

Prepared by and Return to:
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1001 Navaho Drive, Suite 201
Raleigh, NC 27609

DECLARATION OF CONDOMINIUM

FOR

CHESAPEAKE POINTE CONDOMINIUMS

(Wake County Register of Deeds Condominium File No. _____)

Recorded on _____, 19____
Recorded in Book _____, Page _____,
Wake County Registry, North Carolina

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DECLARATION OF CONDOMINIUM FOR CHESAPEAKE POINTE CONDOMINIUMS

THIS DECLARATION is made as of _____, 1998, by D & G DEVELOPMENT ASSOCIATES, L.L.C., a North Carolina limited liability company, located at 3334 Hillsborough Street, Raleigh, North Carolina 27607 (the "Declarant," as hereinafter defined).

W I T N E S S E T H:

Declarant is the owner of a tract of land and all improvements thereon in Wake County, North Carolina, and is creating a condominium under the provisions of Chapter 47C of the North Carolina General Statutes, entitled the North Carolina Condominium Act. Twelve (12) residential condominium units have been built on the land called the Submitted Property which is being submitted to the North Carolina Condominium Act by this Declaration. The Declarant has reserved the right to annex an additional forty-eight (48) residential condominium units to the Condominium.

NOW, THEREFORE, Declarant hereby makes this Declaration for the purposes and subject to all the terms and provisions hereinafter set forth and declares that all of the Property described in Exhibit A attached hereto shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, uses, limitations, and obligations in furtherance of a plan for the division of said Property into Condominium Units all of which shall be deemed to run with the land and be binding on all parties having any right, title, or interest in the land or any part thereof, their heirs, successors and assigns.

ARTICLE 1 - DEFINITIONS

1.1 Definitions. The terms defined in Section 47C-1-103 of the Act shall be deemed to have the meanings therein specified whenever they appear in the Condominium Instruments unless the context otherwise requires and except to the extent, if any, that such definitions are changed below. In addition, the other terms defined below shall be deemed to have the meanings specified whenever they appear in the Condominium Instruments unless the context otherwise requires. These definitions shall apply whether or not the defined terms are capitalized.

1.1.1 "Act" means the North Carolina Condominium Act, which is Chapter 47C of the North Carolina General Statutes, as amended.

1.1.2 "Articles of Incorporation" means the Articles of Incorporation of the Association, as amended from time to time, a copy of the initial Articles of Incorporation being attached hereto as Exhibit C.

1.1.3 "Assessment" means the share of the Common Expenses from time to time assessed against a Condominium Unit and its Owner by the Association in the manner herein provided.

1.1.4 "Association" means Chesapeake Pointe Condominium Association, Inc., a North Carolina non-profit corporation, formed for the purpose of exercising the powers of the Association under the Act and the Condominium Instruments.

1.1.5 "Board of Directors" or "Board" means the board of directors of the Association, which is the governing body of the Association.

1.1.6 "Bylaws" means the bylaws of the Association, as amended from time to time, a copy of the initial Bylaws being attached hereto as Exhibit D.

1.1.7 "Common Elements" means all portions of the Condominium other than the Units.

1.1.8 "Common Expenses" means all sums lawfully assessed against the Unit Owners by the Association, including, but not limited to, ad valorem taxes, public assessments or governmental liens levied on Common Elements, expenses of administration, maintenance, repair or replacement of the Common Elements (including Limited Common Elements), expenses declared Common Expenses by the provisions of the Act, this Declaration or the Bylaws and insurance premiums. The Common Expenses include the costs of the Association to secure the right to use recreation facilities for the Owners and Occupants.

1.1.9 "Condominium" means the Submitted Property, as it may exist from time to time, submitted to the provisions of the Act by the Condominium Instruments.

1.1.10 "Condominium Instruments" means this Declaration, the Articles of Incorporation (Exhibit C), the Bylaws (Exhibit D), the Plat and the Plans, including any and all exhibits, schedules, certifications and amendments thereof, as they may exist from time to time, made and recorded pursuant to the Act.

1.1.11 "Condominium Unit" means a Unit together with the undivided interest in the Common Elements appertaining to the Unit.

1.1.13 "Declarant" means initially D & G Development Associates, L.L.C., a North Carolina limited liability company, which is the fee simple owner of the Submitted Property and has executed this Declaration, and any person or entity to whom the rights of the Declarant have been assigned.

1.1.14 "Declarant Control Period" means the period ending upon the first to occur of: (i) the expiration of five (5) years after the date of the initial conveyance by Declarant of a Unit to a Unit Owner other than the Declarant; (ii) the date as of which Units to which three-

fourths (3/4ths) of the interests in the Common Elements have been conveyed by Declarant to Unit Owners; provided that the Declarant Control Period shall be reinstated if, thereafter the Declarant adds additional units to the Condominium by the exercise of its Development Rights under Article 5 before any other event has occurred which would terminate the Declarant Control Period; (iii) two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business; or (iv) the surrender by Declarant of such rights by an express amendment to this Declaration executed and recorded by Declarant, without the need for consent or joinder by any person.

1.1.15 "Declaration" means this Declaration as amended from time to time.

1.1.16 "Director" means a member of the Board of Directors.

1.1.17 "Eligible Mortgagee" means a First Mortgagee which has submitted a written request to the Association to be notified of any proposed action requiring consent of a specified percentage of Eligible Mortgagees.

1.1.18 "First Mortgagee" means the holder of a Mortgage which is a first lien on a Condominium Unit.

1.1.19 "Foreclosure" includes, without limitation, the judicial foreclosure of a Mortgage or the exercise of a power of sale contained in the Mortgage.

1.1.20 "Institutional Mortgagee" means one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts including, but not limited to, real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any combination of any of the foregoing entities.

1.1.21 "Lease" means any lease, tenancy, sublease, rental contract or other occupancy agreement whether oral or written.

1.1.22 "Limited Common Elements" means a portion of the Common Elements reserved for the exclusive use of one or more, but less than all, of the Units.

1.1.23 "Majority" means more than fifty percent (50%) in any context, unless a different percentage is expressly required.

1.1.24 "Mortgage" means a mortgage, deed to secure debt, deed of trust, security agreement or other instrument conveying a lien upon or security interest in a Condominium Unit as security for a debt or for the performance of an obligation.

1.1.25 "Mortgagee" means the holder, beneficiary, guarantor or insurer of a Mortgage.

1.1.26 "Occupant" means any person, including, without limitation, any guest, invitee, tenant, lessee or family member of an Owner, occupying or otherwise using or visiting in a Unit.

1.1.27 "Officer" means an officer of the Association.

1.1.28 "Owner" has the same meaning as Unit Owner.

1.1.29 "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture or other legal entity, or any combination thereof.

1.1.30 "Plans" means the plans for the Condominium which are certified and filed for record in Condominium File of the Wake County Registry as indicated on the cover page hereof, as supplemented, amended and certified from time to time, such Plans being incorporated herein by reference. Such Plans bear a verified statement that they are an accurate copy of the building plans.

1.1.31 "Plat" means the plat of survey for the Condominium which is certified and recorded as indicated on the cover page hereof, as supplemented, amended and certified from time to time. The Plat is a part of the Plans.

1.1.32 "Record" or "file for record" means filing for record in the Office of the Register of Deeds of Wake County, North Carolina.

1.1.33 "Schedule of Unit Information" means the schedule attached hereto as Exhibit B, which schedule shows for each Condominium Unit its Identifying Number, Size and undivided interest in the Common Elements, number of Votes in the Association, and share of liability for Common Expenses.

1.1.34 "Size" means the number of square feet of heated, enclosed floor space in a Unit as computed by reference to the Plat and Plans and rounded off to a whole number. Decks, patios and porches (except enclosed and heated sunporches) are not included. Lofts are included. Enclosed and heated stairways are counted, but only on one level.

1.1.35 "Submitted Property" means the property lawfully submitted to the provisions of the Act and the Condominium Instruments from time to time by the recordation of the Condominium Instruments in accordance with the Act. The Submitted Property is the land described in Exhibit A and shown on the Plat and such additional land as is annexed in accordance with this Declaration, together with all improvements thereon and all rights and easements appurtenant thereto.

1.1.36 "Unit" means a portion of the Condominium intended for independent ownership and use, as more fully set forth and shown in the Condominium Instruments and the Act.

1.1.37 "Unit Designation" means one or more numbers and/or letters that identify each Unit, as set forth in the Schedule of Unit Information, and as shown on the Plat and the Plans.

1.1.38 "Unit Owner" has the same meaning as Owner and means one or more persons, including the Declarant, who own a Condominium Unit. This term does not include a Mortgagee in his capacity as such.

1.1.39 "Vote" means the vote in the Association appertaining to each Condominium Unit.

ARTICLE 2 - CREATION OF THE CONDOMINIUM

2.1 Submission to the Act. Declarant hereby submits the Submitted Property to the Act. The Submitted Property and every interest therein shall, after the recording of this Declaration, be owned, held, transferred, sold, conveyed, used, leased, occupied, mortgaged and encumbered subject to the Act and the Condominium Instruments. Every person acquiring or having any interest in the Submitted Property, by acceptance of a deed or other instrument of any kind, whether or not such deed or other instrument is signed by such person or otherwise agreed to in writing, shall take such interest subject to the Act and the Condominium Instruments and shall be deemed to have agreed to the same.

2.2 Name and Location. The name of the Condominium is "Chesapeake Pointe Condominiums." The Condominium is located in the Town of Cary, Wake County, North Carolina.

2.3 Governing Provisions. The Condominium, the Association and each Unit Owner shall be governed by the Act, the Condominium Instruments and any rules and regulations adopted by the Association pursuant to the Condominium Instruments.

ARTICLE 3 - DESCRIPTION OF THE CONDOMINIUM

3.1 Submitted Property. The Submitted Property is described on Exhibit A and shown on the Plat, and it includes all improvements thereon and all rights and easements appurtenant thereto. The improvements include one (1) building, containing a total of twelve (12) Units, roads, parking areas, utilities and landscaping. Up to four (4) additional phases, each consisting of one (1) building containing twelve (12) Units, may be added to the Submitted Property as part of the Condominium by the Declarant in accordance with this Declaration.

3.2 Condominium Units. The unit designation of each Condominium Unit, location, floor plan and typical description are set forth in the Plans for this Condominium filed in the Office of the Register of Deeds of Wake County, North Carolina in the file number referenced on the cover page of this Declaration. Similarly, actual building locations, Common Elements, Limited Common Elements, utility lines, ground elevations, building elevations, and other land

and construction information shall be found in the Condominium File referenced on the cover page of this Declaration recorded in the Office of the Register of Deeds of Wake County, North Carolina. Each Condominium Unit shall constitute for all purposes a separate parcel of real property which may be owned in fee simple and which, subject to the provisions of the Act and the Condominium Instruments, may be conveyed and encumbered like any other property. The undivided interest in the Common Elements for each Condominium Unit shall not be altered except as expressly provided by the Act and this Declaration. Such undivided interest shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Any transfer or attempted transfer of an undivided interest in the Common Elements separate and apart from the Unit shall be void. Each Unit Owner shall automatically be a member of the Association, which membership shall continue during the period of ownership of the Condominium Unit by such Unit Owner. Any transfer or attempted transfer of an undivided interest in the Common Elements separate and apart from the Unit shall be null and void.

3.3 Unit Boundaries. Each Unit shall include all the space within the boundaries thereof. The perimetrical or vertical boundaries of each Unit are the vertical planes of the undecorated interior surfaces of the walls of the Unit, whether such walls are exterior walls or walls separating the Unit from other Units or Common Elements, and the vertical planes of the exterior surfaces of windows and entry doors, including sliding glass doors. The perimetrical Unit boundaries do not include the sheet rock on the Unit side of the walls, with the sheetrock and framing being a part of the Common Elements, and they are extended to their intersections with each other and the upper and lower horizontal boundaries of the Unit. The lower horizontal boundary of each Unit is the plane of the upper surface of the concrete or framed sub-floor of that Unit, and the upper horizontal boundary of each unit is the lower undecorated surface of the ceiling of the Unit, with such sub-floor, framing and sheetrock being a part of the Common Elements. Certain of the Units may have vaulted ceilings, as may be shown in the Plans, so the upper boundary of them is not horizontal. The upper and lower boundaries of each Unit, which do not include the wood, drywall, plaster or other material forming the ceiling or floor, as may be applicable, on the Unit side of such concrete sub-floor or framing, as the case may be, extend to their intersections with the perimetrical boundaries of the Units. Window screens and all fixtures, equipment and appliances located within the boundaries of each Unit, including, without limitation, portions of the heating and air-conditioning system and the hot water heater are deemed to be part of each Unit. The balcony, porch, patio or deck serving a Unit but located outside of the boundaries thereof are Limited Common Elements. If any utility lines, chutes, flues, ducts, conduits, wires, pipes or any other apparatus lies partially within and partially outside the designated boundaries of a Unit, any portions thereof which serve only that Unit and one or more, but less than all of the Units, shall be deemed a Limited Common Element, while any portions thereof which serve all the Units or any portion of the Common Elements shall be deemed a part of the Common Elements. Further, any fan coil unit mounted above the ceiling of a Unit and the air-conditioning/heating unit located outside the Unit but serving that Unit only shall be deemed to be a part of that Unit. In interpreting the Plans, the existing physical boundaries

of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original Plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any Plat or Plans, regardless of settling or lateral movement of the building and regardless of minor variance between the boundaries shown on the Plans or in a deed and those of the Unit. Any load bearing wall or column shall be part of the Limited Common Elements.

3.4 Common Elements. The Common Elements consist of all portions of the Condominium other than Units. Certain portions of the Common Elements are Limited Common Elements, as set out in Section 3.5.

3.5 Limited Common Elements. The Limited Common Elements are those portions of the Common Elements which are reserved for the exclusive use of those persons who are entitled to the use of one or more (but less than all) of the Units. Limited Common Elements are not separate and apart from the Common Elements in general, but are limited only with respect to the exclusive use thereof by the Unit or Units to which they are assigned. Limited Common Elements are assigned as follows and not otherwise:

3.5.1 The patio, terrace, balcony, deck, porch or steps, together with any enclosure therefor, which is appurtenant to each Unit having any of the foregoing, shall be a Limited Common Element assigned to the Unit having direct access thereto. Any part which separates one patio, terrace, balcony, deck, porch or steps from those of another Unit shall be a Limited Common Element assigned to both of the Units. If a walkway, steps, or other means of access to the door of a Unit is designed to serve one or more (but less than all) of the Units, then it shall be a Limited Common Element appurtenant to the Unit or Units so served.

3.5.2 All portions of the Common Elements on which there is located any portion of the heating and air-conditioning system exclusively serving a particular Unit or Units shall be a Limited Common Element assigned to that Unit or Units.

3.6 Allocation of Undivided Interests. The undivided interests in the Common Elements, Votes in the Association and liability for Common Expenses are allocated among the Condominium Units on the Submitted Property on the basis of an equal share for each Unit created and existing upon the Submitted Property, regardless of the Size or value of such Unit.

ARTICLE 4 - EASEMENTS

In addition to the easements created by the Act, the easements described in this Article 4 and from each Owner to each other Owner, to the Association and the Declarant are hereby granted, reserved and established, subject to and in accordance with the following terms and conditions:

4.1 Use and Enjoyment. Every Owner shall have a right and easement of use and enjoyment in and to the Common Elements (including right to access, ingress and egress to and from his Unit over those portions of the Common Elements designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to every Condominium Unit, subject to the following provisions and limitations:

4.1.1 The right of the Association to control the use and enjoyment thereof as provided by the terms of this Declaration, which shall include, but not be limited to, the right of the Association to limit the use and enjoyment thereof to the Owners and their respective Occupants, as well as to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner and his Occupants.

4.1.2 The right of the Association to limit the number of guests of Owners.

4.1.3 The right of Owners to the exclusive use of the Limited Common Elements appurtenant to their respective Units.

4.1.4 The right of the Association to suspend the Vote and rights to the use of the recreational facilities owned by or available to the Association of an Owner and his Occupants for any period of time during which an Assessment against his Condominium Unit remains unpaid or for a reasonable time for infraction of any provision of the Condominium Instruments or rules and regulations.

4.2 Structural Support. Every portion of a Unit or the Common Elements which contributes to the structural support of another Unit or the Common Elements shall be burdened with an easement of structural support. No Owner shall be permitted to demolish his Unit except to the extent that such demolition may be required to repair or rebuild the Unit when the same has been partially or totally destroyed.

4.3 Utilities. To the extent that any utility line, pipe, wire or conduit serving any Unit, Units or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit, Units or the Common Elements shall be burdened with an easement for the use, maintenance, repair and replacement of such utility lines, pipe, wire or conduit, such easement to be in favor of the Unit, Units or Common Elements served by the same and the Association.

4.4 Encroachments. If any portion of the Common Elements encroaches upon any Unit, or if any Unit encroaches upon any other Unit or upon any portion of the Common Elements, as a result of the construction, reconstruction, repair, restoration, shifting, settlement or movement of any portion of the Condominium, an easement for the encroachment and for the maintenance, repair and replacement thereof shall exist so long as the encroachment exists. In the event that any building, any Unit, any adjoining Unit, or any adjoining portion of the Common Elements shall be partially or totally damaged or destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then be

repaired or reconstructed, encroachments of portions of the Common Elements, due to such repair or reconstruction, shall be permitted, and easements for such encroachments and the maintenance, repair and replacement thereof shall exist. This easement is intended to apply to minor unintentional encroachments that are reasonable in extent and do not deprive another of a substantial property right or use.

4.5 Maintenance and Repair. There shall be an easement in favor of the Declarant, the Association and the Unit Owners through the Units and the Common Elements as may be reasonably necessary for the installation, maintenance, repair and replacement of the Units and the Common Elements. Use of this easement shall be only upon prior notice during normal business hours, except that access may be had at any time in case of emergency.

4.6 Rights of Association. There shall be a general easement to the Association, its Directors, Officers, contractors, agents and employees (including, but not limited to any manager employed by the Association) to enter upon the Submitted Property or any portion thereof and to enter or take access through the Units and the Common Elements as may be reasonably necessary for the installation, maintenance, repair and replacement thereof, for making emergency repairs and for other work for the proper maintenance and operation of the Condominium and for the performance of their respective duties. Each Owner shall afford to other Owners and to the Association, their respective contractors, agents, representatives and employees, such access through such Owner's Unit as may be reasonably necessary to enable them to perform such work and to exercise and discharge their respective powers and responsibilities. Except in the event of emergencies, however, such easements are to be exercised only during normal business hours and upon advance notice to and with the permission of the Owner or Occupant of a Unit directly affected thereby. The Association shall have the power to grant and accept permits, licenses and easements on, over, across and through the Common Elements for the installation, maintenance, repair and replacement of utilities, roads and for other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium. An easement is hereby established for the benefit of the Town of Cary and any agency or utility performing any of the following services over, across and through all Common Elements: For the setting, removal and reading of water and electricity meters, and the maintenance and replacement of water, electricity, sewer and drainage facilities. In addition thereto, an easement is hereby established over all of the Submitted Property for the benefit of the Town of Cary and all other agencies and personnel performing any of the following duties and services: For the fighting of fires, mail delivery, collection of garbage, ambulance services and police protection.

4.7 Rights of Declarant. So long as Declarant owns any Condominium Units primarily for the purpose of sale, Declarant and its duly authorized contractors, representatives, agents and employees shall have a transferable right and easement for the maintenance of signs, a sales office, a business office, promotional facilities and model Units on the Submitted Property, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development or sale of the Condominium Units on the Submitted Property.

The Declarant may use any three (3) Units which it owns or leases for models and/or sales offices, which Units may be changed from time to time. During the period that Declarant owns any Unit, Declarant, its duly authorized contractors, representatives, agents and employees, shall have a transferable easement on, over, through, under and across the Common Elements for the purpose of doing all things reasonably necessary and proper in connection the development of the property described on attached Exhibit E or the exercise of any of its rights under this Declaration.

ARTICLE 5 - DECLARANT RIGHTS

5.1 Declarant Development Rights Reserved. The Declarant reserves the following Development Rights with respect to the real estate described on Exhibit E attached hereto: (i) to create and annex Units, Common Elements, and Limited Common Elements to the Condominium, (ii) to subdivide Units, (iii) to convert Units into Common Elements, and (iv) to withdraw property from the Condominium. Development Rights may be exercised with respect to the different parcels of real estate within the property described in Exhibit E at different times. No assurance is made in regard to the boundaries of those parcels within the real estate described on Exhibit E or the order in which those parcels may be subjected to Development Rights. If a Development Right is exercised in a portion of the real estate in Exhibit E subject to such development right, there is no obligation on Declarant to exercise such Development Rights in any portion of the remainder of the real estate described in Exhibit E subject to such right. Upon the exercise of such Development Rights, Declarant shall prepare and file an Amendment to this Declaration and the Plans complying with this Declaration and the Act. The Common Elements then constituted shall be reallocated to the Units based in accordance with Section 3.6 hereof. Such Amendment shall: (a) assign an identifying number to each new Unit created; (b) reallocate the allocated interests among the Units; (c) describe all Common Elements and Limited Common Elements thereby created; and (d) designate the Unit(s) to which each Limited Common Element is allocated. All Development Rights, herein reserved must be exercised on or before the end of seven (7) years after the time of recordation of this Declaration.

5.2 Special Declarant Rights Reserved. In addition to the rights reserved elsewhere in this Declaration, the Declarant reserves the following Special Declarant Rights with respect to the Condominium: (a) the right to complete the Condominium in accordance with the Plans filed from time to time as part of the Condominium File identified on the cover page hereof; (b) the right to exercise any Development Rights herein reserved in Section 5.1; (c) the right to maintain models, sales and/or management offices at the Condominium along with appropriate signs for advertising the sale of Units and the location of such models and offices. Such offices shall be at locations selected by Declarant and may be within a Unit. The size of the offices shall be as determined by Declarant and may be relocated by Declarant, at its discretion; (d) the right of access, ingress and egress over the Common Elements for the purpose of discharging Declarant's obligations and reservation of rights hereunder; and (e) the right to elect or name persons to the Board of Directors and to name an appoint officers of the Association and to otherwise control the activities of the Association and Board until the

rights of Declarant terminate, all as specified in the Bylaws or this Declaration. All Special Declarant Rights reserved must be exercised on or before the end of seven (7) years after the time of recordation of this Declaration.

5.3 Declarant's Right to Add Real Estate. The Declarant expressly reserves the right to add the real estate described on attached Exhibit E to the Submitted Property as part of the Condominium. It is the intention of the Declarant to add four (4) additional phases, each phase consisting of one (1) building containing twelve (12) Units. Such real estate may be added entirely or in phases at different times, but no assurances are made in regard to the order in which such phases may be added. The Declarant shall have no duty or obligation of any kind to add any or all of such real property to the Condominium. The method of adding such real property shall be in accordance with the Act. The maximum number of Units that may be added shall be 48, for a maximum total number of 60 Units in the Condominium. All restrictions in this Declaration and the Bylaws, as amended from time to time, will apply to any additional real estate and Units added pursuant to this Section. The Declarant's right to add real estate must be exercised on or before the end of seven (7) years after the time of recordation of this Declaration.

5.3.1 Compatibility of Style. Any buildings and Units that may be added to the Submitted Property as part of the Condominium by the Declarant will be compatible with the other buildings and Units in the Condominium in terms of architectural style, quality of construction and size; provided, however, the architectural style and size of buildings and Units need not be identical to existing buildings and Units.

5.3.2 Allocation of Interests. If the Declarant adds additional real estate to the Submitted Property as part of the Condominium pursuant to this Article, each Unit Owner's percentage interest in the Common Elements and share of Common Expenses shall be equal to 1 divided by the total number of Units in the Condominium and each Unit Owner shall have 1 vote in the Association. The assessments for Units added to the Condominium shall commence as to all Units so added on the first day of the month following conveyance by the Declarant of the first Unit so added. The first annual assessment for Units so added shall be adjusted according to the number of months then remaining in the fiscal year in which they were added.

ARTICLE 6 - MAINTENANCE AND REPAIR

6.1 Association. Subject to the provisions of Section 6.2, the Association shall be responsible for the maintenance, repair and replacement of the Common Elements, including Limited Common Elements, and the cost of such maintenance, repair and replacement shall be a Common Expense. All damage caused to a Unit by any work on or to the Common Elements done by or for the Association shall be repaired by the Association and the cost thereof shall be a Common Expense.

6.2 Unit Owner. The Unit Owner shall maintain, repair and replace all portions of his Unit, except those portions, if any, which are to be maintained, repaired or replaced by the Association. The Unit Owner shall maintain, repair and replace the hot water heater and heating and air-conditioning system which is a part of or a Limited Common Element serving his Unit alone, together with all fixtures, equipment and appliances installed in his Unit or located within the boundaries thereof, and all utility lines, chutes, flues, ducts, conduits, wires, pipes or other apparatus located within the boundaries of such Owner's Unit or deemed to be a part thereof as provided herein, except to the extent they are Limited Common Elements. Each Unit Owner shall perform his responsibilities in such a manner so as not to unreasonably disturb other persons in other Units and shall keep any balcony, deck, terrace, patio, porch or steps adjoining his Unit in a neat and clean condition and free of standing water. Each Unit Owner shall promptly report to the Association or its agent any defect or need for repairs for which the Association is responsible. The Association shall have the right but not the obligation to make any repair or replacement or to do any cleaning or maintenance which is the responsibility of the Unit Owner if the Unit Owner fails or refuses to do so, and in such event, the Unit Owner shall be obligated to pay for the cost incurred by the Association for such work. Each Unit Owner shall also be obligated to pay for the cost of repairing, replacing, or cleaning any item which, although the responsibility of the Association, is necessitated by reason of any intentional or negligent act of the Unit Owner or an Occupant of the Unit, the cost of any such repair, replacement, maintenance or cleaning shall be added to and become part of the Assessment or portion thereof next coming due to which the Unit Owner is subject.

ARTICLE 7 - ASSESSMENTS

7.1 Lien. Each Unit Owner covenants and agrees to pay to the Association all Assessments (general and special) provided by the Act and by this Declaration which shall be fixed, established and collected from time to time as hereinafter provided. The liability and share of each Condominium Unit and its Owner for Assessments shall be as set out in the Schedule of Unit Information. All Assessments and other charges provided by this Declaration, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a charge against and continuing lien upon the Condominium Unit against which each such Assessment or charge is made. Each Owner shall be personally liable for Assessments coming due on his Unit while he is an Owner. Any Unit shall be conveyed subject to a lien for any unpaid Assessments subject to the provisions of Section 47C-3-116(f) of the Act and Section 7.7 hereof, but the personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them. No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Elements, non-use of any rights or benefits available to Owners or Occupants or abandonment of his Unit.

7.2 General Annual Assessment. The amount of all Common Expenses not specially assessed against one or more but less than all of the Condominium Units pursuant to the provisions of this Declaration, less the amount of all undistributed and unreserved common profits, shall be assessed against the Condominium Units in accordance with the Schedule of

Unit Information. The annual assessments provided for in this Declaration shall commence as to all Units on the first day of the month following conveyance of the first Unit by the Declarant. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year. The general annual Assessment shall be established by the Board of Directors in the manner set forth in this Section.

7.2.1 At its organizational meeting, the Board shall adopt a proposed budget for the Condominium and shall levy assessments against Units for Common Expenses based on such budget. The assessments shall commence as to all Units on the first day of the month following conveyance of the first Unit by the Declarant. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year. During that portion of the Association's fiscal year from the recording of this Declaration to the end of such fiscal year, the annual Assessment applicable to each Condominium Unit shall be as set forth in the estimated budget for the Condominium delivered to each purchaser of a Condominium Unit.

7.2.2 After the first fiscal year of the Association, the Board shall from time to time, and at least annually, prepare a budget for the Condominium, for the purpose of determining amount of the annual assessments to be collected from the Unit Owners. At least thirty (30) days prior to the annual meeting of the Association, the Board of Directors shall prepare and submit in writing to the Owners an estimated budget of the Common Expenses for the next succeeding fiscal year to be paid by Assessments collected from the Owners, together with the amount of the annual Assessment payable by each Owner during such fiscal year. If the estimated budget proves inadequate for any reason at any time during the year, then upon the affirmative Vote of Owners having at least two-thirds (2/3rds) of the total Vote of the Association, the Board of Directors may levy at any time a further Assessment against the Owners and notify the Owners accordingly. If for any reason an annual budget is not made by the Board, a payment in the amount required by the last prior Assessment shall be due upon each Assessment due date until changed by a new Assessment. Common Expenses of the Association to be paid through annual Assessments shall include, but shall not necessarily be limited to, the following:

- (a) Management fees and expenses of administration, including management, legal and accounting fees;
- (b) Utility charges for utilities serving the Common Elements and charges for other common services;
- (c) The cost of any master or blanket policies of insurance purchased for the benefit of all Owners and the Association as required by this Declaration, including fire and other hazard coverage, public liability coverage, and such other insurance coverage as the Board of Directors determines to be in the interest of the Association and the Owners;

(d) The expense of maintenance, operation and repair of the Common Elements as well as any maintenance upon the Units which is the responsibility of the Association under the provisions of Article 6, if such expense is not covered by a special Assessment;

(e) Charges for utilities provided to the Units and not separately metered, which shall be a Common Expense of the Association;

(f) Such other expenses as may be determined from time to time by the Board of Directors to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against each Condominium Unit, other than ad valorem real property taxes;

(g) The establishment and maintenance of an adequate reserve fund or funds for the periodic maintenance, repair and replacement of those Common Elements (including Limited Common Elements) which the Association may be obligated to maintain and of a reserve to cover operating contingencies or deficiencies arising from unpaid Assessments or liens, emergency expenditures and other matters, as may be authorized from time to time by the Board of Directors. A working capital fund shall be established for the initial months of the operation of the Condominium equal to at least two (2) months of the annual Assessment applicable to each Unit, which shall be collected from the Declarant with respect to each Unit upon the earlier of the time of conveyance of such Unit by Declarant or upon the expiration of the Declarant Control Period, and shall be deposited in and maintained in a separate account of the Association for the use and benefit of the Association. The purpose of such funds is to insure that funds will be available for the Association to meet unforeseen expenditures, to pay one time expenses at the beginning of the Association such as legal, accounting and other services and advice, and to acquire additional equipment or services deemed necessary or desirable by the Board of Directors. Amounts paid into such fund shall not be considered as advance payment of the annual Assessment, but shall be in addition to the annual Assessment. Declarant shall not use working capital funds to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits when unsold Units are sold. Declarant, however, may reimburse itself for funds paid to the Association for any unsold Units' share of the working capital fund, by using funds collected at closing when the Unit is sold;

(h) The cost to the Association to allow Unit Owners access to those recreational facilities adjoining the Condominium, which are part of Chesapeake Landing. The cost to the Association for such use shall be established by contractual agreement between the Association and the owners' association or other appropriate authority for Chesapeake Landing Condominiums; and

(i) Expenses declared Common Expenses by the provisions of the Act. The general annual Assessment for Common Expenses described above shall be paid by and collected from the Owners in accordance with their respective liabilities for Assessments. Each Owner shall be obligated to pay such Assessments to the Association in equal monthly installments on or

before the first day of each calendar month. In any year in which there is an excess of Assessments and other income over expenditures, the Board of Directors, by resolution and without the necessity of a Vote of the Owners, shall determine either to apply such excess or any portion thereof against and reduce the subsequent year's Assessments or to allocate the same to one or more reserve accounts of the Association described above. Any of the foregoing provisions of this paragraph which may be construed to the contrary notwithstanding, no Assessment shall be payable under this paragraph by any Owner until this Declaration is filed for record. Therefore, the first annual Assessment payable under this paragraph shall be prorated according to the number of days remaining in the Association's fiscal year after the date on which this Declaration is filed for record.

7.3 Special Allocation of Assessments. Any Common Expenses occasioned by the conduct of less than all of the Unit Owners or their Occupants may be specially assessed by the Board against the Condominium Unit or Units, the conduct of any Owner or Occupant of which occasioned any such Common Expenses. Any Common Expenses benefitting less than all of the Units may be assessed by the Board equitably among the Units so benefitted. Notwithstanding anything to the contrary set forth herein, except as provided in Section 6.2, there shall be no special Assessments against any particular Condominium Unit for any Common Expenses associated with the maintenance, repair, restoration, renovation, or replacement of any Limited Common Elements; rather, such expenses shall be Common Expenses. The special allocation of Assessments provided for in this paragraph shall be levied by the Board of Directors in its reasonable judgment, and the amount and due date(s) of such Assessments so specially allocated by the Board shall be as specified by the Board. In no event shall the Association or any member of the Board have any liability for any judgment or decision made reasonably and in good faith under this paragraph.

7.4 Special Assessments for Capital Improvements. In addition to the special and general Assessments authorized above, and in addition to the special Assessments for reconstruction or repair of casualty damage, the Board of Directors may levy special Assessments for the purpose of defraying, in whole or in part, the cost of any capital addition to or capital improvement of the Common Elements (including the necessary fixtures and personal property related thereto), or for the cost of repair or replacement of a portion of the Common Elements (including the necessary fixtures and personal property related thereto). Provided, however, any special Assessment levied by the Board of Directors under and pursuant to the provisions of this Section must first have the affirmative Vote of Owners having at least a two-thirds (2/3rds) of the total Vote of the Association at a meeting duly called and held for such purpose. Owners shall be assessed for special Assessments under this Section in accordance with the liability for Assessments of their respective Condominium Units, and the due date(s) of any such special Assessments shall be specified by the Board of Directors.

7.5 Nonpayment of Assessments: Remedies of Association. Any Assessment, or portion thereof, not paid when due shall be delinquent, and the Board of Directors shall have the duty to enforce the collection of all delinquent Assessments. Any Assessment, or portion

thereof, not paid within thirty (30) days after the due date shall constitute a lien on such Owner's Condominium Unit when filed of record in the Office of the Clerk of Superior Court, Wake County, in the manner provided for filing statutory liens against real property. If any Assessment or portion thereof is delinquent for a period of more than thirty (30) days, and then is not paid within the thirty (30) days after written notice is given to the Owner to make such payment, proceedings may be instituted to enforce such obligation and/or lien. Such notice shall be sent by certified mail, return receipt requested, to the Owner both at the address of the Unit and at any other address or addresses the Owner may have designated to the Association in writing, specifying the amount of the Assessments then due and payable, together with authorized interest. Any Assessment or installment thereof not paid within thirty (30) days after the applicable due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Board of Directors may suspend the Vote of the Owner or the rights of the Owner and his Occupants to use the recreational facilities of the Condominium during the period in which any Assessment or portion thereof remains unpaid and after at least ten (10) days written notice is given to the Owner as aforesaid, and the Association may bring an action at law against the Owner obligated to pay the same or foreclose its lien against such Owner's Condominium Unit, in which event interest as provided herein and costs of collection shall be added to and included in such lien, with such costs of collection to include court costs, the expenses of sale, any expenses required for the protection and preservation of the Condominium Unit, and reasonable attorney's fees. All payments on account shall be applied first to the aforesaid costs of collection, then to interest and then to the Assessment lien first due. All interest collected shall be part of the Common Profits. Each Owner vests in the Board of Directors the right and power to bring all actions against him personally for the collection of such Assessments as a debt and to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all Owners. The Association, acting through the Board, shall have the power to bid in the Condominium Unit at any Foreclosure sale and to acquire, hold, lease, encumber and convey the same. The rights and remedies conferred herein shall be in addition to, and not in lieu of, those set forth in Section 47C-3-116 of the Act.

7.6 Priority of Lien. The lien for Assessments, once perfected, shall be prior to all other liens and encumbrances except only (a) the lien for real estate taxes on a Condominium Unit, and (b) the lien of a First Mortgage securing sums unpaid to Mortgagee or other lien or encumbrance recorded prior to the perfection of said lien for Assessments. Except as provided in Section 7.7 and Section 47C-3-116(f) of the Act, the sale or transfer of any Condominium Unit shall not affect the Assessment lien.

7.7 Deed in Lieu of Foreclosure. Notwithstanding anything contained in this Declaration or the Act which may be construed to the contrary, in the event any First Mortgagee that is an Institutional Mortgagee shall acquire title to any Condominium Unit by virtue of any deed in lieu of Foreclosure of a First Mortgage, such a First Mortgagee shall not be liable for, nor shall such Condominium Unit be subject to a lien for, any Assessment chargeable to such Condominium Unit on account of any period prior to the time such First

Mortgagee shall so acquire title to such Condominium Unit; provided, however, that Assessments collectible thereafter from all Owners, including such First Mortgagee shall be paid as set forth in this Declaration. The provisions of this Section 7.7 are in addition to, and not in lieu of, the provisions of Section 47C-3-116(f) of the Act.

ARTICLE 8 - ADMINISTRATION

8.1 Administration by the Association. The Association shall administer the Condominium, and have the rights and duties with respect thereto, as set out in and subject to the Act and the Condominium Instruments.

8.2 Control by Declarant. The Declarant shall have the right to appoint or remove all Directors and Officers or to exercise powers and responsibilities otherwise assigned to the Association, Board or Officers by the Act or the Condominium Instruments during the Declarant Control Period. During the Declarant Control Period, the Board shall consist of three (3) Directors appointed by Declarant. Each such Director shall serve at the pleasure of Declarant; provided, however, not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, at least one member of the Board shall be elected by Unit Owners other than Declarant. The election of such member to the Board shall mean that Unit Owners other than Declarant shall have elected not less than thirty-three percent (33%) of the members of the Board and therefore, by virtue of such election, there shall be compliance with Section 47C-3-103(e) of the Act until expiration of the Declarant Control Period. Upon the expiration of the Declarant Control Period a special meeting of the Association shall be called as set forth in the Bylaws. At such special meeting the Owners shall elect a Board of Directors. Further, any management or other agreement or any lease entered into during the period of Declarant control shall be subject to cancellation without cause and without penalty or termination fee upon not more than ninety (90) days prior written notice.

8.3 Duties and Powers. The duties and powers of the Association shall be those set forth in the Act, the North Carolina Nonprofit Corporation Act, this Declaration and the other Condominium Instruments, together with those reasonably implied to effect the purposes of the Association. Except to the extent otherwise required by the Act, the North Carolina Nonprofit Corporation Act, this Declaration or the other Condominium Instruments, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors, acting through the Officers, without any further consent or action on the part of the Owners. Subject to and in accordance with the provisions or limitations set forth in the Bylaws, each Director and each Officer shall be entitled to be indemnified by the Association in connection with any threatened, pending or completed action, suit or proceeding with respect to which such person was or is a party by reason of the fact that such person is or was a Director or Officer.

8.4 Property. All funds received and title of all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in

acquiring the same, shall be held for the benefit of the Owners as herein provided and for the purposes herein stated. The shares of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated or transferred in any manner except as an appurtenance to a Condominium Unit. In any year in which there is an excess of Assessments over expenditures, such surplus shall be applied in accordance with the provisions of Article 7.

8.5 Rules and Regulations. Without limiting the generality of this Article, the Board of Directors shall have the power and authority to make, amend and revoke reasonable rules and regulations concerning the use of the Units and the Common Elements as set forth in the Bylaws.

8.6 Professional Management. The Board of Directors may employ a professional management firm to manage the operation and affairs of the Condominium and the Association. Any management firm employed shall be employed pursuant to a written agreement executed on behalf of the Association by a Majority of the Board of Directors. All such management agreements shall be terminable by the Association for cause upon not more than thirty (30) days written notice and without termination fee and upon not more than ninety (90) days prior written notice and without termination fee without cause, and the term thereof may not exceed one year. The management firm shall be the agent of the Board of Directors and the Association. Any management agreement entered into prior to the expiration of the Declarant Control Period shall be terminable without notice and without a termination fee at any time with or without cause. To the extent permitted by law, the Board of Directors shall be authorized to delegate to such management firm such of the duties and powers of the Association and of its Board of Directors and Officers as the Board of Directors shall determine. The Declarant or any person affiliated with Declarant may be employed as the professional management firm pursuant to this Section; provided, however, that notwithstanding the foregoing, any contract or agreement of any kind with the Declarant or any person affiliated with the Declarant whether for professional management or for another purpose shall be terminable by either party thereto without cause and without payment of a termination fee upon no more than ninety (90) days prior written notice.

8.7 Enforcement of Directors' Duties. In the event that the Board of Directors shall fail to perform any duty or duties which, under the terms and provisions of the Act, this Declaration, or the other Condominium Instruments, are to be performed by it, any Owner or First Mortgagee who is aggrieved by such failure shall have the right to proceed in equity to compel the Board of Directors to perform such duty or duties. In no event, however, shall any Director have any liability to any Owner or Mortgagee for any failure by the Board of Directors to perform any such duty or duties, except to the extent specially provided in the North Carolina Nonprofit Corporation Act.

termination fee at any time with or without cause. To the extent permitted by law, the Board of Directors shall be authorized to delegate to such management firm such of the duties and powers of the Association and of its Board of Directors and Officers as the Board of Directors shall determine. The Declarant or any person affiliated with Declarant may be employed as the professional management firm pursuant to this Section; provided, however, that notwithstanding the foregoing, any contract or agreement of any kind with the Declarant or any person affiliated with the Declarant whether for professional management or for another purpose shall be terminable by either party thereto without cause and without payment of a termination fee upon no more than ninety (90) days prior written notice.

8.7 Enforcement of Directors' Duties. In the event that the Board of Directors shall fail to perform any duty or duties which, under the terms and provisions of the Act, this Declaration, or the other Condominium Instruments, are to be performed by it, any Owner or First Mortgagee who is aggrieved by such failure shall have the right to proceed in equity to compel the Board of Directors to perform such duty or duties. In no event, however, shall any Director have any liability to any Owner or Mortgagee for any failure by the Board of Directors to perform any such duty or duties, except to the extent specially provided in the North Carolina Nonprofit Corporation Act.

ARTICLE 9 - INSURANCE

General Obligations and Authority. The Association shall obtain and maintain at all times (a) insurance for all of the insurable improvements on the Submitted Property (with the exception of improvements and betterments made by the respective Owners or Occupants) against loss or damage by fire or other hazards, including extended coverage, vandalism, malicious mischief, cost of demolition, windstorm and water damage, in an amount consonant with full replacement value of such insurable improvements; specifically, the Association shall obtain and maintain insurance covering such items as floor coverings, built-in cabinets, wall coverings, plumbing fixtures, etc., if such coverage is reasonably obtainable by the Association (with the exception of improvements and betterments made by the respective Owners or Occupants), (b) fidelity coverage against dishonest acts on the part of its Directors, Officers, employees, agents and volunteers responsible for handling funds belonging to or administered by the Association in an amount at least equal to the sum of three (3) months Assessments plus reserves or in such greater amount as the Board may determine, (c) comprehensive public liability insurance, in amounts established by the Board of Directors from time to time, but in no event shall such amounts be less than \$1,000,000.00 for single limit coverage, and (d) such other types of insurance either required by the Federal National Mortgage Association, Federal Home Loan Mortgage Association, Veterans Administration, Federal Housing Administration or any other applicable governmental authority or law or authorized by the Board of Directors from time to time. Such casualty, liability and fidelity coverage shall be issued by generally acceptable insurance carriers and shall be maintained in accordance with and satisfy all of the applicable provisions of the Act and the Federal National Mortgage Association Conventional Home Mortgage Selling Supplement or in accordance with any other requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage

promptly by the Association unless (a) the Condominium is terminated, (b) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (c) the Owners decide not to rebuild by a Vote of at least eighty percent (80%), including one hundred percent (100%) approval of Owners of Units not to be rebuilt or Owners assigned to Limited Common Elements not to be rebuilt. The cost of any such repair or replacement in excess of insurance proceeds and reserves shall be a Common Expense. If the entire Condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged areas to a condition compatible with the remainder of the Condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units and Owners of Units to which those Limited Common Elements were allocated or to lienholders, as their interest may appear, and (3) the remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, as their interest may appear, in proportion to their interest in the Common Elements. If the Unit Owners Vote in accordance with the foregoing not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon such Vote as if such Unit had been condemned in accordance with Section 47C-1-107(a) of the Act, and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting such reallocation. Notwithstanding the provisions set forth herein, Section 47C-2-118 of the Act shall govern the distribution of insurance proceeds if the Condominium is terminated.

10.2 Claims and Adjustments. All insurance proceeds payable for damage or destruction to any part of the Condominium, other than damage solely to a unit, shall be payable to the Association for the use and benefit of the Owners and their respective Mortgagees as their interest may appear and shall be disbursed by the Board as hereinafter provided. Immediately after any damage or destruction to all or any part of the Submitted Property covered by insurance purchased by the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance with respect to property losses of Owners and obtain reliable and detailed estimates of the cost of repair or reconstruction of such damaged or destroyed property.

10.3 Manner of Repair and Reconstruction. All repairs, reconstruction or rebuilding to be made as a consequence of a fire or other casualty shall be made in accordance with the following provisions:

10.3.1 Common Elements. If the damage to be repaired or reconstructed is the Common Elements, and if such damage or destruction is less than ten percent (10%) of the total annual revenues anticipated to be received by the Association under the then current budget of the Association, such repair or reconstruction shall be substantially in accordance with the plans and specifications for such damaged property prior to the occurrence of such damage, or in accordance with such different plans and specifications as may be approved for such purpose by the Board of Directors. If the damage to be repaired or reconstructed is to the Common Elements, and if the insurance proceeds available as a result of such damage or destruction is greater than ten percent (10%) of the total annual revenues anticipated to be

received by the Association under the then current budget of the Association, such repair or reconstruction shall be substantially in accordance with the plans and specifications as may be approved for such purpose by the Board of Directors; provided, however, that in the event the Board of Directors shall approve plans and specifications for the repair of the damaged property prior to the occurrence of such damage, such plans and specifications shall be submitted for the approval of a Majority of the Association, if a request to such effect is submitted in writing signed by the Owners together possessing at least fifteen percent (15%) of the total Vote of the Association no later than fourteen (14) days after the meeting at which the Board of Directors approve such differing plans and specifications.

10.3.2 Units. If the damage to be repaired or reconstructed is to any Unit, such repair, reconstruction or rebuilding shall be substantially in accordance with the plans and specifications for such damaged Unit prior to the occurrence of such damage.

10.3.3 Responsibility for Repair or Reconstruction. All of the work of repairing or reconstructing any portion of the Submitted Property, the damage to or destruction of which resulted in the payment of any insurance proceeds under any insurance policy maintained by the Association shall be the responsibility of the Association and shall be performed under the supervision of the Board of Directors. In discharging such supervisory responsibility, the Board of Directors shall be authorized, but shall not be obligated, to employ as its agent or consultant such building supervisors or architects as the Board of Directors shall determine. Any fees which shall be payable to any such building supervisor or architect as shall be employed by the Board of Directors shall be a Common Expense of the Association.

ARTICLE 11 - ARCHITECTURAL CONTROL, USE RESTRICTIONS AND SALE OR LEASING OF UNITS

To assure a community of congenial Owners and thus protect the value of the Condominium Units, the Submitted Property shall be subject to the restrictions set forth in this Article and in the rules and regulations of the Association.

11.1 Approval Required for Changes. To preserve the architectural appearance of the Condominium, no construction, painting or other changes of any nature whatsoever shall be commenced or maintained by any Unit Owner other than Declarant with respect to the exterior of any Unit or any other portion of the Condominium, including any Limited Common Elements appurtenant thereto, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specifications showing the nature, kind, shape, color, height, materials and location of the same shall have been submitted and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or by an architectural committee appointed by the Board of Directors. An Owner may make improvements and alterations within his Unit; provided, however, that no Owner shall make any structural alterations in a Unit or remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety, soundness or structural integrity of that Unit

or any other Unit or otherwise materially lessen the support of any portion of the Condominium. No Owner shall impair any easement without first obtaining the written consent of the Association and of the Owner or Owners and their Mortgagees for whose benefit such easement exists.

11.2 Lighting. The design, type, location, size, intensity and color of all exterior lights (including both those mounted as part of the original design of the Submitted Property or otherwise in place at the time of the conveyance of a Unit to an Owner and those mounted with the consent of the Board of Directors) shall be subject to the prior written approval of the Board of Directors.

11.3 Residential Purposes. Except for Declarant's rights as set forth herein, all Units shall be, and the same hereby are, restricted exclusively to residential use, and the occupancy thereof shall be subject to such restrictions as the Board of Directors may establish pursuant to the rules and regulations of the Association.

11.4. Business Activities and Signs. No business activities, other than the development and sales activities of Declarant as permitted hereunder, shall be conducted on any portion of the Submitted Property. Except as may be required by legal proceedings and except as permitted in accordance with Section 4.7, Article 5 and Section 11.13 hereof, no "For Sale" or "For Rent" signs or other signs or advertising posters of any kind shall be maintained or permitted on any portion of the Submitted Property without the express prior written permission of the Board of Directors, and the approval of signs and posters shall be upon such conditions as may from time to time be determined by the Board of Directors. Notwithstanding the foregoing, the provisions of this Section shall not apply to any signs maintained on the Submitted Property by Declarant, its agents, representatives or assigns, during the period that Declarant has any Condominium Unit for sale, or to "For Sale" or "For Rent" signs complying with rules and regulations adopted by the Board of Directors, or to any notice or other advertisement posted on any community bulletin board by an Owner or his licensed real estate broker or agent or to a "For Sale" sign posted by a Mortgagee who becomes the Owner as purchaser at a Foreclosure sale conducted with respect to a Mortgage or a transferee pursuant to any proceeding in lieu thereof, subject to reasonable rules and regulations established by the Board of Directors with respect to such "For Sale" sign.

11.5 Pets. No animals or birds, other than a reasonable number of generally recognized house pets, shall be kept or maintained on any portion of the Submitted Property and then only if they are kept or maintained solely as domestic pets and not for commercial purposes. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements, except that such a structure may be constructed or maintained with any balcony, deck, patio, terrace area or other Limited Common Elements if the same shall be approved in advance in writing by the Board of Directors. Pets shall be under leash when walked or exercised in any portion of the Common Elements. No pet shall be permitted to leave its droppings on any portion of the Common

Elements, and the Owner of such pet shall immediately remove the droppings. Upon the written request of any Owner, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular pet is permitted or such pet is a nuisance and shall have the right to require the Owner of a particular pet to remove such pet from the Condominium if such pet is found to be a nuisance or to be in violation of these restrictions.

11.6. Use of Common Elements. The use and enjoyment of the Common Elements by the Owners and their Occupants shall be submitted to such reasonable rules and regulations as may be made and amended from time to time in accordance with Section 8.5 of this Declaration. This Section is for the mutual benefit of all Owners and is necessary for the protection of all Owners.

11.7. Antennas. No antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Submitted Property, whether attached to a building or structure or otherwise; provided, however, that Declarant and the Association shall have the right to erect, construct and maintain such devices.

11.8. Motor Vehicles, Trailers, Boats, etc. Automobiles shall be operated and parked only upon those portions of the Common Elements designated for such purpose on the Plat or by the Board of Directors. Other motor vehicles, including, without limitation, mobile homes, motor homes, commercial vehicles, truck campers, trailers of any kind and boats, shall be kept, placed, stored, parked, maintained or operated only upon those portions of the Submitted Property, if any, designated specifically for such purpose by the Board of Directors. Further, although not expressly prohibited hereby, the Board of Directors may prohibit mobile homes, motor homes, truck campers, trailers of any kind, motorcycles, motor scooters, motorized bicycles, mopeds, motorized go-carts, and other such contrivances, or any of them, from being kept, placed, stored, maintained or operated upon any portion of the Submitted Property if in the opinion of the Board of Directors such prohibition shall be in the best interests of the Condominium.

11.9. Nuisances. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Submitted Property, except in containers specially designated for such purpose, nor shall any odors be permitted, so as to render any portion of the Submitted Property unsanitary, unsightly, offensive or detrimental to persons using or occupying other portions of the Submitted Property.

11.10. Prohibited Activities. Noxious or offensive activities shall not be carried on in any Unit or in any part of the Common Elements. Each Owner and Occupant shall refrain from any act or use of his Unit or the Common Elements which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the other Owners and Occupants, or which could result in the cancellation of insurance on any Unit or any portion of the Common Elements, or which would be in violation of any law or governmental code or

regulation. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkept conditions, shall not be pursued or undertaken on any portion of the Submitted Property.

11.11 Governmental Regulations. All governmental building codes, health regulations, zoning restrictions and the like applicable to the Submitted Property shall be observed. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provisions shall apply.

11.12 Exterior Appearance. To provide a neat, attractive and harmonious appearance throughout the Condominiums, no awnings, shades, screens or other item shall be attached to, hung or used on the exterior of any window or door of a Unit or on the exterior of any building without the prior written consent of the Board of Directors or an architectural committee appointed by the Board of Directors. Further, no foil or other reflective material shall be used on any windows for sun screens, blinds, shades or any other purpose. Unless otherwise approved by the Board of Directors or permitted by rules and regulations adopted by the Board of Directors, all shades, drapery linings and other window treatments visible from the exterior of a Unit on any window or door shall be white or off-white. Outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed or maintained on any portion of the Submitted Property, nor shall any clothing, rugs or any other items be hung on any railing or fence enclosing any balcony, deck, terrace or patio.

11.13 Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, during the period of the sale of the Condominium Units it shall be expressly permissible for Declarant, its contractors, agents, employees, assigns and representatives, to maintain, carry on, upon such portion of the Submitted Property as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenience or incidental to the completion and sale of the Condominium Units, including, but without limitation, business offices, signs, model Units and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use the parking facilities on the Submitted Property for such purposes and to use any Units owned by Declarant as model Units and as offices for the sale of the Condominium Units and related activities, such Units being located and described as provided herein and in the other Condominium Instruments.

11.14 Sale or Leasing. The following provisions shall apply to sales or leases of Condominium Units:

11.14.1 The right of any Owner, including Declarant, to sell, transfer, convey, mortgage, encumber or pledge the Condominium Unit owned by such Owner shall not be subject to any right of first refusal or any similar restriction in favor of the Association or any other Owner.

11.14.2 No Owner may lease his Condominium Unit for transient or hotel purposes. All Leases shall be in writing on a standard lease form prescribed by the Board with a minimum term of at least three (3) months. Any Lease shall be subject in all respects to the provisions of the Condominium Instruments and the rules and regulations of the Association. Any failure by the lessee to comply with the terms of such Condominium Instruments shall be a default under the Lease, and any Lease shall so provide. In the event of non-compliance by any tenant of a Condominium Unit with the terms of the Condominium Instruments, the Board of Directors shall have the right to require the Owner or lessee of such Condominium Unit to terminate such Lease because of such default and to levy a charge or fine against the Owner of such Condominium Unit for such non-compliance.

11.14.3 Any of the foregoing provisions of this Section which may be construed to the contrary notwithstanding, the Lease by Declarant of any Condominium Unit owned by Declarant or the Lease by a Mortgagee who becomes the Owner of a Condominium Unit at a Foreclosure sale conducted with respect to the Mortgage on such Condominium Unit or as transferee pursuant to any proceeding in lieu thereof, so long as such Condominium Unit is owned by such person, shall not be subject to the provisions of this Section except that the occupancy of any Condominium Unit by any lessee of such person shall be otherwise subject to the provisions of the Condominium Instruments and the rules and regulations of the Association.

ARTICLE 12 - GENERAL PROVISIONS

12.1 Amendment. The following provisions shall apply to the amendment of this Declaration:

12.1.1 This Declaration may be amended by the affirmative Vote of Owners having at least sixty-seven percent (67%) of the total Vote of the Association. So long as the same shall not (a) adversely affect the title to any Condominium Unit, (b) change the percentage of undivided interest in and to the Common Elements appurtenant to any Condominium Unit, (c) materially alter or change an Owner's right to the use and enjoyment of his Unit or the Common Elements as set forth in this Declaration, or (d) otherwise make any material change in this Declaration, each Owner agrees that, if requested to do so, such Owner will consent to the amendment of the Condominium Instruments, (1) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with, or remove any conflict or inconsistency with, the provisions of any applicable governmental statute, rule, regulations, including without limitation the provisions of the Act, or judicial determination which shall be in conflict therewith, (2) if such amendment is required by the governmental statutes, laws, rules or regulations applicable to or promulgated by a governmental lender or purchase of mortgage loans, including, for example, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration or Federal Housing Administration, to enable such lender or purchaser to make or purchase mortgage loans on any Condominium Unit, or (3) if any such amendment is necessary to enable any governmental agency to insure mortgage loans on the Condominium Units based on the

statutes, laws, rules or regulations applicable to or promulgated by such agency. Except as expressly permitted or required by the Act and by other provisions of this Declaration, any amendment to this Declaration which would create or increase any special declarant rights, change any restriction on the uses applicable to a Unit, the boundaries of any Unit, the undivided interest in the Common Elements, the number of Units in the Condominium or the liability for Common Expenses appertaining to any Condominium Unit shall be approved in writing by all Owners and not less than 67% of all First Mortgagees. Any provision in this Declaration which may be construed to the contrary notwithstanding, any amendment to this Declaration which would change, alter, modify or rescind any right, title, interest or privilege herein expressly granted to any Mortgagee shall require the prior written approval of such Mortgagee. Amendments to this Declaration or the other Condominium Instruments may be proposed by Declarant, by the Board of Directors or by petition signed by Owners having at least twenty percent (20%) of the total Votes of the Association. Agreement of the required percentage of Owners to any amendment of the Condominium Instruments shall be evidenced by their execution of the amendment. Any such amendment of the Condominium Instruments, including this Declaration, shall become effective only when recorded or at such later date as may be specified in the amendment itself. The written consent of any Mortgagee required with respect to such amendment shall also be recorded with such amendment.

12.1.2 This Declaration may be amended by the Board of Directors of the Association (a) to conform to the requirements of any law or governmental agency having legal jurisdiction over the Condominium or to qualify the Condominium or any Units therein for mortgage or improvement loans made or insured by the Federal National Mortgage Association, Veteran's Administration, United States Department of Housing and Urban Development, Government National Mortgage Association, Federal Housing Authority or any governmental agency or to comply with the requirements of law or regulation of any similar corporation or agency regarding purchaser of mortgage interests in units by such entity; (b) to correct any obvious error or inconsistency in drafting, typing or reproduction; and (c) to qualify or maintain the Association for tax exempt status as a nonprofit corporation.

12.1.3 This Declaration may be amended by Declarant at any time prior to recording of the sale of the first Unit to an Owner by filing an Amendment in the Office of the Register of Deeds of Wake County, North Carolina along with a certificate certifying the fact that no sale has previously occurred.

12.1.4 This Declaration may be amended by Declarant upon exercising any Development Right or Special Declarant Right reserved hereunder or by law provided.

12.2.1 Material Amendments. Amendments of a material nature to this Declaration or the Bylaws must be approved by the Owners representing not less than 67% of the total Votes of the Association and by Eligible Mortgagees who represent not less than 51% of the votes of the Units that are subject to First Mortgages held by Eligible Mortgagees, unless a higher percentage is otherwise required by this Declaration or the Act. A change to any of the following, unless taken by the Declarant as a Development Right, a Special Declarant

Right or other right provided in this Declaration, shall be considered amendments of a material nature:

- (a) Voting rights;
- (b) Increases in assessments that raise the previously assessed amount by more than 25%, assessments liens or the priority of assessments liens;
- (c) Reductions in reserves for maintenance, repair and replacement of Common Elements;
- (d) Responsibility for maintenance, repair and replacements;
- (e) Hazard or fidelity insurance requirements;
- (f) A decision by the Association to establish self-management once the Condominium consists of 50 or more Units if professional management had been required previously by the Declaration or by an Eligible Mortgagee;
- (g) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than as specified in this Declaration or the Act; or
- (h) Any provisions that expressly benefit Mortgagees.

12.2.2 Other Material Amendments. A change to any of the following, unless taken by the Declarant as a Development Right, a Special Declarant Right or other right provided in this Declaration, shall be considered amendments of a material nature which must be approved by the unanimous vote of all the Owners and by Eligible Mortgagees who represent not less than 51% of the votes of the Units that are subject to First Mortgages held by Eligible Mortgagees, unless a higher percentage is otherwise required by this Declaration or the Act:

- (a) Reallocation of interests in the Common Elements or Limited Common Elements, or the rights to their use;
- (b) Redefinition of any Unit boundaries;
- (c) Convertibility of Units into Common Elements and vice versa;
- (d) Expansion or contraction of the Condominium, or the addition, annexation, or withdrawal of property to or from the Condominium;
- (e) Imposition of any restrictions on leasing of Units; and
- (f) Imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit.

12.3 Limitation: No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges and priorities granted or reserved to the Declarant or Eligible Mortgagee without the consent of said Declarant and/or Eligible Mortgagee, as the case may be, in each such instance. So long as the Veterans Administration holds or insures any First Mortgage on a Unit, the Veterans Administration shall have the right to veto any amendment to the Declaration or Bylaws during the Declarant Control Period.

12.4 Eminent Domain. In the event that all or part of the Submitted Property shall be taken by any authority having the power of eminent domain, the allocation of the award for such condemnation and all related matters, such as the reallocation of undivided interests in the Common Elements, liabilities for Assessments and Votes, shall be handled as follows:

12.4.1 If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder of any First Mortgage on a Condominium Unit will be entitled to timely written notice of any such proceedings or proposed acquisition, and no provision of this Declaration or of any other Condominium Instrument establishing the Condominium will entitle the Owner or other person to priority over any Mortgagee with respect to the distribution of the proceeds of any award or settlement relating to such Condominium Unit.

12.4.2 In the event all or any part of the Submitted Property shall be taken in condemnation or by eminent domain, each Owner hereby grants an irrevocable power of attorney to the Association to represent such Owner in any and all condemnation proceedings, negotiations, settlements and agreements with the condemning authority. The award for such taking shall be payable to the Association for the use and benefit of the Owners and their respective Mortgagees as their interest may appear and shall be disbursed by the Board as hereinafter provided.

12.4.3 If a Unit is acquired by eminent domain, or if part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Unit Owner for his Unit and its interest in the Common Elements, whether or not any Common Elements are acquired. Unless the condemnor acquires the right to use the Unit's interest in the Common Elements, that Unit's allocated interests are automatically reallocated to the remaining Units in proportion to the respective allocated interests of those Units before the taking exclusive of the Unit taken, and the Association shall promptly prepare, execute and record an amendment to this Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this Section is thereafter a portion of the Common Elements.

12.4.4 Except as provided in paragraph 12.4.3, if part of a Unit is acquired by eminent domain, the award must compensate the Unit Owner for the reduction in value of the Unit and of its interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, (1) that Unit's allocated interests are reduced in proportion to the reduction in the size of the Unit, or on any other basis specified in this Declaration, and (2) the portion of the allocated interests divested from the partially acquired Units is automatically reallocated to that Unit and the remaining Units in proportion to the respective allocated interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced allocated interests.

12.4.5 If part of the Common Elements is acquired by eminent domain, the portion of the award not payable to Unit Owners under paragraph 12.4.2 must be paid to the Association. Any portion of the award attributable to the acquisition of a portion of the Limited Common Elements must be apportioned among the Owners of the Units to which that portion of the Limited Common Elements was allocated at the time of acquisition.

12.4.6 The court decree relative to such eminent domain shall be recorded in the Office of the Clerk of Superior Court, Wake County.

12.5 Rights of Third Parties. This Declaration shall be recorded pursuant to the provisions of the Act for the benefit of Declarant, the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or other person shall have any right, title or interest whatsoever in the Condominium or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and such Mortgagees as herein provided, the Owners shall have the right to cancel, extend, modify, amend or otherwise change the provision of this Declaration without the consent, permission or approval of any adjoining owner or third person.

12.6 Termination. The Common Elements shall remain undivided, and unless the Condominium form of ownership hereby established is terminated in accordance with Section 47C-2-118 of the Act, no Owner nor any other person shall bring any action for partition or division of the whole or any part of any Condominium Unit or of the whole or any part of the Common Elements. This provision is in addition to, and not in lieu of, Section 47C-2-118 of the Act. The Condominium may be terminated or abandoned only by the agreement of all Owners, provided that all holders of Mortgages encumbering the Condominium Units consent thereto and agree.

12.7 Enforcement. Each Owner shall comply strictly with the provisions of the Condominium Instruments and rules and regulations of the Association. In the event of a violation or breach, or threatened violation or breach, of any of the same, the Association or, in a proper case, any aggrieved Owner or Owners, jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith or to prevent a threatened violation or breach thereof. In addition to all other remedies, the Association, or a duly authorized agent thereof, shall have the right to enter upon any portion of the Common Elements, including any Limited Common Elements, where a violation exists and, at the expense of the violating Owner, abate or remove any erection, thing or condition that may be or exist contrary to the intent and meaning of the Condominium Instruments or rules and regulations, if after notice and hearing as set forth in the Bylaws, it shall not have been corrected by such Owner. Neither the Association nor its agents, shall be deemed guilty or liable for any manner of trespass for such entry, abatement or removal. Should the Association employ legal counsel to enforce any of the foregoing or any other rights or remedies of the Association, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of the Condominium Instruments and rules and regulations is essential for the

protection of present and future Owners, it is hereby declared that any breach thereof cannot be adequately compensated by recovery of damages, and that the Association or, in any proper case, any aggrieved Owner or Owners, in addition to all other remedies, may require and shall be entitled to the remedy by injunction to restrain any such violation or breach or threatened violation or breach. No delay, failure or omission on the part of the Association or any aggrieved Owner or Owners in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to do so thereafter as to the same violation or breach, or as to a violation or breach occurring prior to or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall an action be brought or maintained by anyone whatsoever against the Association or its Officers or Directors for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, of the provisions and regulations, however long continued, or for the imposing of provisions which may be unenforceable. Any aggrieved Owner shall have a right of action against the Association for failure to comply with the provisions of this Declaration, the Bylaws and the Rules and Regulations and decisions of the Association made pursuant to this Declaration and the Bylaws.

12.8 Exhibits. All exhibits referred to in and attached to this Declaration or any other Condominium Instruments are hereby incorporated in this Declaration or such other Condominium Instrument in full by this reference.

12.9 Duration. Unless the Condominium is terminated as herein otherwise provided, the provisions of this Declaration shall run with and bind the land, shall be binding upon and inure to the benefit of all Owners and Mortgagees, their heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect for a period of twenty (20) years from the date of this Declaration is recorded, after which time this Declaration shall be automatically extended perpetually for successive periods of ten (10) years, to the extent permitted by North Carolina law.

12.10 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors, will best effect the intent of the general plan of the Condominium. The provisions hereof shall be liberally interpreted, and if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The effective date of this Declaration shall be the date it is filed for record. In the event of any conflicts or inconsistencies between the Act, this Declaration or the Bylaws, the terms and provisions of the Act and this Declaration, in that order, shall prevail.

12.11 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

12.12 Rights of Mortgagees and Unit Owners. In addition to the rights of Mortgagees elsewhere provided, each Mortgagee and each Unit Owner shall: (a) be entitled to written notice from the Association of any default by an Owner in the performance of his obligations under the Condominium Instruments which is not cured within sixty (60) days specifically including any delinquency in payment of an Assessment; (b) be entitled to receive notice of and to designate a representative to attend and observe all meetings of Owners, but not meetings of the Board of Directors; (c) be entitled to receive written notice of any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which a Mortgagee holds a Mortgage; (d) be entitled to receive thirty (30) days prior written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (e) be entitled to receive written notice of any proposed action which would require the consent of a specified percentage of the Mortgagees; (f) be furnished copies of annual fiscal reports, including an audited financial statement if so required under this Declaration or the Bylaws, within one hundred twenty (120) days after the end of the Association's fiscal year; (g) at such time as the Condominium consists of 50 or more Units, each Eligible Mortgagee shall be entitled to receive an audited financial statement of the Association for the preceding fiscal year, which financial statement shall be made available within 120 days after the end of such fiscal year; and (h) so long as the Condominium consists of fewer than 50 units and no audited financial statement of the Association is provided, each Eligible Mortgagee shall be entitled to have an audit of the Association performed at the cost and expense of such Eligible Mortgagee; provided, however, that such Unit Owner or Mortgagee shall first file with the Association a written request (setting forth the name of such Owner or Mortgagee and the Unit Designation of the Unit with respect to which such request is made) that notices of default, notices of meetings and copies of financial reports be sent to a named agent or representative of the Mortgagee or Owner at an address stated in such notice. Further, each Mortgagee and Unit Owner shall, upon request, be entitled to inspect the books, records and financial statements of the Association (including the Condominium Instruments and other documents) during normal business hours.

12.13 Limitation of Liability. In no event shall the Town of Cary be responsible for failing to provide any emergency or regular fire, police or other public service to the Condominium or its Occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the Declarant, Association or Occupants.

12.14 Contract for Installation of Electric Service. Declarant reserves the right to subject the Condominium to a contract with Carolina Power and Light Company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power and Light Company by the Owner of each Condominium Unit or the Association, as the case may be.

12.15 Contract For Use of Recreation Facilities. It is anticipated that the Association will enter into an Agreement with Chesapeake Landing Condominium Association, Inc. to

allow Members of the Association to use the recreation facilities of Chesapeake Landing Condominiums. Such Agreement will be for a fixed term and will not be perpetual. The costs of such Agreement will be a Common Expense and Members may not reduce their assessments by non-use of the recreation facilities. Any such Agreement may be terminated without penalty upon not less than 90 days notice as provided in Section 47C-3-105 of the Act.

12.16 Access Easement. Access to the Project is provided in part over a permanent, appurtenant easement for a private street called Pointe View Lane. This easement is part of the Common Elements and the costs associated with maintenance and repair of the easement shall be a Common Expense.

12.17 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application or any provision which can be given effective without the invalid provisions or application, and to this end the provisions of this Declaration are declared to be severable.

12.18 Captions. The captions of each Article and Section hereof as to its contents are inserted only for convenience and are in no way to be construed as defining, extending or otherwise modifying or adding to the particular Article or Section.

12.19 Restrictions on Other Actions. Notwithstanding anything to the contrary contained in the Condominium Instruments, except as provided by the Act in case of substantial loss to the Units or termination and as provided herein in the case of condemnation, termination, partition or in the case of substantial loss to the Common Elements, unless at least two thirds (2/3rds) of the First Mortgagees (based upon one Vote for each First Mortgage owned) and Owners (other than the Declarant) of the Condominium Units have given their prior written approval, neither the Association nor the Owners shall be entitled to seek to abandon or terminate the Condominium, whether by act or omission.

12.20 Conveyance or Encumbrance of Common Elements. The Common Elements may only be conveyed or subjected to a security interest by the Association if Owners entitled to cast at least eighty percent (80%) of the Vote of the Association, including eighty percent (80%) of the Vote allocated to Units not owned by the Declarant agree to that action; provided, however, all Owners of Units to which any Limited Common Elements or subject it to a security agreement (neither the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Condominium nor the transfer, sale or encumbrance of an undivided interest in the Common Elements, as an appurtenance to a Unit, shall be deemed a transfer within the meaning of this paragraph), all in accordance with Section 47C-3-112 of the Act.

12.21 FHA/VA/FNMA Approval. As long as the Declarant controls the Association, the following actions will require the prior approval of the Federal Housing Administration,

Veterans Administration or Federal National Mortgage Association, as the case may be: Annexation of additional properties other than that defined herein as Additional Property, dedication of Common Elements, deeding in trust the Common Elements, mergers and consolidations and amendment of this Declaration.

12.22 Person to Receive Service of Process. Steven R. Dickson is designated as the registered agent of the Association in the Articles of Incorporation and therefore shall receive service of process in any action which may be brought against or in relation to the Condominium as agent therefor. His address for such purpose is 3334 Hillsborough Street, Raleigh, North Carolina 27607.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed under seal as of the day and year first above written.

D & G DEVELOPMENT ASSOCIATES, L.L.C.,
a North Carolina limited liability company

By: _____ (SEAL)
Steven R. Dickson, Member/Manager

By: _____ (SEAL)
James D. Goldston, III, Member/Manager

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that **STEVEN R. DICKSON**, Member/Manager of **D & G DEVELOPMENT ASSOCIATES, L.L.C.**, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of said limited liability company.

Witness my hand and official seal, this the ____ day of July, 1998.

(SEAL-STAMP)

Notary Public

My Commission expires: _____

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that **JAMES D. GOLDSTON, III**, Member/Manager of **D & G DEVELOPMENT ASSOCIATES, L.L.C.**, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of said limited liability company.

Witness my hand and official seal, this the ____ day of _____, 1998.

(SEAL-STAMP)

Notary Public

My Commission expires: _____

EXHIBIT A

DESCRIPTION OF SUBMITTED PROPERTY

BEING all of CHESAPEAKE POINTE CONDOMINIUMS, PHASE #1, as more completely shown and described on the maps and drawings thereof on file in Condominium File No. _
___ in the Office of the Register of Deeds of Wake County, North Carolina, to which maps and drawings reference is made for a more particular description.

EXHIBIT B

SCHEDULE OF UNIT INFORMATION

<u>UNIT NO.</u>	<u>VOTES</u>	<u>LIABILITY SHARE OF COMMON EXPENSES</u>	<u>UNDIVIDED INTEREST IN COMMON ELEMENTS</u>
101	1	1/12th	1/12th
102	1	1/12th	1/12th
103	1	1/12th	1/12th
104	1	1/12th	1/12th
105	1	1/12th	1/12th
106	1	1/12th	1/12th
107	1	1/12th	1/12th
108	1	1/12th	1/12th
109	1	1/12th	1/12th
110	1	1/12th	1/12th
111	1	1/12th	1/12th
112	1	1/12th	1/12th

EXHIBIT E

DESCRIPTION OF PROPERTY THAT MAY BE ADDED

BEING all of the areas labelled "Phase #2", "Phase #3", "Phase #4" and "Phase #5", as more completely shown and described on a plat entitled "CHESAPEAKE POINTE CONDOMINIUM, TOWN OF CARY, WAKE CO., NC - CONDOMINIUM MAP", prepared by Aiken & Yelle Associates, PA, dated 10/29/98 and on file in Condominium File No. ____ in the Office of the Register of Deeds of Wake County, North Carolina, to which plat reference is made for a more particular description.

BYLAWS
OF
CHESAPEAKE POINTE CONDOMINIUM ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

The name of the corporation is Chesapeake Pointe Condominium Association, Inc. The principal office of the corporation shall be located at 3334 Hillsborough Street, Raleigh, North Carolina 27607, but meetings of Unit Owners and Directors may be held at such places within the State of North Carolina, as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

Section 2.1 "Declaration" shall mean that certain Declaration of Condominium for Chesapeake Pointe Condominiums, recorded at Book _____, Page _____, Wake County Registry.

Section 2.2 The terms defined in the Declaration shall have the same meanings as set forth therein in these Bylaws.

ARTICLE III
MEMBERSHIP

An Owner of a Condominium Unit shall automatically become a member of the Association upon taking title to the Condominium Unit and shall remain a member for the entire period of ownership. If title to a Condominium Unit is held by more than one person, the membership shall be shared in the same proportion as the title, but there shall be only one membership per Condominium Unit. Membership does not include a Mortgagee, and the giving of a Mortgage shall not terminate the Unit Owner's membership. Membership shall be appurtenant to the Condominium Unit to which it appertains, shall be transferred automatically by conveyance of that Condominium Unit, and may be transferrable only in connection with the conveyance of title of that Condominium Unit.

ARTICLE IV
MEETINGS OF UNIT OWNERS

Section 4.1 Annual Meeting. The annual meeting of the Unit Owners shall be held on the first Monday in April of each year at the hour of 7:00 o'clock, p.m. local time for the purpose of transacting any business authorized to be transacted by the Members; provided, however, if that day is a legal holiday, this meeting shall be held at the same hour on the next succeeding day.

Section 4.2 Place of Meeting. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place in Cary, N.C. which is convenient to the Members as may be designated by the Board of Directors.

Section 4.3 Substitute Annual Meeting. If the annual meeting of the Unit Owners is not held as provided in Section 4.1, any business, including the election of Directors, which might properly have been acted upon at that meeting may be acted upon at any subsequent Unit Owners meeting held pursuant to these Bylaws or to a court order requiring a substitute annual meeting.

Section 4.4 Special Meetings. Special meetings of the Unit Owners may be called at any time by the president, secretary, any two or more Directors or upon written request of the Unit Owners who are entitled to Vote one-fourth (1/4) of all of the Votes in the Association.

Section 4.5 Notice of Meetings. Written notice of each meeting of the Unit Owners shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than seven (7) days nor more than sixty (60) days, unless otherwise stated in the Declaration, before such meeting to each Unit Owner entitled to vote thereat, addressed to the Unit Owner's address last appearing on the books of the Association, or supplied by such Unit Owner to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Proof of such mailings shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings by Vote of the Unit Owners of the Association.

Section 4.6 Quorum. Except as required by the Act, the presence at the meeting of Unit Owners entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the Votes in the Association shall constitute a quorum for any action except as otherwise provided in the Condominium Instruments. If, however, such quorum shall not be present or represented at any meeting, the Unit Owners entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented. The joinder of a Unit Owner in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Unit Owner for the purpose of determining a quorum. The Vote of the Owners of a Condominium Unit owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the Owners of the Condominium Unit and filed with the secretary of the Association. If such certificate is not on file, the Vote of such Unit Owners shall not be considered in determining the requirement for a quorum nor for any other purpose.

Section 4.7 Proxies. At all meetings of Unit Owners, each Unit Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Unit Owner of his Condominium Unit.

Section 4.8 Order. The order of business at annual Unit Owners' meetings, and, as far as practical at all other Unit Owners' meetings, shall be:

- (a) Calling of the roll and certifying of proxies
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading and disposal of any unapproved minutes
- (d) Unfinished business
- (e) New business
- (f) Adjournment

Section 4.9 Conduct of Meetings. The President shall preside over all Unit Owners meetings. The Secretary shall keep a minute book with all resolutions adopted by the Unit Owners, minutes of all meetings, and all written consents to actions taken without a meeting. Robert's Rules of Order (latest edition) shall govern the conduct of the meeting.

Section 4.10 Adjournments. Any meeting of the Unit Owners, whether or not a quorum is present, may be adjourned by a Majority of the Votes at the meeting to reconvene at a specific time and place. It shall not be necessary to give any notice of the reconvened meeting or of the business to be transacted, if the time and place of the reconvened meeting are announced at the meeting which was adjourned. Any business may be transacted which could have been transacted at the meeting which was adjourned, if a quorum is at the reconvened meeting.

Section 4.11 Action of Unit Owners Without a Meeting. Any action which may be taken at a meeting of the Unit Owners may be taken without a meeting if a written consent setting forth the action authorized, is signed by all of the Unit Owners. The consent shall be filed in the minute book or other appropriate records by the Secretary. It shall then have the same effect as a unanimous Vote of the Unit Owners at a special meeting called for the purpose of considering the action authorized.

Section 4.12 Vote Required for Action. Except as otherwise provided by the Act, the Nonprofit Corporation Act, in the Condominium Instruments or herein, the act of a Majority of the Unit Owners at a meeting at which a quorum was present shall be the act of the Unit Owners.

ARTICLE V BOARD OF DIRECTORS

Section 5.1 General Powers. The business and affairs of the Association shall be managed by the Board of Directors. The Board shall have all powers of the Association that are not required by the Act, the Condominium Instruments, the Articles of Incorporation or these Bylaws to be exercised by the Unit Owners. The powers of the Association include those set forth in Section 55A-15 of the North Carolina Nonprofit Corporation Act.

Section 5.2 Qualifications. Each Director must be a Unit Owner, except those appointed by Declarant during the Declarant Control Period.

Section 5.3 Nominations. Subject to Section 5.5.1 hereof, nomination for election to the Board of Directors shall be made by a nominating committee which shall consist of three (3) Unit Owners appointed by the president. The nominating committee may nominate any number of qualified individuals, but no less than the number of Directors to be elected. Separate nominations shall be made for each seat on the Board for which a Director is to be elected. The nominations and the names of those on the nominating committee shall be included with the notice of the meeting. Nominations shall also be allowed from the floor at the meeting.

Section 5.4 Election. Subject to Section 5.5.1 hereof, election to the Board of Directors shall be by written ballot. At such election the Unit Owners or their proxies may cast, in respect to each vacancy, as many Votes as they are entitled to exercise under the provisions of the Declaration. The Unit Owner or Owners receiving the largest number of Votes shall be elected. Cumulative voting shall not be permitted.

Section 5.5 Number and Term of Office.

(a) During the Declarant Control Period, the Board shall consist of three (3) Directors appointed by the Declarant. Each such Director shall serve at the pleasure of the Declarant; provided, however, not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Unit Owners other than the Declarant, at least one member of the board shall be elected by Unit Owners other than the Declarant. The election of such member to the Board shall mean that Unit Owners other than the Declarant shall have elected not less than thirty-three percent (33%) of the members of the Board and therefore, by virtue of such election, there shall be compliance with Section 47C-3-103(e) of the Act until expiration of the Declarant Control Period.

(b) After the expiration of the Declarant Control Period, the Board shall consist of five (5) Directors with each having a three (3) year term of office. The Directors shall be divided into three (3) classes with the terms of one class expiring each year. The first class shall have one (1) Director, and the second and third classes shall have two (2) Directors each. Directors replacing those appointed by Declarant shall be elected upon the expiration of the Declarant Control Period, but in no event more than ninety (90) days after the expiration thereof. If the next annual meeting occurs within that time period, the election shall be held at the annual meeting. If not, a special meeting may be called by any Unit Owner for such purpose. In either case, Section 5.3 shall govern nominations. The term of the Director in the first class shall expire at the next annual meeting, the terms of the Directors in the second class shall expire at the second annual meeting thereafter, and the terms of the Directors in the third class shall expire at the third annual meeting thereafter. Each Director shall serve until his term expires and his successor has been elected and qualified, subject to removal, disqualification or resignation.

Section 5.6 Removal. Any Director, other than a Director appointed by the Declarant, may be removed from office with or without cause by a Vote of at least sixty-seven percent (67%) of the Unit Owners at any meeting of the Association at which a quorum is present. Removal action may be taken at any annual or special meeting with respect to which notice of

such purpose has been given. A successor of such removed Director may be elected at the same meeting to serve the unexpired term.

Section 5.7 Vacancies. A vacancy, other than a vacancy of a Director appointed by the Declarant, occurring on the Board of Directors may be filled by a Majority vote of the Directors remaining in office, though less than a quorum of the Board of Directors. The Director so elected by the Board shall serve until the next annual meeting, at which time a Director shall be elected by the Unit Owners for the remaining term, if any.

Section 5.8 Compensation. Directors shall not receive compensation for their services as Directors, unless expressly allowed by the Board with the approval of the Unit Owners other than the Declarant (but only during the Declarant Control Period) having a majority of the total votes of the Association. A Director may serve the Association in another capacity and receive compensation, if disclosed to the Board in advance in writing.

Section 5.9 Committees of the Board of Directors. The Board may designate from among its members an executive committee and one or more other committees, each consisting of at least two (2) Directors. Each committee shall have the authority set forth in the resolution establishing the committee.

ARTICLE VI MEETINGS OF THE BOARD OF DIRECTORS

Section 6.1 Place of Meetings. Directors may hold their meetings at any place within reasonable proximity to the Condominium as the Board may from time to time establish.

Section 6.2 Regular Meetings. Regular meetings of the Board of Directors shall be held at least once a year immediately following the annual meeting of the Unit Owners.

Section 6.3 Special Meetings. Special meetings of the Board may be called by the President, the Secretary, or any two Directors.

Section 6.4 Notice of Meetings. No notice shall be required for regularly scheduled meetings. Notice of each special meeting shall be given to each Director stating the time, place and purpose of the meeting. The notice shall be given by mail deposited at least five (5) days before the meeting or by telephone, telegram, cablegram or personal delivery at least three (3) days before the meeting. Notice by telegram or cablegram shall be deemed delivered at the time the notice is filed with the transmitting agency. Notice by telephone or personal delivery shall be deemed effective only when actually communicated to the Director.

Section 6.5 Quorum. A quorum shall be deemed present throughout any meeting of the Board of Directors when Directors entitled to cast a Majority of the Votes on the Board are present at the beginning of the meeting.

Section 6.6 Voting. Except as otherwise provided by law or in the Condominium Instruments, the act of a Majority of the Directors present at a meeting at which a quorum is present at the time shall be the act of the Board of Directors. Each Director shall have one equal Vote on the Board, regardless of the Votes attributable to his Condominium Unit.

Section 6.7 Adjournments. Any meeting of the Board, whether or not a quorum is present, may be adjourned by a Majority of the Directors present to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting or of the business to be transacted, other than by announcement at the meeting which was adjourned. Any business may be transacted which could have been transacted at the meeting which was adjourned, if a quorum is present at the reconvened meeting.

Section 6.8 Action by Directors Without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a written consent is signed by all the Directors and is filed with the minutes of the Board. The consent shall have the same force and effect as a unanimous Vote of the Board.

Section 6.9 Conduct of Meetings. The President shall preside over all meetings of the Board. The Secretary shall keep a minute book with all resolutions adopted by the Board, minutes of all meetings, and all written consents to actions taken without a meeting and proceedings occurring at such meetings. Robert's Rules of Order (latest edition) shall govern the conduct of the meetings.

ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 7.1 Powers. The Board of Directors shall have power to:

(a) adopt, formulate, amend and publish rules and regulations governing the use of the Common Areas and Facilities, and the personal conduct of the Unit Owners and their tenants, invitees and guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a Unit Owner during any period in which such Unit Owner shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days, for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) foreclose the lien against any condominium Unit for which the assessments are not paid within thirty (30) days after their due date and bring an action at law against the Owner personally obligated to pay the same in accordance with and as authorized by the Declaration;

(f) enter into contracts with Chesapeake Landing Condominiums for the use by Unit Owners and Occupants of the recreation facilities of Chesapeake Landing Condominium, with cost under such contract to be a Common Expense of the Association;

(g) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;

(h) exercise such other powers as are conferred upon the Association by the Articles of Incorporation or the Declaration; and,

(i) exercise all powers set forth in Section 55A-15 of the North Carolina Nonprofit Corporation Act.

Section 7.2 Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Unit Owners at the annual meeting of the Unit Owners, or at any special meeting which such statement is requested in writing by one-fourth (1/4) of the Unit Owners who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

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

(1) fix the amount of the annual Assessment against each Condominium Unit at least thirty (30) days in advance of each annual Assessment period;

(2) send written notice of each change in the annual Assessment to every Owner subject thereto at least thirty (30) days in advance of each annual Assessment period;

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure the insurance coverage set forth and required by the Declaration on behalf of the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Areas and Facilities to be maintained;

(h) to perform all other duties imposed by the Articles of Incorporation and the Declaration;

(i) pay any license fees or governmental charges levied or imposed against the Common Areas and Facilities or other property, real or personal, owned by the Association;

(j) from time to time, and at least annually, determine Common Expenses of the Association and prepare and adopt a proposed annual budget for the Association for the purpose of determining the amount of annual assessments to be collected from the Unit Owners. Within thirty (30) days after adoption of the proposed budget, the Board shall provide a summary of the proposed budget to all Unit Owners, and shall set a date for a meeting of the Association to consider ratification of the proposed budget not less than fourteen (14) nor more than thirty (30) days after the mailing of such summary. There shall be no requirement that a quorum be present at the meeting. The proposed budget is ratified unless at that meeting a Majority of the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Association ratifies a subsequent budget proposed by the Board; and

(k) to perform such other duties as imposed by the Declaration and the Articles of Incorporation.

ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 8.1 Enumeration of Offices. The offices of this Association shall be that of president and vice-president, which shall at all times be held by members of the Board of Directors, a secretary, and a treasurer, and such other offices as the Board may from time to time by resolution create.

Section 8.2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Unit Owners.

Section 8.3 Term. Each officer of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise shall be disqualified to serve.

Section 8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine necessary.

Section 8.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 8.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 8.7 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 8.4 of this Article.

Section 8.8 Duties. The duties of the officers are as follows:

(a) President: The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds of trust, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice-President: The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary: The secretary shall record the Votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Unit Owners; keep appropriate current records showing the Unit Owners of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer: The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a certified independent public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Unit Owners.

Section 8.9 Compensation. No officer shall receive any compensation from the Condominium for acting as such unless such compensation is approved by a majority of the Unit Owners voting at a duly called annual or special meeting at which a quorum is present.

ARTICLE IX
MISCELLANEOUS

Section 9.1 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the thirty-first (31st) day of December of every year, except that the first year shall begin on the date of incorporation of the Association.

Section 9.2 Seal. The corporate seal of the Association shall be in circular form having within its circumstance the words: "Chesapeake Pointe Condominium Association, Inc." and the year "1998."

Section 9.3 Bank Accounts. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and the monies of the Association shall be deposited into such bank or banks. Withdrawal of monies of the Association shall be only by checks, drafts or wire instructions signed by such persons as are specifically authorized by the Directors.

Section 9.4 Inspection of Books and Records. All accounts books and records of the Association, including the Condominium Instruments, shall be open to inspection by the Unit Owners, Mortgagees and prospective purchasers during normal business hours subject to such reasonable rules as the Board may establish.

Section 9.5 Indemnification. Each Director or Officer shall be indemnified by the Association against those expenses which are allowed by the laws of North Carolina and which are reasonably incurred in connection with any. action, suit or proceeding, whether completed, pending or threatened, in which such person may be involved by reason of his being or having been a Director or Officer. It is the intent that the Association shall indemnify the Directors and Officers to the fullest extent permitted by law. Indemnification shall be made only in accordance with the laws of North Carolina. The Association may purchase and maintain insurance on behalf of any such Officers and Directors against any liabilities asserted against them whether or not the Association would have the power to indemnify the Officers and Directors against the liability under the laws of North Carolina. If any expense or other amounts are paid by way of indemnification, other than by court order, by action of Unit Owners or by an insurance carrier, the Association shall provide notice of such payment to the Unit Owners in accordance with the laws of North Carolina.

Section 9.6 Waiver of Notice. Whenever any notice is required to be given to any Unit Owner or Director, a waiver signed by the Director or Unit Owner entitled to such notice, Whether before or after the meeting to which the waiver pertains, shall be deemed equivalent to proper notice. Attendance at a meeting, whether in person or by proxy, shall be a waiver of notice of the time and place unless specific objection to improper notice is made when the meeting is called to order. Attendance shall also be a waiver as to all business transacted unless specific objection is made before the objectionable business is put to vote.

Section 9.7 Amendment. (a) Except as otherwise provided in this Section, these Bylaws may be amended at a regular or special meeting of the Unit Owners, by the Vote of a Majority of the quorum of Unit Owners present in person or by proxy.

(b) Amendments of a material nature to the Declaration or these Bylaws must be approved by Owners representing not less than 67% of the total Votes of the Association and by Eligible Mortgagees who represent not less than 51% of the votes of the Units that are subject to First Mortgages held by Eligible Mortgagees, unless a higher percentage is otherwise required by the Declaration or the Act. A change to any of the following, unless taken by the Declarant as provided in the Declaration, shall be considered amendments of a material nature:

- (1) Voting rights;
- (2) Increases in assessments that raise the previously assessed amount by more than 25%, assessments liens or the priority of assessments liens;
- (3) Reductions in reserves for maintenance, repair and replacement of Common Elements;
- (4) Responsibility for maintenance, repair and replacements;
- (5) Reallocation of interests in the Common Elements or Limited Common Elements, or the rights to their use;
- (6) Redefinition of any Unit boundaries;
- (7) Convertibility of Units into Common Elements and vice versa;
- (8) Expansion or contraction of the Condominium, or the addition, annexation, or withdrawal of property to or from the Condominium;
- (9) Hazard or fidelity insurance requirements;
- (10) Imposition of any restrictions on leasing of Units;
- (11) Imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit;
- (12) A decision by the Association to establish self-management once the Condominium consists of 50 or more Units if professional management had been required previously by the Declaration or by an Eligible Mortgagee;
- (13) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than as specified in the Declaration or the Act; or
- (14) Any provisions that expressly benefit Mortgagees.

(c) No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges and priorities granted or reserved to the Declarant or eligible Mortgagee without the consent of said Declarant and /or eligible Mortgagee, as the case may be, in each such instance. So long as the Veterans Administration holds or insures any First Mortgage on a Unit, the Veterans Administration shall have the right to veto any amendment to the Bylaws during the Declarant Control Period.

(d) A copy of each amendment of these Bylaws shall be attached to a certificate certifying that the amendment was duly adopted as an amendment to the Declaration and Bylaws, which certificate shall be executed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Declarant alone if such amendment was adopted in accordance with the provisions of the Declaration or Bylaws allowing such action by the Declarant. The amendment shall be effective when the certificate and a copy of the amendment are recorded in the Office of the Register of Deeds of Wake County, North Carolina.

Section 9.8 Self-Dealing. Each Director and Officer and any property manager shall disclose in the written minutes of the Board any contract or agreement of any kind between the Association and any person or entity to which it is related by blood or marriage or in which he has an interest.

Section 9.9 Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, we, being all of the Directors of Chesapeake Pointe Condominium Association, Inc. have hereunto set our hands this ____ day of _____, 1998.

Certification

I, the undersigned, certify as follows:

THAT I am the duly elected or appointed Secretary of Chesapeake Point Condominium Association, Inc, a North Carolina non-profit corporation; and

THAT the foregoing Bylaws constitute the initial Bylaws of such Association as duly adopted at a meeting of the initial Board of Directors thereof held on _____, 1998.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association, this ____ day of _____, 1998.

(CORPORATE SEAL)

Secretary

State of North Carolina
Department of the Secretary of State

ARTICLES OF INCORPORATION

OF

CHESAPEAKE POINTE CONDOMINIUM ASSOCIATION, INC.
(A Nonprofit Corporation)

Pursuant to Section 55a-2-02 of the North Carolina General Statutes, the undersigned, being of the age of eighteen years or more, does hereby submit these Articles of Incorporation for the purpose of forming a nonprofit corporation under and by virtue of the laws of the State of North Carolina.

ARTICLE I - NAME

The name of the corporation is CHESAPEAKE POINTE CONDOMINIUM ASSOCIATION, INC., hereafter called the "Association".

ARTICLE II - NOT CHARITABLE CORPORATION

The Association is not a charitable or religious corporation as defined in North Carolina General Statutes §55A-1-40(4).

ARTICLE III - REGISTERED OFFICE AND AGENT

The street and mailing address of the initial registered office of the Association is 3334 Hillsborough Street, Raleigh, Wake County, North Carolina 27607. The name of the initial registered agent at that address is Steven R. Dickson.

ARTICLE IV - INCORPORATOR

The name of the incorporator of the Association is Steven R. Dickson, and the street and mailing address of the incorporator is 3334 Hillsborough Street, Raleigh, Wake County, North Carolina 27607.

ARTICLE V - MEMBERSHIP

The Association will have members, but without certificates or shares of stock. Every person or entity who is a record Owner of a fee or undivided fee interest in any Condominium Unit shall be a Member of the Association and no other persons or entities shall be entitled to membership in the Association. The foregoing is not intended to include persons or entities who hold an interest in any Condominium Unit merely as security for the performance of an

obligation. Membership shall be appurtenant to and may not be separated from ownership of a Condominium Unit which is subject to Assessment by the Association.

ARTICLE VI - DISSOLUTION

The Association may be dissolved only as provided in the Declaration, the Bylaws and the laws of the State of North Carolina. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that acceptance of such dedication is refused, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE VII - PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are to provide for maintenance, management, preservation and architectural control of Chesapeake Pointe Condominiums located in the Town of Cary, Wake County, North Carolina, as the same may exist from time to time (the "Submitted Property"), and to promote the health, safety and welfare of the Owners within the Submitted Property and to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration of Condominium for Chesapeake Pointe Condominiums, as validly amended from time to time (the "Declaration") (all definitions set forth in the Declaration shall have the same meaning in these Articles of Incorporation);

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association; and

(c) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Act of the State of North Carolina, N.C. General Statutes §§ 55A-1, et. seq., by law may now or hereafter have or exercise. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration.

ARTICLE VIII - NON-PROFIT ASSOCIATION

No part of the net earnings of the Association shall inure to the benefit of any officer, director or Member of the Association. All funds and property acquired by the Association and

the proceeds therefrom shall be held only for the benefit of the Members of the Association in accordance with the provisions of the Declaration.

ARTICLE IX - PRINCIPAL OFFICE

The street and mailing address, and the county in which the principal office of the Association is located is 3334 Hillsborough Street, Raleigh, Wake County, North Carolina 27607.

ARTICLE X - DURATION

The Association's period of duration shall be perpetual.

ARTICLE XI - AMENDMENT

These Articles may be amended as provided by the provisions of Chapter 55A of the North Carolina General Statutes, as amended or replaced from time to time, provided that no amendment shall conflict with the Declaration, the Bylaws or the North Carolina Condominium Act (Chapter 47C of the North Carolina General Statutes), as the same may be validly amended or replaced from time to time.

ARTICLE XII - EFFECTIVE DATE

These Articles will be effective upon filing by the Secretary of State of North Carolina.

IN WITNESS WHEREOF, I have set my hand and seal this the _____ day of _____, 1998.

_____(SEAL)
Steven R. Dickson, Incorporator