

BY-LAWS
OF
THE NAGS HEAD YACHTSMAN OWNERS ASSOCIATION, INC.

PREAMBLE

Section 1. The Nags Head Yachtsman Owners Association, Inc. (hereinafter "Association") is a non-profit corporation organized under the laws of the State of North Carolina, as contained in Chapter 55A of the General Statutes of North Carolina, entitled the "Non-Profit Corporation Act".

Section 2. The purpose or purposes for which the Association is organized are:

(a) To maintain and administer the common properties and facilities of The Yachtsman condominium project, Nags Head, Dare County, North Carolina;

(b) To administer and enforce the covenants and restrictions and to collect and disburse the assessments and charges of said project as the same relate to the common properties of the project;

(c) To conduct such services, duties and functions strictly on a non-profit basis for the mutual benefit of all unit owners of The Yachtsman condominium project; and

(d) To engage in any other lawful act or activity for which corporations may be organized under Chapter 55A of the General Statutes of North Carolina.

ARTICLE I

Offices

Section 1. Principal Office. The principal office of the Association shall be located at 211 Dominick Drive, Rocky Mount, North Carolina, 27804, or such other place as the Directors may from time to time determine.

Section 2. Registered Office. The registered office of the Association, which by law is required to be maintained in the State of North Carolina shall be located at 211 Dominick Drive, Rocky Mount, Nash County, North Carolina, or at such other place within the State of North Carolina as may, from time to time, be fixed and determined by the Board of Directors.

Section 3. Other Offices. The Association may have other offices at such places, either within or outside the State of North Carolina, as the Board of Directors may from time to time determine, or as the affairs of the Association may require.

ARTICLE II

Membership in the Association

- Section 1. Membership. The members of the Association shall consist of all the record Owners of Units in the Condominium known as The Yachtsman located in Nags Head, Dare County, North Carolina, a Declaration of which has been or will be recorded in the Dare County Public Registry. A person, firm, corporation or any entity capable of holding title to real estate in North Carolina, automatically becomes a member of the Association upon a deed of conveyance conveying one of the Units to such person, firm, corporation or entity being recorded in the Register of Deeds Office of Dare County, or upon the probate of the will of a deceased Owner whereby a devisee named therein becomes a member, or upon the death of an Owner intestate whereby his heirs at law become members. When there are more than one Owner of a Unit, all shall be members but shall be entitled in concert to only one vote.
- Section 2. Terminating Membership. A member's membership in the Association is terminated upon his death or upon the record title to his Unit being transferred out of him in any manner, whether by a voluntary conveyance, a foreclosure for taxes due any governmental authority or foreclosure of a mortgage or deed of trust, or by execution against the real property to satisfy any lien or judgment.
- Section 3. Transfer of Membership. Each membership in the Association shall be appurtenant to the ownership of a unit in The Yachtsman and no membership shall be transferred or assigned except upon the transfer of the record title to the unit itself.
- Section 4. Suspension of Membership. The Board of Directors shall have the authority to suspend a member's membership, which in effect shall deny that member the right to vote on any matter requiring a membership vote, if that member is in default in the payment of any Assessment for Common Expenses levied by the Association, and said suspension shall remain in effect until such Assessment has been paid. The Board of Directors further shall have the authority to suspend a member's membership, after due notice and hearing, for any violation of any rule or regulation established by the Declaration, these By-Laws or by the Board of Directors governing the use of the Common Areas and Facilities, and said suspension shall remain in effect until said violation has been corrected, terminated or satisfied.

ARTICLE III

Meeting of Members

- Section 1. Place of Meetings. All meetings of members shall be held at the place designated in the notice of such meeting, within or outside the State of North Carolina, or if no place is designated in said notice, the meeting shall be held at the principal office of the Association.

- Section 2. Annual Meetings. The annual meeting of the members for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held at 10:30 o'clock A.M. on the first Monday in February in each year, if not a legal holiday, and if a legal holiday, then on the next secular day following.
- Section 3. Substitute Annual Meeting. If the annual meeting shall not be held on the day designated by these By-Laws, a substitute annual meeting may be called in the manner provided for the call of a special meeting in accordance with the provisions of Section 4 of this Article III, and a substitute annual meeting so called shall be designated as and shall be treated, for all purposes, as the annual meeting.
- Section 4. Special Meetings. Special meetings of the members including meetings to consider a budget, may be called at any time by the President, or any member of the Board of Directors, upon the written request of the members who entitled to cast not less than twenty (20%) of the votes which may be cast at such meeting.
- Section 5. Notice of Meetings. Written or printed notice stating the time and place of a meeting of members shall be delivered personally or by mail, by or at the direction of the President, the Secretary or other person authorized to call such meetings, to each member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days prior to the date of such meeting. If mailed, such notice shall be directed to each member at the address of such member as set forth on the records of the Association, except that if any member shall have filed with the Secretary a written request that notices intended for such member be mailed to some other address, then all notices to such member shall be mailed to the address designated in such request.

The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or the By-laws, any budget changes, and any proposal to remove an officer or director.

If a meeting shall be adjourned for more than thirty (30) days, notice of such adjourned meeting shall be given as in the case of an original meeting; if the adjournment shall be for less than thirty (30) days, no notice thereof need be given, except that such adjournment shall be announced at the meeting at which the adjournment is taken.

Notice of a meeting need not be given if each member entitled to notice thereof shall, in person, or by attorney thereunto duly authorized, waive notice thereof in writing, either before or after such meeting.

- Section 6. Quorum. Except as otherwise provided by statute, or by the Articles of Incorporation, or by these By-Laws, the presence in person or by proxy of sufficient members who own not less than twenty (20%) percent of the total votes in the Association shall be necessary to constitute a quorum for the transaction of business.

Section 7. Voting. The total votes in the Association are allocated to Units by the Declaration.

The vote allocated to a Unit may be cast by the owner thereof.

Where any Unit is owned by multiple owners and only one thereof is present, he is entitled to cast all the votes allocated to the Unit. If more than one is present the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners. Majority agreement is conclusively presumed if only one of multiple owners casts the vote without protest being made promptly to the presiding officer by any of the other owners. If multiple owners are unable to agree among themselves how the vote allocated to that Unit shall be voted, then the same shall not be counted.

The Association shall not cast votes allocated to Units owned by it.

Section 8. Any member entitled to vote may vote by proxy, provided that the instrument authorizing such proxy to act shall have been executed in writing by the member or his duly authorized attorney. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution. A proxy may not be revoked except by written notice of revocation delivered to the person presiding over the meeting. All proxies shall be delivered to the Secretary of the meeting and shall be filed with the records of the Association.

Section 9. Informal Action by Members. Any action which may be taken by the members at a meeting thereof may be taken without a meeting if consent in writing, setting forth the action taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association. Any consent so filed with the Secretary of the Association shall be filed in the Association's minute book in like manner as minutes of a meeting. Any such consent shall have the same force and effect as a unanimous vote of the members.

ARTICLE IV

Board of Directors (Executive Board)

Section 1. General Powers. The property, affairs and business of the Association shall be managed by the Board of Directors.

Section 2. Number, Term of Office and Qualifications. The number of directors shall be determined by the members but in no event shall be fewer than three (3) nor more than five (5). Each director shall continue in office until the annual meeting of members held next after his election and until his successor shall have been elected and qualified, or until his death, or until he shall resign, or shall have become disqualified, or shall have been removed in the manner hereinafter provided.

Directors need not be residents of the State of North Carolina or members of the Association.

Section 3. Election of Directors. Except for the first Board which shall consist of the persons named in the Articles of Incorporation, the directors shall be elected at the annual meeting of members and the persons who shall receive a plurality of votes cast on a single ballot that includes the names of all the nominees for directors shall be the elected directors. If prior to voting for the election of directors, demand therefor shall be made by or on behalf of any members entitled to vote at such meeting, the election of directors shall be by secret ballot.

The Declaration may provide for a period of Declarant control of the Association, during which period Declarant, or persons designated by Declarant, may appoint and remove the officers and members of the executive board. Regardless of the period provided in the Declaration, a period of Declarant control terminates no later than the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the units (including units which may be created pursuant to special declarant rights) to unit owners other than a Declarant; (ii) two years after all declarants have ceased to offer units for sale in the ordinary course of business; or (iii) two years after any development right to add new units was last exercised.

Not later than 60 days after conveyance of twenty-five percent (25%) of the Units to unit owners other than a Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board shall be elected by unit owners other than the Declarant. Not later than 60 days after conveyance of fifty percent (50%) of the units to unit owners other than a Declarant, not less than thirty-three percent (33%) of the members of the Board shall be elected by unit owners other than the Declarant. Not later than the termination of any period of declarant control, the unit owners shall elect a Board of at least three members, at least a majority of whom must be Unit owners.

Section 4. No Cumulative Voting. There shall be no cumulative voting.

Section 5. Removal of Directors. The Board of Directors or any individual director may be removed from office with or without cause by a vote of members entitled to cast at least 67% of all votes at any meeting of members at which a quorum is present, except that no member of the Board appointed by the Declarant may be so removed. If any or all directors are so removed, new directors may be elected at the same meeting.

If the authorized number of directors shall be decreased as permitted by these By-laws, no incumbent director shall have his term then in effect shortened thereby.

Section 6. Vacancies. A vacancy on the Board of Directors created by an increase in the authorized number of directors shall be filled only by election at an annual meeting of members or at a special meeting of members called for that purpose. Any vacancy in the Board of Directors created other than by an increase in the number of directors may be filled by a majority of the remaining directors, though less than a quorum, or by the sole remaining director. The

members may elect a director at any time to fill any vacancy not filled by the directors. In the event of the resignation of a director to take effect at a future date, either the Board of Directors or the members at any time after tender of such resignation, may elect a successor to such director to take office as of the effective date of such resignation.

Section 7. Compensation of Directors. The Board of Directors may not cause the Association to compensate directors for their services as directors, but it may provide for the payment by the Association of all expenses incurred by directors in attending regular and special meetings of the Board and otherwise in the performance of their duties.

Section 8. Committees. The Board of Directors by the vote of a majority of the directors in office, may designate one or more committees, each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the Association, but the designation of such committees and the delegation thereto of authority shall not operate to relieve the Board of Directors or any individual director of any responsibility or liability imposed upon it or him by law.

A committee appointed pursuant to this Section 8 shall have no authority as to: the dissolution, merger or consolidation of the Association, the amendment of the Articles of Incorporation, the sale, lease or exchange of all or substantially all of the property of the Association, the designation of any such committee, the filling of vacancies on the Board of Directors or on any such committee, the adoption, amendment or repeal of By-Laws, or the amendment or repeal of any resolution of the Board of Directors which by its terms shall not be so amendable or repealable.

Section 9. Powers and Duties of the Board. All of the powers and duties of the Association shall be exercised by the Board, including those existing under the common law, applicable statutes, the Act, the Declaration, the Articles, and these Bylaws, as any thereof may from time to time be amended. Such powers and duties shall be exercised in accordance with the provisions of applicable law, the Declaration, the Articles, and these Bylaws, and shall include, but not be limited to, the following:

(a) To prepare and provide to members annually, a report containing at least the following:

(i) A statement of any capital expenditures in excess of two (2%) percent of the current budget or Five Thousand (\$5,000) Dollars, whichever is greater, anticipated by the Association during the current year or succeeding two (2) fiscal years.

(ii) A statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the Board.

(iii) A statement of the financial condition of the Association for the last fiscal year.

(iv) A statement of the status of any pending suits or judgments in which the Association is a party.

(v) A statement of the insurance coverage provided by the Association.

(vi) A statement of any unpaid assessments payable to the Association, identifying the Unit and the amount of the unpaid assessment.

(b) To adopt and amend budgets subject to and in accordance with the summary, notification and meeting requirements of G.S. 47C-3-103, and to determine, and collect assessments to pay the Common Expenses.

(c) To regulate the use of, and to maintain, repair, replace, modify and improve the Common Elements.

(d) To adopt and amend these By-laws and rules and regulations and to establish reasonable penalties for infraction thereof.

(e) To enforce the provisions of the Declaration, the Articles, these By-laws, the Act, and rules and regulations by all legal means, including injunction and recovery of monetary penalties.

(f) To hire and terminate managing agents and to delegate to such agents such powers and duties as the Board shall determine, except such as are specifically required by the Declaration, the Articles, these Bylaws, or the North Carolina Condominium Act (G. S. 47C-1-101, hereinafter the "Act") to be done by the Board or the members.

(g) To hire and terminate agents and independent contractors.

(h) To institute, defend, intervene in, or settle any litigation or administrative proceedings in its own name on behalf of itself or two (2) or more Unit Owners on matters affecting the Condominium, the Common Elements, or more than one unit.

(i) To establish and dissolve and liquidate, from time to time, reserve accounts for any purpose.

(j) To borrow money for the maintenance, repair, replacement, modification or improvement of Common Elements and to pledge and pay assessments, and any and all other revenue and income, for such purpose.

(k) To buy Units, in foreclosure of an assessment lien, or at any other time or for any other reason, and to sell, lease, mortgage, and otherwise deal in Units from time to time owned by the Association.

(l) To impose and receive payments, fees and charges for the use, rental or operation of the Common Elements other than the Limited Common Elements, except for elevators (if any), stairways, hallways and other portions of the Common Elements which provide access to the Units.

(m) To grant leases, licenses, concessions and easements through and over the Common Elements.

(n) To impose and collect reasonable charges, including reasonable costs and attorneys' fees, for the evaluation, preparation and recordation of amendments to the Declaration or certificates of unpaid assessments.

(o) To provide for indemnification of the Association's officers and Directors and maintain officers' and Directors' liability insurance.

(p) To impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, these By-laws, or the rules and regulations.

Section 10. Limitation of Power. The Board may not amend the Declaration, terminate the condominium elect members of the Board except as set out in Article IV, Section 6 above, or determine the terms, qualifications, powers or duties of members of the Board.

ARTICLE V

Meeting of Directors

Section 1. Regular Meetings. A regular annual meeting of the Board of Directors shall be held immediately after, and at the same place as, the annual meeting of members. In addition, the Board of Directors may provide by resolution for the holding of additional regular meetings.

Section 2. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President, Vice-President or any director.

Section 3. Place of Meetings. All meetings of the Board of Directors shall be held at the principal office of the Association, except that such meetings may be held at such other place, within or outside the State of North Carolina, as may be designated in a duly executed waiver of notice of such meeting, or as may be otherwise agreed upon in advance of the meeting by a majority of the directors.

Section 4. Notice of Meetings. Regular meetings of the Board of Directors may be held without notice.

Special meetings shall be called on not less than two (2) days prior notice. Notice of a special meeting need not state the purpose thereof and such notice shall be directed to each director at his

residence or usual place of business by mail, cable, telegram or may be delivered personally. The presence of a director at a meeting shall constitute a waiver of notice of that meeting except and only when such director attends the meeting solely for the purpose of objecting to the transaction of any business thereat, on the ground that the meeting has not been lawfully called, and does not otherwise participate in such meeting.

Section 5. Quorum and Manner of Acting. A majority of the number of directors then in office shall constitute a quorum for the transaction of any business at any meeting of the Board of Directors.

Except as otherwise expressly provided in this Section, the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

The vote of a majority of the number of directors holding office shall be required to adopt a resolution appointing a committee pursuant to Section 8 of Article IV of these By-Laws, and the vote of a majority of the directors then holding office shall be required to adopt, amend or repeal a By-Law.

Section 6. Informal Action of Directors. Action taken by a majority of the Directors without a meeting shall constitute Board action if written consent to the action in question is signed by all the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 7. Resignations. Any director may resign at any time by giving written notice to the President or the Secretary of the Association. Such resignation shall take effect at the time specified therein, or if no time is specified therein, at the time such resignation is received by the President or Secretary of the Association unless it shall be necessary to accept such resignation before it becomes effective, in which event, the resignation shall take effect upon its acceptance by the Board of Directors. Unless otherwise specified therein, the acceptance of any such resignation shall not be necessary to make it effective.

ARTICLE VI

Officers

Section 1. Number of Officers. The officers of the Association shall be a President, one or more Vice-Presidents, a Secretary and a Treasurer, and such other officers as may be appointed in accordance with the provisions of Section 3 of this Article VI. Any two offices, or more, may be held by one person, except the offices of President and Secretary, but no officer shall sign or execute any document in more than one capacity.

Section 2. Election, Term of Office and Qualifications. Each officer, except such officers as may be appointed in accordance with the provisions of Section 3 of this Article VI, shall be chosen by the Board of

Directors and shall hold office until the annual meeting of the Board of Directors held next after his election, or until his successor shall have been duly chosen and qualified, or until his death, or until he shall resign, or shall have been disqualified, or shall have been removed from office.

Section 3. Subordinate Officers and Agents. The Board of Directors from time to time may appoint other officers or agents, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors from time to time may determine. The Board of Directors may delegate to any officer or agent the power to appoint any subordinate officer or agent and to prescribe his respective authority and duties.

Section 4. Removal. Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer whenever in their judgment the best interest of the Corporation will be served thereby. The removal of any person from office shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 5. Resignations. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or the Secretary of the Association, or if he was appointed by an officer or agent in accordance with Section 3 of this Article VI, by giving written notice to the officer or agent who appointed him. Any such resignation shall take effect upon its being accepted by the Board of Directors or by the officer or agent appointing the person so resigning.

Section 6. Vacancies. A vacancy in any office because of death, resignation, removal, or disqualification, or any other cause, shall be filled for the unexpired portion of the term in the manner prescribed by these By-Laws for regular appointments or elections to such offices.

Section 7. President. The President shall be the chief executive officer of the Association, and, subject to the instructions of the Board of Directors, shall have general charges of the business, affairs and property of the Association and control over its other officers, agents and employees. He shall preside at all meetings of the members and of the Board of Directors at which he may be present. He shall sign, with the Secretary, any deeds, mortgages, executed on behalf of the Association except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be delegated by the Board of Directors to some other officer or agent. The President shall do and perform such other duties as from time to time may be assigned to him by the Board of Directors.

Section 8. Vice-President. At the request of the President, or in his absence or disability, the Vice-President, and if there be more than one Vice-President, the Vice-President so designated by the Board of Directors in order of responsibility of in the absence of such designation any Vice-President shall perform all the powers of and

be subject to all the restrictions upon the President. The Vice-Presidents shall perform such other duties and have such authority as from time to time may be assigned to them by the Board of Directors.

Section 9. Secretary. The Secretary shall keep the minutes of the meetings of members and of the Board of Directors, and shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law. He shall be custodian of the records, books, reports, statements and other documents of the Corporation and of the seal of the Association, and see that the seal is affixed to all documents requiring such seal. He shall keep at the Association's registered office or its principal office in the State of North Carolina a record of the names and addresses of all the members entitled to vote. In general, he shall perform all duties and possess all authority incident to the office of Secretary and he shall perform such duties and have such other authority as from time to time may be assigned to him by the Board of Directors.

Section 10. Treasurer. The Treasurer shall have supervision over the funds, securities, receipts and disbursements of the Association. He shall keep full and accurate accounts of the finances of the Association in books especially provided for that purpose, and he shall cause a true statement of its assets and liabilities, as of the close of each fiscal year, and of the results of its operations for such fiscal year, all in reasonable detail, to be made and filed at the registered or principal office of the Association within four (4) months after the end of such fiscal year. The statement so filed shall be kept available for inspection by any member for a period of ten (10) years and the Treasurer shall mail or otherwise deliver a copy of the latest of such statements to any member upon his written request for the same. He shall in general perform all duties and shall have all authority incident to the office of Treasurer and shall perform such other duties and have such other authority as from time to time may be assigned or granted to him by the Board of Directors. He may be required to give a bond for the faithful performance of his duties and in such form and amount as the Board of Directors may determine.

Section 11. Duties of Officers May Be Delegated. In case of the absence of any officer of the Corporation, or for any other reason that the Board may deem sufficient, the Board may delegate the powers or duties of such officer to any other officer or to any director for the time being, provided a majority of the entire Board of Directors concurs therein.

Section 12. Salaries of Officers. No officer of the Association shall be prevented from receiving a salary as such officer or from voting thereon by reason of the fact that he is also a director of the Association. The salaries of the officers of the Association, including such officers as may be directors of the Association, shall be fixed from time to time by the Board of Directors, except that the Board of Directors may delegate to any officer who has been given power to appoint subordinate officers or agents, as provided in Section 3 of this Article VI, the authority to fix the salaries or other compensation of any such officers or agents appointed by him.

ARTICLE VII

Indemnification, Contracts, Loans, Deposits, Checks, Drafts, Etc.

- Section 1. Indemnification of Officers and Directors. The Association shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as permitted by the appropriate sections of the North Carolina General Statutes, as now enacted or hereafter amended.
- Section 2. Contracts. Except as otherwise provided in these By-Laws, the Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or to execute or deliver any instrument on behalf of the Association, and such authority may be general or confined to specific instances.
- Section 3. Loans. No loans shall be contracted on behalf of the Association and no evidence of indebtedness shall be issued in its name, unless and except as authorized by the Board of Directors. Any officer or agent of the Association thereunto so authorized may effect loans or advances for the Association and for such loans and advances may make, execute and deliver promissory notes, bonds or other evidences of indebtedness of the Association. Any such officer or agent, when thereunto so authorized, may mortgage, pledge, hypothecate or transfer as security for the payment of any and all loans, evidences, indebtedness and liabilities of the Association any real property and all stocks, bonds, other securities and other personal property at any time held by the Association, and to that end may endorse, assign and deliver the same, and do every act and thing necessary or proper in connection therewith. Such authority may be general or confined to specific instances.
- Section 4. Deposits. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks or trust companies or with such bankers or other depositories as the Board of Directors may select, or as may be selected by any officer or officers, agent or agents of the Association to whom such power may from time to time be given by the Board of Directors.
- Section 5. Checks, Drafts, Etc. All notes, drafts, acceptances, checks and endorsements or other evidences of indebtedness shall be signed by the President or a Vice-President and by the Secretary or the Treasurer, or in such other manner as the Board of Directors from time to time may determine. Endorsements for deposit to the credit of the Association in any of its duly authorized depositories will be made by the President or Treasurer or by any officer or agent who may be designated by resolution of the Board of Directors in such manner as such resolution may provide.
- Section 6. Fidelity Bonds. Fidelity bonds shall be maintained by the Association, in an amount determined by the Board, covering each director and officer of the Association, any employee or agent of the Association and any other person, handling or responsible for handling funds of the Association.

Section 7. Loans to Directors and Officers. No loan shall be made by the Association to any of its directors or officers, and directors who vote or assent to the making of any such loan, shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof.

ARTICLE VIII

Administration of the Condominium

Section 1. Management. The management of the Condominium shall be the responsibility of the Board of Directors pursuant to the general powers vested in said Board in Sections 1 and 9 of Article IV above. The Board of Directors shall be responsible for contracting with various individuals, firms and corporations, whether one or more, for the maintenance and operation of all the Common Elements of the Condominium, said contracts not to exceed a term of three (3) years. The Board of Directors shall have authority to revise, alter or terminate all contracts and agreements, or dismiss any personnel, wherein the service to be performed is unsatisfactory or undesirable, or is not of the caliber of that contracted for. The Board of Directors shall direct the treasurer to pay all routine maintenance costs anticipated and set out in the annual operating budget and also to pay for all services contracted for by the Board of Directors pursuant to the terms of any and all such contracts. All other expenditures shall be made only after the written consent has been obtained from majority of the Board of Directors then in office. The treasurer shall file such written consents with the books of the Association.

ARTICLE IX

Assessments

Section 1. Obligation of Members to Pay Assessments. Until the Association levies a Common Expense assessment, Declarant shall pay all accrued expenses of the Condominium. Thereafter, each Unit Owner shall be personally and severally liable for the Common Expenses that are levied against his Unit while a Unit Owner. Each Unit shall be assessed in accordance with that Unit's percentage of Common Expenses as allocated by the Declaration, as amended.

Section 2. Common Assessments. All Unit Owners shall pay their share of the Common Expenses according to the Declaration as determined by the budget which shall be adopted for each fiscal year of the Corporation beginning January 1, and running through the next succeeding December 31, at a meeting of the members noticed and held as provided in G.S. 47C-3-103(c), which meeting may be an annual or special meeting regularly called, or as subsequently amended by any special meeting of the members, in monthly payments made in advance of the first day of the period for which said payment is made. The Board of Directors shall, prior to the meeting of the members held as provided in G.S. 47C-3-103(c) prepare and adopt a budget for the

ensuing year showing anticipated receipts and disbursements for said year to be recommended to the membership for its adoption at the meeting. A summary or copy of the proposed budget indicating each Unit Owner's proposed Assessment shall be sent to each Unit Owner with the notice of the meeting which shall be not less than fourteen (14) nor more than thirty (30) days prior to the meeting.

The Board of Directors may authorize a Unit Owner to pay his Common Expense Assessment to a mortgagee of a first lien deed of trust upon the condition that said mortgagee agrees to transfer over to the Association's Treasurer all such Assessments so collected by it by the 20th day of each month. Any payments made pursuant to such authorization shall in no way affect the Association's right to a lien for unpaid Common Expense Assessments as provided in the Declaration for any sums not aptly furnished the Association's treasurer.

Section 3. Preparation of Budget; Levy of Assessments; Lien for Assessments.

For each fiscal year, beginning with the short year beginning with the date of adoption of these By-laws and ending December 31, 1987, and for each calendar year thereafter, the Board shall prepare and adopt a budget, including therein estimates of the amount necessary to pay the Common Expenses, together with amounts considered necessary by the Board for reserves. After preparation and adoption of each such budget, the Board shall provide each member with a summary or a copy and hold the meeting provided for in G.S. 47-C-103(c). Following adoption of the budget the Board shall give each member written notice of the assessment made against that member's Unit based upon such budget and may also state the interest to be charged on delinquent payments thereof. The assessment shall be deemed levied upon the giving of written notice thereof.

Every budget adopted must provide for the creation or continuation of a contingency fund to be used in the event of any casualty loss to any Common Element or Facility. To establish or continue the contingency fund, the periodic payments which each member would otherwise be required to pay, as determined by the budget without reference to the contingency fund, shall be increased by at least 5%. The payments as herein provided for the contingency fund shall be effective at all times unless otherwise directed by the members in the adoption of the budget.

The contingency fund so collected shall be maintained in a separate account and may be used only to replace or repair Common Elements or Facilities which are lost or destroyed by fire, storm, theft, or other casualty not adequately covered by insurance. The term "other casualty" shall be deemed to include any event due to some sudden, unexpected or unusual cause, but in no event shall the contingency fund be used for the payment of that portion of any loss or damage due to ordinary wear and tear.

Any assessment levied against a Unit remaining unpaid for a period of 30 days or longer shall constitute a lien on that Unit when filed of record in the office of the Clerk of Superior Court of Dare County in the manner provided therefor by Article 8 of Chapter 44 of the General statutes. The Association's lien may be foreclosed in

like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Unless the Declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to G.S. 47C-3-102910), (11), and (12), G.S. 47C-3-107(d), and 47C-3-107A, are enforceable as assessments under this Section.

Section 4. Special Assessments. In addition to the assessments levied pursuant to Section 3, the Board, in its discretion, may levy special assessments at such other and additional times as in its judgment are required for:

(a) Maintenance, repair, restoration and reconstruction of the Common Elements, and operation of the Condominium.

(b) Alterations, improvements, and additions to the Common Elements; provided, however, that any such special assessment involving an expenditure in excess of Five Thousand and No/100 Dollars (\$5,000.00) shall be first approved by the members entitled to cast at least fifty-one percent (51%) of the total votes in the Association at a regular or special meeting of the Association.

(c) Payment of costs and expenses incurred in curing defaults.

Special assessments made pursuant to this Section shall be a Common Expense, shall be deemed levied upon notice thereof being given to the members subject to such special assessment, and shall be payable as determined by the Board and as set out in such notice.

Section 5. Common Expenses Associated with Limited Common Elements or Benefiting Less than All Units.

(a) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit, or in equal shares to the Units, to which such Limited Common Element was allocated at the time the expense was incurred.

(b) In addition, the Association may assess any item of Common Expenses benefiting less than all of the Units against the Units benefited in proportion to their Common Expense Liability.

Section 6. Failure to Prepare Budget and Levy Annual Assessment; Deficiencies in Procedure. The failure of the Board or delay of the Board in preparing any budget, and to levy or in levying assessments, shall; not constitute a waiver or release of the members' obligation to pay assessments whenever the same shall be determined and levied by the Board. Until a new assessment is levied by the Board pursuant to Section 3 each member shall continue to pay the assessment then previously levied pursuant to Section 3 in the same amount and at the same periodic times as levied, or as the Board may otherwise direct in writing. Also, any deficiencies or inadequacies in the procedure followed by the Board in levying an assessment shall not in any way affect its validity or the obligation of members to pay such assessment.

Section 7. Assessment Roll; Certificate. All assessments shall be set forth upon a roll of the Units, which shall be available in the office of the Association for inspection at all reasonable times by members and Security Holders, and their duly authorized representatives. Such roll shall include, for each Unit, the name and address of the member or members, all assessments levied, and the amount of all assessments unpaid. The Association, upon written request, shall furnish to a Unit Owner, or his authorized agent, a recordable certificate setting forth the amount of unpaid assessments currently levied against his Unit. The certificate shall be furnished within 7 business days after receipt of the request and shall be binding upon the Association and all Unit Owners. For such certificate a reasonable fee may be charged by the Board.

Section 8. Default and Enforcement. If any assessment, or installment thereof, remains delinquent for 30 days, then that assessment, and all other assessments then a lien against that Unit, may be declared by the Board to be immediately due and payable in full, with interest, without further notice, and may be foreclosed by the Association in the manner provided by G.S. 47C-3-116 of the Act. All fees, late charges, attorneys' fees, fines or interest levied or collected by the Association in connection with any unpaid assessments shall have the same priority as the assessment to which they relate.

If any action is taken by the Association to foreclose a lien on a Unit because of unpaid assessments, the Unit Owner shall be required to pay a reasonable rent for the use of the Unit during the period of redemption from such foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the same.

In addition to the foregoing, and without waiving its lien, the Association may sue to obtain a money judgment for the amount of any delinquent assessment, or installment thereof, together with interest, and the members so sued and liable for such assessment shall pay all costs of collection, including reasonable attorneys' fees, with interest thereon at the same rate as charged on the assessments being collected from the date incurred until paid.

Section 9. Interest on Delinquent Assessments. Assessments, or installments thereof, paid before they become delinquent, shall not bear interest, but all delinquent sums shall bear interest at the rate set forth in the notice levying the assessment, not exceeding the rate of interest allowed by the Act, from the date delinquent until paid. If no interest rate is set forth in such notice, such interest rate shall be the maximum allowed by the Act. All payments upon account shall be applied first to interest and then to the assessment, or installment thereof, longest delinquent. All such interest shall have the same priority as the assessment on which such interest accrues.

Section 10. Common Expenses. Common Expenses shall mean and include all sums declared Common Expenses by the Act, or by any specific provision of these By-laws or the Declaration, and shall include, without limitation, the following: real estate taxes, and other governmental assessments or charges against the Property until the Units are

separately assessed; premiums for any and all insurance maintained by the Association, including any deductible or coinsurance amount not covered by insurance; utility charges not charged directly to Unit Owners; legal and accounting fees; costs and expenses incurred pursuant to Article IV Section 9(h) hereof; deficits remaining from any interests, incurred in connection with any borrowing done by the Association; the cost of all fidelity bonds; costs imposed upon the Association or any part of the Common Elements or the Property by, or incurred by the Association as a result of the performance, enforcement or amendment of, any agreement or easement to which the Corporation is a party or to which the Common Elements or Property, or any part of either thereof, is or may be subject; amounts determined necessary for reserve funds; and indemnity payments made by the Association pursuant to Article VII hereof.

ARTICLE IX

Relocation and Alteration of Units

- Section 1. Procedure. If any Unit Owner desires to (i) relocate the boundaries of his Unit pursuant to G.S. 47C-2-112, of the Act, (ii) remove partitions or create apertures pursuant to G.S. 47C-2-111, (iii) make any improvements or alterations to his Unit which impair the structural integrity or mechanical systems of, or lessen the support of any portion of, the Condominium, the procedure set out in this Article shall be followed.
- Section 2. Notice To and Consent of Board. Prior to doing any work of the kind set out in Section 1, the Unit Owner shall give notice to the Board of his intent to do such work and request and receive the written consent thereto of the Board or, on appeal, the Association. With such notice shall be given (i) a statement of the work to be done, (ii) a copy of the plans and specifications for the work, and (iii) such additional information relative to the proposed work as the Board may reasonably request. Upon receiving all such information and any fees and charges requested by the Board, the Board shall set a date for a meeting on the proposed work which shall be within fifteen (15) days after such information and fees and charges are received. Notice of such meeting shall be given to all members of the Association in the same manner as a notice of a special Board meeting. At the meeting, the Board shall receive such testimony and evidence as it deems appropriate. The meeting may be continued from time to time by the Board. At the meeting or at such later time but, in any event, not later than sixty (60) days after such meeting, the Board shall decide whether to consent or not to consent to such work. Written notice of such decision shall be given to said Unit Owner and all members.
- Section 3. Appeal to Association. The Unit Owner proposing to do the work, or members representing 10% or more of the total votes in the Association, may appeal the decision of the Board to the Association by filing a signed written request for an Association meeting on the work proposal. The written request must be filed with the Secretary within ten (10) days of the date of the notice of the Board's decision.

- Section 4. Meeting and Decision of Association. Upon filing of an appeal, a special meeting of the members of the Association shall be called. The notice of meeting shall be sent out within ten (10) days after such filing, and the meeting shall be held within thirty (30) days after such filing. The meeting may be continued from time to time by the chairman. The provisions of Article III hereof shall apply to such meeting. At such meeting the members shall decide to consent or not to consent to such work. The decision of the Association shall be final.
- Section 5. Fees. The Board may require the Unit Owner proposing to do the work to pay reasonable fees and charges to cover the costs to be incurred by the Association in giving notice of and holding meetings pursuant to this Article.
- Section 6. Conditions. The Board or, on appeal, the Association, may impose conditions on any consent to such work to protect the Common Elements, Units and the Condominium, and to insure that the provisions of the Act, Declaration and these By-laws are complied with, including, without limitation, the furnishing to the Association of payment and performance bonds, or other security acceptable to the Board, to ensure that the proposed work is timely completed pursuant to the plans and specifications therefor and all costs thereof paid.
- Section 7. Controlling Procedure. The procedure set out in this Article shall control over any contrary provisions in the Act, to the extent permitted thereby.

ARTICLE X

Compliance, Enforcement, Fines and Penalties

- Section 1. Default and Remedies. A default in or failure to comply with any of the terms, conditions, obligations, and provisions of the Act, the Declaration, these By-laws, the Articles, or the rules and regulations, as the same may be amended from time to time, by any Unit Owner or Occupant, shall be grounds for relief that may include, without intending to limit the same or to constitute an election of remedies, an action to recover fines and penalties as determined by the Board, sums due for damages, an injunction, or any combination thereof, and which relief may be sought by the Association, an aggrieved Unit Owner, or by any person or class of persons adversely affected. Also, if any member fails to perform any obligation under the Act, the Declaration, these By-laws, the Articles or rules and regulations, then the Association may, but is not obligated to, perform the same for the member's account, and for such purpose may enter upon his Unit, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such expenses and costs may levy a special assessment against the Unit owned by such defaulting member. The Association also shall be entitled to suspend the right of a defaulting Unit Owner to vote as a member of the Association until the default is cured.

Section 2. Notice of Default and Failure to Cure. In the event of any such default or failure, the Board shall serve upon or mail to the defaulting member, and to each First Mortgagee of that member's Unit if required under the Declaration, a written notice specifying the nature of the default, the cure thereof, and the time within which the cure shall be effected. Within the time limit specified in the notice, the defaulting member may cure the default specified, or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the defaulting member and each such First Mortgagee. The hearing may be continued from time to time as determined by the Board. Upon taking such evidence and hearing such testimony, the Board, at the hearing or at such later time, shall determine, in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured, or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a copy of its determination. If the defaulting member (i) does not cure the default or request a hearing within the time limit specified in the original notice of default given pursuant to this Section, or (ii) so requests a hearing, but fails to cure the default (to the extent not waived by the Board) within the extended time, if any, granted by the Board after hearing, then the Board shall serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a written notice of such member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief.

Section 3. Remedy of Abatement in Addition to Other Remedies. In the event a member fails to effect the cure specified by the Board within the time period set out in (i) or (ii) of Section 2 hereof, whichever is applicable, where the default is a structure, thing, or condition existing in or on the premises of the member's Unit, the Board, or its duly authorized representative, shall have the right to enter upon the premises of the member's Unit in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting member's expense (and levy an assessment therefor as provided in Section 1 hereof), the structure, thing, or condition constituting the default, and the Board, the Association, and their agents, employees, and representatives shall not thereby be deemed guilty of any manner of trespass.

- Section 4. Injunction. Any person or class of persons entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction or similar relief, without first using the procedure established by Section 2 hereof, if such default or failure creates an emergency or a situation dangerous to persons or property.
- Section 5. Recovery of Attorneys' Fees and Costs. In any proceeding arising because of an alleged default by a member, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the Court, with interest thereon at the lower of (i) 4% over the prime rate announced by the bank in which the Association maintains its principal demand account, at the time the costs are incurred and (ii) the highest rate allowed by law at the time the costs are incurred, from the dates such costs are incurred until paid.
- Section 6. Nonwaiver of Covenants. The failure of the Association or of any member thereof to enforce any term, provision, right, covenant, or condition that may be granted by the Declaration, these Bylaws, the Articles, the rules and regulations or the Act, as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or member to enforce such term, provision, right, covenant, or condition in the future, irrespective of the number of violations or breaches thereof that may have occurred.
- Section 7. Assessment Liens. Assessment liens shall be enforced pursuant to Article VIII hereof and not pursuant to this Article X.

ARTICLE XI.

General Provisions

Section 1. Rules and Regulations.

(a) By the Board. The Board, including the first Board, may promulgate from time to time such rules and regulations as it deems necessary governing the administration, management, operation, and use of the Common Elements so as to promote the common use and enjoyment thereof by Unit Owners and Occupants and for the protection and preservation thereof. In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Units to provide for the common good and enjoyment of all Unit Owners and Occupants, including, without limitation, the right to adopt such rules and regulations with reference to tenants and leases. In no event shall any rules or regulations be inconsistent or materially more restrictive than the provisions contained in the Declaration and these Bylaws with respect to leases of tenants.

(b) By the Association. Any such rules or regulations adopted by the Board may be amended, modified, or revoked and new and

additional rules and regulations may be adopted, by members at an annual or special meeting of the members. Any such act of the members shall control over any contrary rule or regulation then or thereafter adopted by the Board.

(c) Uniform Application. All rules and regulations shall be equally and uniformly applicable to all Unit Owners, unless the Board determines that unequal or nonuniform application is in the best interest of the Association or if equal and uniform application is not practicable.

(d) Copies Furnished. Copies of all such rules and regulations and any amendments thereto shall be furnished to all members, and a copy shall be posted or otherwise made available to members at the office of the Association. However, failure to furnish, or post, or make available, such rules or regulations shall not affect in any way their validity or enforceability.

(e) Rules Hereby Established. The house rules and regulations attached to the public offering statement are referenced and adopted as if fully set forth herein.

Section 2. Parliamentary Authority. Robert's Rules of Order, Newly Revised, shall govern the conduct of Association proceedings when not in conflict with the Declaration, these By-laws, the Articles, the Act, or any statutes of the State of North Carolina applicable hereto. The chairman of the meeting shall have the authority to appoint a parliamentarian.

Section 3. Compliance with the Act; Conflict; Severability. These By-laws are established in compliance with the Act, as amended. Should any of the terms, conditions, provisions, paragraphs, or clauses of these By-laws conflict with any of the provisions of said Act, the provisions of said Act shall control unless the Act permits these By-laws to override the Act, in which event these By-laws shall control. In the case of any conflict between the provisions of these By-laws and the Declaration, the Declaration shall control. If any term, provision, limitation, paragraph, or clause of these By-laws, or the application thereof to any person or circumstance, is judicially held to be invalid, such determination shall not affect the enforceability, validity, or effect of the remainder of these By-laws, or the application thereof to any other person or circumstance.

ARTICLE XII.

General Provisions

Section 1. Corporate Seal. The corporate seal shall be in such form as shall be approved from time to time by the Board of Directors.

Section 2. Fiscal Year. The fiscal year of the Association shall be the calendar year.

- Section 3. Dividends. No dividend shall be paid and no part of the income of the Association shall be distributed to the members, directors or officers.
- Section 4. Stock. The Association shall not have nor issue shares of stock, may issue certificates of membership if the Board so directs.
- Section 5. Waiver of Notice. Whenever any notice is required to be given to any member or director under the provisions of the North Carolina Non-Profit Corporation Act, or under the provisions of the Articles or By-laws of this Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.
- Section 6. Inspection of Books and Records. Any member, his agent or attorney, has the right to inspect all the books and records of the Association for any proper purpose at any reasonable time.
- Section 7. Amendments. Except as otherwise herein provided, these By-Laws may be amended or repealed and new By-Laws may be adopted by the affirmative vote of those persons representing not less than 67% of the undivided interest in the Common Elements present in person or proxy at a regular or special meeting of the members; and by not less than 51% of the members of the Board of Directors then in office.
- Section 8. Definitions. The definitions of terms used in the North Carolina Unit Ownership Act and the Declaration shall be applicable where such terms are used in these By-laws.

I certify the foregoing to be a true copy of the By-laws of The Nags Head Yachtsman Owners Association, Inc., as adopted at the first meeting of Directors on the ___ day of _____, 1987.

Secretary