strictly limited to off-site removal.

3.5: There shall be no dumping facilities within the entire subdivision, Appropriate trash containers must be maintained at all construction sites, at all times, and shall be requisite to approval of all construction proposals submitted to the Committee.

3.6: Contractor signs and real estate signs shall be strictly limited to a maximum size of eight (8) square feet. Construction signs shall be strictly limited to the General Contractor or builder. Sub-contractor and material-men signs are prohibited. All signs advertising the property for sale shall be removed within 48 hours of the sale and any approved construction sign shall be removed within 72 hours of completion of the approved project.

3.7: Construction and material delivery hours within Southwind Shores Subdivision shall be strictly limited to the hours commencing seven (7) a.m. and ending at six (6) p.m., Monday through Friday, and seven (7) a.m. through one (1) p.m., on Saturday. No construction of any type shall be permitted on Sundays, excepting work performed specifically by the owner of record on any lot.

3.8: Use of the subdivision common areas, parks, etc., shall be strictly limited to the lot owners and their guests. Employees of the contractor, material-men, maintenance personnel and sub-contractors are not permitted to use these facilities at any time.

3.9: It shall be the responsibility of all lot owners to insure proper use of community roads. The speed limit shall be 25 miles per hours, or as posted by the Virginia Department of Transportation, and owners are responsible for the use of these roads by others performing services for them. All construction vehicles must be parked on the lot and not on the community roadways. Excavation equipment must be unloaded on the lot and substantial care must be exercised when such equipment is to be unloaded adjacent to the surfaced road edge.

3.10: The care and maintenance of all community roads located within each section of the subdivision shall remain the responsibility of the Developer until such time as said roads are certified as completed by the Virginia Department of Transportation, at which time the Association shall become responsible for the care and maintenance of said roads within each section until such time as the roads are officially dedicated as public roads.

SECTION IV. COMMUNITY COMMON AREAS AND ENTRANCES.

4.1: Community common areas shall include all areas platted as open space, community roadways, road edges, draining easements, entrance areas and improvements, and parks.

4.2: All costs of maintenance of said common areas shall be paid by the accounts of the community association funds. Said funds shall be derived from the annual association dues collections and all expenditures shall be accounted to the property owners on an annual basis. Roadways shall remain as common areas until such time as they are formally dedicated as public roads.

4.3: The use, access and enjoyment of all common areas shall be exclusive to the Association and to that of the lot owners and their guests. Whereas all common areas shall be ultimately turned over to the community property owner's association by the Developer, it shall remain imperative that all property owners remain responsible for the action of their guests within said common areas.

4.4: Under no circumstance shall vehicles be used or parked in any area not designated and platted as roadways or parking areas. The operation of any motor vehicle on community roadways and common areas shall be strictly limited to individuals in possession of a valid driver's license.

SECTION V. BUILDING SPECIFICATIONS AND REQUIREMENTS

5.1: No single-family residence shall exceed thirty-six (36) feet in height as measured from the natural ground surface unless otherwise approved by the Committee.

5.2: The first level or footprint shall not be less than 1,200 square feet of heated living area, exclusive of open porches, patios, decks, breezeways, basements and garages. In the case of structures more than one (1) story, the first level or footprint shall be no less than 1,200 square feet of heated living area and the second level shall be no less than 400 square feet of heated living area. No structure shall be more than two (2) stories above ground level.

5.3: Each residence shall be required to have a minimum of 400 square feet of attached decking made of treated wolmanized lumber which may be distributed on two sides of the residence. The material requirement for decking may be substituted, in whole or in part, with redwood or cedar, or with patios when the material surface of such patios is

constructed of brick, stone, tile, or design pressed concrete. Under no circumstances shall un-surfaced concrete or untreated lumber, excluding cedar and redwood, be approved in lieu of this requirement.

5.4: Storage sheds of any type shall remain strictly PROHIBITED. Storage areas shall be strictly limited to garages, under appropriately screened deck areas or within areas, which are attached and architecturally designed as an integral part of an approved dwelling. Attached garages are permitted providing said garages are architecturally designed as an integral part of an approved dwelling. If detached, one single car garage shall be a minimum of no less than 264 square feet or a two-car detached garage shall be a minimum of 528 square feet-and must be identical in design, materials and color of the existing or proposed residence. Carports shall not be permitted.

5.5: Detached garages may be constructed prior to construction of a residence providing the exterior design, materials and color are in compliance with all provisions of Section V. 5.1 through 5.12 hereof. Approval shall require one set of proposed construction drawings and the design, materials, roof elevations and colors shall be consistent with that of any future proposed dwelling. Approval of detached garages to be emplaced on any lot prior to construction of a residence shall be granted on a conditional basis. Conditional approval shall be predicated upon Applicant's agreement to immediately remove any garage which is not identical in color and materials as that of any future dwelling to be constructed on the lot.

5.6: All structures must be of substantial construction and all exterior walls, facia, trim and rail materials must be of a natural wood siding, stucco, stone, brick, or vinyl-siding of no less than .038 mil. Under no circumstance shall T1-11 or aluminum siding be approved for any structure.

5.7: Fencing of any type is prohibited in Southwind Shores, Section II, per the majority of property owners. However, Earth-colored chain link fencing may be approved when such fencing is to be installed specifically around an approved in-ground pool

5.8: Under no circumstances shall any detached garage or residence be constructed or approved with less than a minimum 5/12 roof pitch. All approved residences shall include a minimum of two elevations of roof lines which may be step down or opposing roof angles, excluding detached garages. However, roof elevations of detached garages must be consistent in design and elevation of the detached residence.

5.9: Exterior colors are a dominant visual element and a major expression of an owner's preferences. Sensitive, natural color selection will contribute to the harmonious and aesthetically pleasing ambience of Southwind Shores. Approval of a proposed dwelling shall be subject to the prior approval of all exterior finish colors proposed by the applicant. The applicant shall provide samples of the proposed exterior material and color to be used when the material color is embedded in the product, such as in the case

of vinyl siding, or shall provide a sample of the natural wood material on which the proposed color is applied. The Committee shall be the exclusive and final authority on color selections. No structure shall be constructed nor approved with more than three exterior color finishes. All structures shall contain of substantial quality of new materials and no used structures shall be relocated or placed on any lot. Residential designs incorporating traditional split foyer designs may not be approved unless the plans and specifications include a covered porch extending no less than three quarters the length of the front elevation facing the street and connecting to no less than one half of either side elevation of the residence. Said porch shall include rail and pickets. Exposed chimneys must be covered by an enclosed chase.

5.10: No dwellings shall be used for other than single family residences, and no dwelling shall be occupied at any time until such time as a valid Occupancy Permit has been issued by the local building authority having jurisdiction.

5.11: Any structure approved and erected or placed on any lot shall be set back at least thirty (30) feet from the front road easement line, at least thirty (30) feet from the rear lot line, and at least fifteen (15) feet from each side lot line. Upon completion of all site excavation or construction, disturbed soils shall be properly graded, fertilized, seeded, and mulched with straw within thirty (30) calendar days following completion.

5.12: All approved dwellings must be connected to an approved private well and septic system. Permits for the approval and installation of same must be obtained from the Spotsylvania County Health Department prior to issuance of a building permit.

SECTION VI.

ACTIVITIES AND USES ON LOTS

6.1: All outside clotheslines have to be retractable and are only allowed to have items on the line for a maximum of 24 hours. Propane fuel storage tanks installed outside any building must be screened by a method approved by the Environmental Committee so as not to be visible from any street, roadway, or property of neighboring residences. Above ground propane tanks cannot exceed 100 gallons. All others must be buried underground. Satellite dishes in excess of thirty-nine inches are strictly **prohibited**.

6.2: All lots, whether occupied or not, and any improvements thereon, shall at all times be maintained in such manner as to prevent their becoming unsightly by reason of unattractive growth or vegetation or the accumulation of rubbish or debris thereon. All grass shall be regularly cut and maintained so as not to become overgrown or unsightly and to prevent erosion. Should any lot owner fail to maintain the improvements or premises situated on the lot in a manner consistent with these restrictions, the Association shall have the full authority, through its agents or employees, to enter upon the premises and repair, maintain, and restore the property and improvements thereon. The owner shall receive written certified notice requesting full compliance and corrective action within 72 hours of receipt. If upon receipt of said notice owner failed to comply, or provide written notice of contractual arrangements to have the repairs completed within

a specified and reasonable time period, the full cost of such repairs or maintenance shall be levied upon the owner and lot by the Association, shall be payable immediately upon billing, and shall constitute a lien on the property until such time as paid in full, and the provisions of Article IV-Section II shall apply.

6.3: No living tree measuring six (6) inches or more in diameter may be cut or removed without the express written approval of the Committee, unless located within twenty (20) feet of the approved site of the main dwelling or detached garage. However, any tree may be removed without permission if dead or if a threat to the health, safety or welfare of any person. Any planting along property lines which would convey into a fence at maturity and construct a visual barricade must be approved by the Board of Directors.

6.4: No motor vehicles of any kind, licensed or unlicensed, registered or unregistered, including motor bikes, snow mobiles, and all-terrain vehicles shall be permitted in any areas reserved for pedestrians, or upon any recreational easement or common area not specifically designated driveways or roadways. Furthermore, motor bikes shall not be used for recreational purposes on any platted lot or common area.

6.5: No signs advertising the lot for sale are permitted without the specific written approval of the Association.

6.6: Hunting is strictly prohibited in the subdivision. No rifles, shotguns, handguns, or other firearms of any type shall be permitted for hunting or target shooting anywhere in the subdivision. No open fires shall be permitted on any part of any lot, except in outdoor fire places equipped with fire screens, except with the written approval of the Association. All fireplaces in dwellings must be equipped with fire screens and at least one (1) household chemical-type fire extinguisher must be stored and available in each dwelling for emergency purposes.

6.7: No oil or natural gas drilling refining, quarrying or mining operations of any kind shall be permitted upon or within the boundaries of any lot, or no derrick or other structure designed for use in boring for oil or natural gas shall be erected, stored, maintained or permitted on any lot in the subdivision.

6.8: No noxious or offensive activities shall be carried on any lot, or permitted to be carried on, nor shall anything be done on any lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood.

Amended and Restated By-Laws

DEFINITIONS

The terms as used in these By-Laws are defined as follows:

- (A) "Association" shall mean the Southwind Shores Property Owners Association, a Virginia not-for-profit corporation.
- (B) "Board" shall mean the Board of Directors of the Association.
- (C) "By-Laws" shall mean the by-laws of the Association.
- (D) "Common Properties" shall mean all property included from time to time within the definition of Common Properties set forth in the Declaration.
- (E) "Lot" shall mean any lot in the subdivision included from time to time in the definition of lot set forth in the Declaration.
- (F) "Declaration" shall mean the Declaration of Protective Restriction and Covenants for Southwind Shores Subdivision, Spotsylvania County, Virginia, as may be supplemented or amended from time to time.
- (G) "Developer" shall mean Southwind Shores Development Corporation, its successors or assigns.
- (H) "Development" shall mean Southwind Shores, as the same may be shown on the plats of survey or maps thereof recorded from time to time, for Southwind Shores Subdivision, Spotsylvania County, Virginia.
- (I) "Owner" shall mean:
 - a. Any person, including the Developer, who holds fee simple title to any lot within the Development.
 - b. Any person or legal entity who has contracted to purchase fee simple title to a lot pursuant to a written agreement in which case Seller under said agreement shall cease to be the owner while said agreement is in effect.

ARTICLE I. THE SOUTHWIND SHORES ASSOCIATION (THE COMMUNITY PROPERTY OWNERS ASSOCIATION)

SECTION I. MEMBERSHIP REQUIRED

1.1: Membership in the Southwind Shores Property Owners Association is mandatory for all persons or entities owning property in the subdivision and for any person or persons holding a valid real estate purchase contract for the acquisition of a lot in the subdivision. All such members are obligated to pay the dues and assessments levied upon each lot owner by the Association to defray the cost of maintenance of roads, recreational facilities, and amenities used and maintained by the Association.

1.2: Membership shall not be mandatory for the Association. The Association shall be responsible for maintenance, repair and upkeep of subdivision road shoulders as platted, and including all sub division parks, open areas, recreational easements, subdivision

entrances and appurtenant drainage easements reserved to the Association. The Association shall also be the means for the promulgation and enforcement of all regulations necessary to the governing of the use and enjoyment of roadways, streets, common areas, recreational easements and such other properties within the subdivision as it may from time to time own.

1.3: The Association shall have all the powers that are set forth in its Articles of Incorporation, as approved by the State Corporation Commission of Virginia, and all other powers that belong to it by operation of law. This includes, but is not limited to, the power to levy against every member of the Association a uniform annual charge per single family residential lot within the subdivision, the amount of said charge to be determined by the Board of Directors of the Association after consideration of current maintenance and future needs and requirements of the Association, for the purposes set forth in its Articles of Incorporation.

1.4: No charges, assessments or dues shall ever be made against, or be payable by, the Association itself, or any corporation or corporations that may be created to acquire title to and operate the amenities or other properties on behalf of the Association.

SECTION II. ANNUAL MEMBERSHIP DUES

2.1: An Annual Membership due shall be mandatory and assessed upon each and every platted lot within Southwind Shores Subdivision. The annual dues shall not be assessed in the year of purchase.

2.2: The annual association dues shall be a minimum of \$200.00 per calendar year, due and payable on or before the first day of March for each calendar year commencing the calendar year following the year of initial purchase. The dues may increase with proof of additional cost and the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of additional construction or reconstruction, unexpected repair or replacement for a described improvement upon the common areas, including parks or other member amenities. Such special assessments may be assessed monthly or as an addition to the annual dues.

2.3: Should any lot owner become delinquent in the payment of dues or assessments to the Association, such owner shall be denied the use of common areas and recreational facilities under written notice until such time as the delinquency has been corrected. Said lot owner shall at all times, however, have the right to access over the roads in the subdivision to and from said owner's lot by the nearest route. Such delinquent payments shall bear an interest from the date of delinquency at the maximum rate allowable by law on a per annum basis and shall upon the date of delinquency constitute a lien on each lot to which the delinquency pertains. A \$50.00 penalty assessment will be charged for late dues, which is in addition to the interest on the basic dues. The \$50.00 penalty will also be compounded at the same interest rate as on the basic dues that have not been paid.

2.4: Any lien shall cover and include the principal amount, the interest, and reasonable attorney's fees incurred in the collection and filing thereof. Every such lien may be enforced by equitable foreclosure suit filed in the Circuit Court of Spotsylvania County, Virginia.

2.5: The remedy of foreclosure is non-exclusive and the Association reserves all other remedies provided by law for the collection of the aforesaid delinquencies. The written dated statement of the Association that no delinquency exists hereunder as of said date shall be conclusive evidence thereof.

ARTICLE II. MEMBERSHIP

SECTION I. CLASSES OF MEMBERS

1.1: There shall be members, and associate members.

1.2: Each lot owner shall become a member of the Association.

1.3: All lot owners receive two (2) votes for each lot, regardless of the number of persons who may have an ownership interest in such lot, or the manner in which they hold title.

1.4: If not otherwise a member, each of the following shall be entitled to associate membership in the Association:

- (A) The spouse and children of a member who have the same principle residence as the member shall be entitled to associate membership status in the Association.
- (B) Persons by virtue of a contractual agreement to purchase a lot in Southwind Shores, Section II, are entitled to an associate membership in the Association.
- (C) Associate members shall have no vote or right to notice of any regular or special meeting of members. The privileges and duties of associate members shall be established from time to time by the Board by resolution. The privileges and duties of associate members need not be the same as those of members.

SECTION II. PRIVILEGES OF MEMBERS AND SUSPENSION

2.1: Members and associate members shall have a license to use the Common Properties subject to the provisions of the Declaration and subject to such other rules and conditions as may be established by the Board.

2.2: The Board may suspend the voting privileges of any member and license of any member or associate member to use the Common Properties.

2.3: Suspension may be for any period during which any Association dues, charges or assessments on such member's lot remains unpaid and for the period of any continuing violation by such member or associate member of the provisions of the Declaration after the existence thereof shall have been declared by the Board.

Section 55-513 of the POA Act.

The Association will comply with the appropriate due process procedures as outlined below.

- 1, Provide the Owner with a written notice of the alleged violation.
- 2, Provide the Owner with a reasonable opportunity to correct the alleged violation.
- 3, Owner fails to correct the violation after such notice, The Association must provide the Owner with notice of an opportunity to be heard and be represented by counsel before the Board
- 4, Notice of the hearing must be sent, via certified mail, at least (14) days prior to the scheduled hearing.
- 5, Hearing result letter must be sent within (7) days, via certified mail, to the Owner.

SECTION III. EVIDENCE OF MEMBERSHIP AND TRANSFER

3.1: Certificates of membership in the Association may be issued to members and associate members. Such certificates shall be in the form as the Board shall from time to time designate and shall be issued over the signature of the President or other officer of the Association. Such certificate shall indicate whether or not the holder is a member or associate member and shall also indicate the lot of ownership of which gives rise to membership. Such certificate shall also clearly state on its face that the Association is a not-for-profit corporation.

3.2: In the event of resale, or transfer of ownership, of any lot of residence within the community, the Seller, Trustee or Grantor shall immediately notify the Secretary of the Association of such sale, or transfer, providing the date of sale, to whom the property was sold or transferred and the mailing address and telephone number of the new owners.

3.3: The Seller shall in all cases be responsible for insuring that all assessments due are paid in full prior to sale or transfer of ownership.

3.4: In the event a lot owner chooses to list their property for sale with an agency/agent, the owner shall submit a copy of the listing to the Association immediately upon the date of listing. Changes of address notification shall be promptly directed to the Secretary of the Association.

SECTION IV. MEETINGS OF MEMBERS

4.1: Any meeting of the members of the Association shall be held in the State of Virginia at such place therein as may be stated in the notice of such meeting. All meetings shall be conducted under Robert's Rules of Order.

4.2: The Annual Meeting of the Association shall be held on the third Saturday in the month of June of each year or at such time as the Board of Directors by resolution may determine.

4.3: Special meetings of the Association may be called by the Board at any time in the manner herein provided. A special meeting may also be called upon the written petition of forty percent (40%) of the members of the Association who would have the right to vote at such meeting. Such petition shall set forth the purpose of the special meeting.

4.4: Written notice of the place, date, and hour of the meeting, and in the case of a special meeting, the purpose and purposes for which the meeting is called, shall be delivered not less than thirty (30) days nor more than forty (40) days before the date of the meeting, either personally or by mail, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to have been delivered when deposited in the United States mail, addressed to the member at the last address as it appears on the records of the Association, with postage prepaid; or such notice may be published in any newspaper or publication printed under the auspices of the Association and distributed generally among the members of the Association. At the special meeting, no business shall be conducted except that stated in the notice of said meeting.

4.5: A quorum at either a special meeting or the annual meeting shall be ten percent (10%) of the members entitled to vote at such meeting in person or by proxy. A vote of a majority of votes entitled to be cast at any meeting at which a quorum is present shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by law.

ARTICLE III. DUTIES OF MEMBERS

SECTION I. PAYMENT OF ASSESSMENTS.

1.1: The charges or assessments levied by the Association as provided in Article IV, Section II of the Declaration shall be paid to the Association on or before the date fixed by resolution of the Board. Written notice of the charge and the date of the payment shall be sent to each owner (member) at the address last given by such owner to the Association.

1.2: The amount of the assessment levied by the Association shall be paid to it on or before the date fixed by resolution of the Board, but no later than the date provided

herein. If not so paid, the amount of such assessment plus any charges thereon including interest at the maximum limit provided by law per annum from the date of delinquency and costs of collection including attorney's fees, in any, shall be due and payable to the Association. The lot and cause for such lien shall be filed in the office of the appropriate county recorder of deeds, which notice shall state the amount of the assessment and other such charges and a description of the lot which has been assessed.

1.3: The Board may seek to recover sums by any other available judicial procedures and shall be entitled to its internal costs, attorney's fees, and costs of suits in said collection. If the Association does claim a lien on the lot, upon payment of said assessment and charges or other satisfaction thereon, the Board shall within a reasonable time cause to be recorded a further notice dating the satisfaction and the release of said lien.

1.4: All liens provided for herein may be foreclosed by suit by the Association in like manner as a mortgage and, in such event, the Association may be a bidder at the foreclosure sale. The Association may also pursue any other remedy against any owner owing money to it which is available to it by law or equity for the collection of debt.

1.5: Conveyance of any lot shall not affect any lien for assessments provided herein. Such liens shall be prior to all other liens recorded subsequent to said notice of assessments.

1.6: Upon request, the Association shall furnish a statement certifying that all assessments then due have been paid or indicating the amount then due.

1.7: SINKING FUND: The association membership voted at the June 21, 2003 annual meeting to establish a "Sinking Fund" for the sole purpose of repairing, maintaining, and replacing the twenty-six (26) boat slips in the common area. The fund establishes an annual assessment of \$2,000.00 per year. Starting March 1, 2004 lot owners will be assessed at the following rates: Waterfront lots \$18.57 per year; Off Water lots \$66.57 per year. This assessment is in addition to the \$200 per year annual dues.

SECTION II. SUSPENSION

2.1: The Association shall not be required to transfer membership on its books or to allow the exercise of any rights or privileges of membership on account thereof to any owner or to any person claiming under them unless or until all assessments and charges to which they are subject have been paid in full.

ARTICLE IV: THE BOARD OF DIRECTORS

SECTION I. APPOINTMENT, POWERS AND DUTIES OF THE BOARD

1.1: The Board shall manage and control the affairs of the Association and adopt a corporate seal as the seal of the corporation. The Board shall designate a banking

institution as depository for the Association's funds; the officer or officers authorized to make withdrawals there from and to execute obligations on behalf of the Association.

1.2: The Board shall perform other acts and authority for which has been granted herein or by law, including the borrowing of money for Association purposes. A resolution by the Board that the interests of the Association require that borrowing on money shall be sufficient evidence for any person that the borrowing is for a proper corporate purpose. The Board may, if it determines that the same shall be reasonable and necessary, assign, pledge, mortgage or encumber any Association property as security for such borrowing, and they may pledge or assign future revenues of the Association as security therefore.

1.3: A cap on the maximum spending by the Board of Directors is set at \$2,000.00 per year above the annual budget. Anything over this amount requires a meeting, with all Property Owners provided the opportunity to attend and vote.

1.4: The Board shall adopt such rules and regulations relating to the use of Association property, land sanctions for noncompliance therewith, as it may deem reasonably necessary for the best interest of the Association and its members. The Board may also establish and levy reasonable fees for the issuance of permits for erecting and placing improvements on any lot or common area. The Board may employ sufficient personnel to adequately perform the responsibilities of the Association, adopt reasonable rules of order for the conduct of meetings of the Association, and with reference thereto, on procedural questions upon with no rules have been adopted. The ruling of the Chairman of the meeting shall be final.

1.5: The Board shall select the officers of Association. It may establish committees of the Association and appoint the members thereof. It may assign to such committees such responsibilities and duties not inconsistent with the provisions of these by-laws or with law as it may deem appropriate. The Board may enter into an agreement or agreements with other organizations to facilitate the business of the Association, and to further the interests of the members of the Association having the same or similar corporate purposes for reciprocal rights between the respective members thereon under such terms and conditions as the Board may deem proper. The existence of such agreements, the provisions and terms thereof, shall be made known to the general membership in such manner as may be deemed appropriate by the Board, but in no event later than the next annual meeting following the creation of such an agreement.

1.6: The Board shall appoint members of the Environmental Control Committee to carry out the applicable provisions of the Declaration of Protective Restrictions and Covenants. The Committee shall serve at the pleasure of the Board of Directors. The Board shall, prior to the annual meeting of the Association in each year, adopt an operating budget. The Board shall take into consideration all sources of income that the Association may have, levy an annual dues assessment upon each lot for the following year. The operating budget shall be presented to the members at the annual meeting of members and

members shall be entitled to comment thereon. In no event shall the assessment upon lots be less than \$200 per year. The Board may, by resolution, fix the time for payment of annual assessments which may be on an annual or quarterly basis.

SECTION II. NUMBER OF DIRECTORS AND TERM

2.1: The number of Directors shall be five (5) property Owners, with no more than (1) one spouse/partner on the Board at a given time.

2.2: The Board of Directors shall be those five (5) nominees who receive the highest number of votes. (See Amendment)

2.3: The election of the Board of Directors shall be those five candidates who receive the highest number of votes; they shall be elected for a two-year term. (See Amendment)

SECTION III. QUALIFICATIONS, VOTING RIGHTS AND VOTING PROCEDURE

3.1: Voting Rights. Voting rights of members in the election of Directors and on all issues requiring a vote of the membership shall be determined by the basis of two votes for each lot members own in the subdivision. Where there is joint ownership of any lot, any owner may vote the membership's vote in person or by proxy, and if there is any dispute between the joint owners as to how the lot's votes shall be cast, the majority of them may cast the lot's two votes, or split the votes in any manner they see fit.

3.2: Voting of Members. Members in good standing shall be entitled to vote for the election of Directors and on any issues, which are proper subjects for a membership vote under the non-stock corporation laws of Virginia. All proxies shall be in writing and shall be filed with the Secretary of the Association as set forth in Article IV, Section IV, of these By-Laws.

3.3: Election of Board of Directors. The Board of Directors shall be elected by the members in accordance with the following requirements and procedures:

- (a) Nominations. Nominations for membership to the Board of Directors may be made in writing thirty (30) days prior to the annual meeting or by nomination from the floor at the annual meeting.
- (b) Casting of Ballots. The votes will be received at the meeting in person, by secret ballot or show of hands. Tellers will be appointed to tabulate show of hands vote or to distribute, collect, and tabulate secret ballot.

At least three tellers of the election shall be appointed by the presiding officer, and such teller shall be selected fairly to represent the interest of all candidates. Any candidate, or a representative of such candidate, may sit in with the tellers when counting the ballots.

- (c) Elected Directors and Term: the five (5) nominees who receive the highest number of votes shall be elected for a term of two years or until their successors are elected as hereinafter provided. (See Amendment)

SECTION IV. PROXIES

4.1: Except in connection with the election of Directors, every member entitled to vote or execute consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such member or his duly authorized agent filed with the Secretary of the Association. No such proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless the person executing it specifies therein the length of time, from which in no event shall exceed three (3) years from the date of its execution.

SECTION V. MEETINGS OF THE BOARD OF DIRECTORS

5.1: The Board shall meet at such times as the Board shall determine by resolution. The meeting will be open to Owners with the exception of when the meeting goes into executive session. The Board will provide a reasonable notice of the meeting to the community in a conspicuous place. Owners will have a right to have an open forum and discuss their concerns. This is not open dialogue but rather open forum. This means that the Owners have a right to speak for a maximum of (5) five minutes to express their concerns. The Board is not obligated to engage in dialogue with the Owners.

5.2: Special meetings of the Board may be called by a majority vote of the Board or by the President of the Board and shall be held at such place and at such time as the call or notice of the meeting shall designate. Notice of a special meeting may be given in writing or orally at least 24 hours prior to the date of said special meeting, or notice thereof may be waived by the Directors in writing. After adoption of a resolution setting forth the time of regular meetings, no notice of such meeting shall be required, or waived, but notice of special meetings of the Board shall be given. Notice of Special Meeting will be provided to Property Owners of the Association in a reasonable manner.

5.3: Unless prohibited by law, any action which may be taken at a meeting of the Board may be taken without a meeting if authorized in writing, signed by all the Directors who would be entitled to vote upon said action at a meeting, and filed with the Secretary of the Association. Such meetings may be conducted by telephone when the results and authorization are subsequently filed in writing with the Secretary. At the Board's next duly called meeting, the meeting minutes will reflect the action taken by the Directors without having called a meeting including whether the action was approved or rejected.

SECTION VI. QUORUM AND VACANCIES

6.1: A majority of the Directors shall constitute a quorum to transact business of the Board, and the act of the majority of the Directors present at any meeting shall be deemed to be the act of the Board. If any vacancy exists on the Board, such vacancy shall be filled by the remaining Directors even though those remaining Directors might be less than quorum. Any person so elected a Director shall serve out the unexpired term of the Director he has replaced.

ARTICLE V. THE OFFICERS

SECTION I. OFFICERS

1.1: The officers of the Association shall be the President, one Vice President, the Secretary, the Treasurer, the Chairman of Environmental Control and such other officers and assistant officers as the Board may from time to time elect. Officers shall be members of the Board and only one (1) office may be held by the same person. All officers must be members of the Association in good standing. In lieu of elected officers, a management concern may be appointed or hired to run the Association and said fees for officers will be paid to the managing organization.

1.2: The President shall be the general managerial officer of the Association, except as otherwise determined by the Board. The President shall be vested with the powers and duties generally incident to the office of President of a not-for-profit corporation. The Vice President, in the absence of the President or in the event the President is unable or refuses to act, shall be empowered to act and shall thereupon be vested with the powers and duties of the President.

1.3: The Secretary shall keep the minutes of the business and other matters transacted at the meeting of the Board and membership. The Secretary shall mail, or cause to be mailed, all notices required under these By-Laws and communications of the Board. The Secretary shall have custody of the corporate seal, records of the Board and maintain a list of the members including current address and telephone numbers. The Secretary shall also perform all other duties incident of the office of Secretary.

1.4: The Treasurer shall have custody of the funds of the Association, collect all monies due, pay the obligations of the Association out of its funds, provide an accurate accounting of the funds of the Association to the Board, for entry into its minutes, and perform such other duties as are incidental to the office of the Treasurer.

1.5: The Chairman of the Environmental Control Committee shall review all applications for building, excavation, and site improvements. The Chairman of the Environmental Control Committee shall issue all Building Approvals, act upon all requests for building

information, maintain files of all plans, specifications, communications, applications, denials, permits and shall report all activity to the Board.

1.6: Any officer may be removed when, in the judgment of the Board and upon a majority vote of the Board, the best interest of the Association will be served by such removal.

1.7: The Board of Directors and officers of the Association shall be compensated for attendance at officially scheduled meetings of the Board of Directors in the amount of Twenty-five dollars (\$25.00) per meeting for a maximum of four meeting per year. Additionally, the Board of Directors will be compensated as follows:

President.....	\$300 per year
Vice President.....	\$200 per year
Treasurer.....	\$200 per year
Secretary.....	\$200 per year
Chair Environmental Control Committee.	\$200 per year

ARTICLE VI. ENVIRONMENTAL CONTROL COMMITTEE

SECTION I. APPOINTMENT OF COMMITTEE MEMBERS

1.1: The Environmental Control Committee shall be appointed by the Chairman of the Environmental Control Committee and shall consist of at least one (1) member owning property in Section II of Southwind Shores.

1.2: The Chairman of the Environmental Control Committee shall preside as Chairman at all regular meetings of the committee. The Committee shall meet at a time and place designated by the Chairman, as required, and shall report its actions to the Board. The Committee shall designate an address for submission of all construction applications and plans, and shall report its findings to the applicant within twenty-one (21) days of the date the Committee is in receipt of such plans. Incomplete or non-conforming plans shall first be denied in writing and then immediately returned to the applicant with comments for correction. The Chairman shall collect and receipt all construction applications.

1.3: Upon satisfactory completion of all proposed construction the Chairman shall certify satisfactory completion to the Board and shall maintain said certification in the association files. The plans and specification for any dwelling, garages, docks, boat houses or other building to be constructed or externally altered on any lot, or for any other structure including fences and docks, or for installation of septic systems, lot clearing or driveways, shall first be approved in writing by the Environmental Control Committee prior to start of construction, installation or alteration.

1.5: Any modification of plans and specifications officially approved by the Chairman of the Environmental Control Committee shall be strictly prohibited unless first approved in writing by the Chairman of the Environmental Control Committee.

SECTION 1. ENFORCEMENT

1.2: In the event of a violation or breach of any of the restrictions by any property owner or agent, the owners of lots in the subdivision, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach of such terms in any event.

1.4: Nothing herein is to be construed so as to prevent the Association from placing further restrictions of easement on any lot in the subdivision on which a valid sales contract has not be executed.

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successors or assigns, accept such deed or contract upon and be subject to each and all of these restrictions and the agreement herein contained.

SECTION II. VARIANCE AND ADJUSTMENTS

2.1: Any variance or adjustment shall be made subject to prior written approval of the Spotsylvania County Building Department or Zoning Authority where applicable. The Association, may allow reasonable variances and adjustments of these Restrictions in order to overcome practical difficulties and to prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that this is done in conformity with the intent and purpose hereof and provided that, in every instance, such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood or subdivision.

2.2: The Restrictions and Covenants herein contained shall not impose any restraint on any portion of land now owned or hereafter acquired by the Association in title, whether such land be joining, adjacent to or otherwise related in any manner to the Association.

2.3: The Association may enjoin adjacent property, which the Association may acquire, to the Subdivision providing any additional property adjoined meets or exceeds the minimum criteria set forth in the original community plat of survey and further provided that all properties created shall be conveyed subject to this Declaration of Protective Restrictions and Covenants.

2.4: The Association, shall not be assessed annual dues or special assessments for any property owned by the Association in title.

2.5: The invalidation by any court of any restrictions contained in this Declaration of Protective Restrictions and Covenants shall in no way affect any of the other restrictions, but they shall remain in full force and effect.

SECTION III. AMENDMENTS

3.1: The Declaration of Protective Restrictions and Covenants and By-Laws may be amended or modified by a majority vote of the Board, with the approval of the Developer, until the calendar year 1993. Modification or amendments following the calendar year 1992 shall be at the sole majority vote of the then existing property owners having voting rights in the Southwind Shores Property Owners Association as bonafide members.

3.2: The amount of annual dues assessments may not be reduced under any circumstance unless by a majority vote of the membership, providing the accounts of the association reflect a minimum cash reserve base of \$25,000, and under no circumstance shall any dues reduction

exceed the aggregate total of collections necessary to ensure collections equal to the average budget expenditures of six (6) years preceding the year a reduction in collection of annual dues is proposed.

ARTICLE VIII. RENTAL OF DWELLING HOUSES

SECTION 1. Rental Conditions And Restrictions

1.1: Owners that rent dwelling houses cannot rent for less than one (1) week at a time; daily, weekend, or less than one-week rentals are not permitted. Owners can file a request to the Board for permission to rent for less than one (1) week. Permission may be granted by the Board and must be received in writing from the Board. Owners that rent are responsible for ensuring that their tenants, guests, agents, and assignees comply with the Southwind Shores Section II Declaration of Protective Restrictions and Covenants of the Association. Owners shall provide a copy of the Covenants and By-Laws to all renters.

1.2: Owners shall submit a current copy of the Residential Rental Agreement Lease to the Board. Owners shall agree to add any and all changes to the Rental Agreement that the Board deems necessary to bring the rental document into compliance with SWS II By-Laws and Covenants, Spotsylvania County code and Virginia state regulations.

1.3: Owners that rent shall provide a primary and alternate 24-hour designated point of contact to the President of SWSPOA or other person or persons designated by the Board of Directors.

1.4: Owners that rent shall not advertise that their dwellings contain more bedrooms than approved in their health permit on file with Spotsylvania County, and occupancy capacities shall be in accordance with Spotsylvania County and Virginia state regulations.

1.5: Owners that rent may temporarily convey to tenants, during their period of tenancy, all access privileges to common areas and facilities except the pavilion. The rental contract shall contain a provision whereby the tenant waives all liability against the Association for any incident or action that may occur in common areas and facilities owned or maintained by the Association

1.6: The SOUTHWIND SHORES II PROPERTY OWNERS ASSOCIATION RENTAL FORM must be completed and submitted to the Board prior to the rental of any lot.

IN WITNESS WHEREOF, the undersigned has caused this Amended and Restated Declaration of Protective Restrictions and Covenants and By-laws to be signed pursuant to the due and proper authority as of the date set forth above.

SOUTHWIND SHORES, SECTION II PROPERTY
OWNERS ASSOCIATION

By: _____
_____, President

STATE OF _____ :

:

COUNTY OF _____ :

:

I, the undersigned Notary Public in and for the county and state aforesaid, do hereby certify that _____, President of Southwind Shores, Section II Property Owners Association, whose name is signed to this instrument, has personally acknowledged the same before me in my county aforesaid.

Given under my hand this _____ day of _____, 2017.

Notary Public

My Commission Expires: _____

Notary Registration No.: _____

EXHIBIT A

CERTIFICATION

I, _____, President and principal officer of Southwind Shores, Section II, Property Owners Association, Inc. hereby certify that Class A members owning Lots within the Association to which fifty-one percent (51%) or more of the votes in the Association appertain, in accordance with the percentage shown in the Declaration and By-laws have voted in favor of approving the adoption of this Amended and Restated Declaration of Protective Restrictions and Covenants and By-laws.

SOUTHWIND SHORES, SECTION II PROPERTY
OWNERS ASSOCIATION

By: _____
_____, President

STATE OF _____ :

:

COUNTY OF _____ :

:

I, the undersigned Notary Public in and for the county and state aforesaid, do hereby certify that _____, President of Southwind Shores, Section II, Property Owners Association, Inc. whose name is signed to this CERTIFICATION, has personally acknowledged the same before me in my county aforesaid.

Given under my hand this _____ day of _____, 2017.

Notary Public

My Commission Expires: _____

Notary Registration No.: _____