

**NOTICE OF ADOPTION OF  
REVISED PROTECTIVE COVENANTS  
OF  
OLD NAGS HEAD COVE ASSOCIATION**

WHEREAS, the developer of Old Nags Head Cove Subdivision had caused to be recorded a certain Declaration of Restrictions and Covenants for Old Nags Head Cove Subdivision in Deed Book 167 at page 370 of the Public Registry of Dare County, North Carolina, and those Protective Covenants were amended and/or extended to various parcels of land in Deed Book 173 at page 587; Deed Book 174 at page 568; Deed Book 176 at page 385; Deed Book 179 at page 928; Deed Book 199 at page 700 of the Dare County Registry; and

WHEREAS, On April 23, 1971, there was filed with the Secretary of State of North Carolina the Articles of Incorporation of Old Nags Head Cove Association, Inc., a non-profit corporation formed to operate and manage the common areas and mutual responsibilities of the Owners of lots in Old Nags Head Cove Subdivision, and the same were filed of record in the Registry of Dare County, in Deed Book 4 at page 514; and

WHEREAS, an earlier Supplemental Declaration of Protective Covenants of Old Nags Head Cove dated February 22, 1984 was filed of record in the Registry of Dare County, in Deed Book 454 at page 864 and some question has arisen as to the effectiveness of that Supplemental Declaration; and

WHEREAS, the Declaration of Restrictions and Covenants for Old Nags Head Cove Subdivision allows for modification of said Declaration by a majority of the property owners acting as voting members of Old Nags Head Cove Association, Inc.; and

WHEREAS, the members and directors of the non-profit corporation found it in their best interests to again amend the Protective Covenants of Old Nags Head Cove Subdivision; and

WHEREAS, a majority of the property owners of Old Nags Head Cove Subdivision, acting as voting members of Old Nags Head Cove Association, Inc., have voted to adopt the Revised Protective Covenants of Old Nags Head Cove Subdivision as recorded in Deed Book 1321 at page 431 of the Dare County Register of Deeds and their concurrence has been further evidenced by subsequent recordings of record in the Dare County Registry;

NOW THEREFORE, NOTICE IS HEREBY GIVEN TO ALL, that pursuant to Article G of the Declaration of Restrictions and Covenants of Old Nags Head Cove Subdivision and the Articles and By-Laws of Old Nags Head Cove Association, Inc., the Revised Protective Covenants of Old Nags Head Cove Subdivision recorded in Deed Book 1321 at page 431 have been adopted and

are now in full force and effect.

This, the \_23rd\_\_\_\_\_ day of August, 2001.

(Place seal here)

Old Nags Head Cove Association, Inc.

BY: \_\_\_\_\_  
J. Peter Rascoe, III, President

ATTESTED BY: \_\_\_\_\_  
Leetrese J. McMaster, Secretary

STATE OF NORTH CAROLINA  
COUNTY OF DARE

I, a notary public of the County and State aforesaid, certify that \_\_\_\_\_  
Leetrese J. McMaster  
personally came before me this day and acknowledged that s/he is the Secretary of Old Nags  
Head Cove Association, Inc., a North Carolina non-profit corporation, and that by authority duly  
given and as the act of the corporation, the foregoing instrument was signed in its name by its  
President, sealed with its corporate seal and attested by \_\_\_\_\_ as its Secretary.  
Leetrese J. McMaster

Witness my hand and official stamp or seal, this 23<sup>rd</sup> day of August, 2001.

\_\_\_\_\_  
Richard S. Clauson, Notary Public

My commission expires: 7/2/05

**NORTH CAROLINA  
DARE COUNTY**

**The foregoing certification of \_\_\_\_\_ (Richard S. Clauson) a Notary Public of  
Dare Co., NC is certified to be correct. This instrument and this certificate are duly registered at the date  
and time in the Book and Page shown on the first page hereof.**

**Barbara M. Gray, Register of Deeds**

By \_\_\_\_\_ Assistant Register of Deeds  
(Norma Jean Wade)

# **REVISED PROTECTIVE COVENANTS**

## **OF**

### **OLD NAGS HEAD COVE SUBDIVISION**

WHEREAS, the developer of Old Nags Head Cove Subdivision had caused to be recorded a certain Declaration of Restrictions and Covenants for Old Nags Head Cove Subdivision in Book 167 at page 370 of the Public Registry of Dare County, North Carolina, and those Protective Covenants were amended and/or extended to various parcels of land in Book 173 at page 587; Book 174 at page 568; Book 176 at page 385; Book 179 at page 928; Book 199 at page 700 of the Dare County Registry; and

WHEREAS, On April 23, 1971, there was filed with the Secretary of State of North Carolina the Articles of Incorporation of Old Nags Head Cove Association, Inc., a non-profit corporation formed to operate and manage the common areas and mutual responsibilities of the Owners of lots in Old Nags Head Cove Subdivision, and the same were filed of record in the Registry of Dare County, in Book 4 at page 514; and

WHEREAS, an earlier Supplemental Declaration of Protective Covenants of Old Nags Head Cove dated February 22, 1984 was filed of record in the Registry of Dare County, in Book 454 at page 864 and some question has arisen as to the effectiveness of that Supplemental Declaration; and

WHEREAS, the Declarations and Covenants for Old Nags Head Cove Subdivision allow for modification and said Declarations and Covenants by a majority of the property owners acting as voting members of Old Nags Head Cove Association, Inc.; and

WHEREAS, the members and directors of the non-profit corporation now find it in their best interests to again amend the Protective Covenants of Old Nags Head Cove;

NOW THEREFORE, pursuant to Article G of the Declarations of Restrictions and Covenants of Old Nags Head Cove, and the Articles and By-Laws of Old Nags Head Cove Association, Inc., the Protective Covenants of Old Nags Head Cove Subdivision are hereby amended by striking Article H, I and J as recorded in Book 454 at page 864 and replacing in their stead, as follows:

#### H. Old Nags Head Cove Association Assessments

Each lot owner in Old Nags Head Cove shall be a member of the Old Nags Head Cove Association, Inc.

1. The purpose of the Old Nags Head Cove Association, Inc. is to perform those functions devolved to it from the developer. Specifically, to maintain the community properties which include the pool, tennis courts, clubhouse, boat ramp, parking lot and front entrance.

2. Owners of each lot shall be assessed annually the sum of \$130.00 per lot owned. The Board of Directors may, after consideration of maintenance costs and future needs of the Association, fix the actual assessment for any year at a higher or lesser amount, however, no increase can exceed 10% in any one year. This does not, however, preclude the Board of Directors of Old Nags Head Cove from imposing a special assessment for any major repair such as uninsured damages to the bulkhead around the clubhouse and Old Nags Head Cove Association properties caused by storms, winds and/or rising waters. Additional User Fees are permitted per amenity (by way of example, the pool or tennis courts), which may be increased with approval of the Board of Directors, but not to exceed an increase of more than \$5.00 per amenity per year. Current user fees as of the filing of this document are \$10.00 each for the amenities of the pool, tennis courts and boat ramp.

3. The annual assessment provided for herein shall first become due and payable upon recordation of these Amendments, the assessments for each succeeding year shall become due and payable on anniversary of the recordation of these Amendments each calendar year thereafter.

4. If the assessments are not paid when due, then such assessments shall become delinquent and shall, together with interest and costs of collection thereof, as hereinafter provided, be due and payable. Late charges of \$10.00 will be added to assessments overdue 60 days. After the 60 day period has expired, interest will be added at a rate of one and one-half percent per month (18% per annum).

5. The Association may bring an action at law against the owner(s) personally obligated to pay the same or place a lien on the property for back assessments in arrears.

6. The responsibility of becoming a member of Old nags Head Cove Association, Inc. is absolute and becomes effective whether or not the lot owner has built a structure on his lot.

7. The Old Nags Head Cove Association, Inc. shall be held to a reasonable standard as to the choice of what assessments are to be used for and in performance of its other obligations and duties. Specifically, the assessments shall be used for maintenance and upkeep of all properties owned by the Old Nags Head Cove Association, Inc. And for the maintenance and upkeep of the subdivision's common areas in general.

#### I. Architectural Standards and Use Restrictions

1. Purpose. In order to preserve the natural setting and beauty of Old Nags Head Cove Subdivision and to establish and preserve a harmonious and aesthetically pleasing design for Old Nags Head Cove Subdivision, and to protect and promote the value of Old Nags Head Cove Subdivision and all improvements located therein and all lots shall be subject to the restrictions set forth in this Section I. Every Grantee of any interest in Old Nags Head Cove

Subdivision, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article.

2. Architectural Standards. Every Grantee shall construct or have constructed a dwelling that meets a minimum of 1200 square feet of heated space. The dwelling's footprint must meet all setback and height restrictions of the Town of Nags Head ordinances in effect as of the date of building. Any future changes in the building restrictions will be evaluated by a committee established by the Old Nags Head Cove Association Board of Directors and presented to the membership at its annual stated meeting for approval of ratification based upon the recommendations of that committee.

3. Permitted Improvements. All extended improvements must be accomplished in accordance with the Town of Nags Head Planning Department requirements and building permits shall be promptly displayed as required by the Town.

4. Construction of Improvements. All buildings, structures, or other improvements shall comply with the building restrictions and zoning requirements of the Town of Nags Head in effect as of December 1997. Changes in Town requirements will be accomplished as outlined in paragraph I (2). All exterior improvements must be completed in accordance with the Town of Nags Head requirements.

5. Building Restrictions. The 1200 square foot requirement of paragraph I (2) does not apply to homes or dwellings constructed prior to December 1997. Replacement as a result of fire, storm, or other disaster must meet the Town's building requirements as of December 1997, including those portions pertaining to setbacks, structural, electrical or mechanical requirements. The dwelling may be reconstructed to square footage previously contained prior to peril.

6. Use of Lots and Dwellings. Each lot and dwelling shall be used for residential purposes. Dwellings may not be temporarily or permanently occupied until an occupancy permit has been issued or unless authorized by the Town of Nags Head.

7. Boats and Water craft. No person shall be entitled to live or reside on any Water craft docked, moored or otherwise located in the canals adjacent to Old Nags Head Cove Subdivision property.

8. Fences. No fences shall be permitted within Old Nags Head Cove Subdivision higher than four feet except on land owned by Old Nags Head Cove Association.

9. Pets. No animals, livestock, birds, or poultry of any kind shall be raised, bred, or kept by an Owner upon any portion of Old Nags Head Cove Subdivision, provided that a reasonable number of generally recognized house pets may be kept in Dwellings, subject to rules and regulations adopted by the Association, through its Board of Directors, and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance.

10. Foundations. Foundation areas used for storage must be fully enclosed or partially enclosed with lattice, louvers or siding or a combination of these.

11. House Trailers, Trailers, Campers, etc. on Unimproved Lots. There shall be no outside storage or parking upon any lot of any mobile home, trailer, motor home, camper, motorized camper or trailer, or other related form of transportation devices or other devices of similar nature on unimproved lots.

12. House Trailers, Trailers, Campers, etc. on Improved Lots. There shall be no active use or habitation of any mobile home, trailer, motor home, camper, motorized camper or trailer, or other related form of transportation devices or other devices of similar nature on improved lots. It is specifically noted that boats, properly secured, or boat trailers, may be stored upon an improved lot.

13. Nuisances. No rubbish or debris of any kind shall be dumped, placed, or permitted to accumulate upon any portion of Old Nags Head Cove Subdivision, nor shall any nuisance or odors be permitted to exist or operate upon or arise from Old Nags Head Cove Subdivision, so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to persons using or occupying any other portions of Old Nags Head Cove Subdivision. Noxious or offensive activities shall not be carried on in any Lot. Lot owners will be notified in writing of any violation of this paragraph by Certified Mail to their last known address and given thirty (3) days to correct the cited violation. Failure to correct any violation or receive a justified extension of time from the Old Nags Head Cove Association Board of Directors will result in the Old Nags Head Cove Association taking action to correct the violation at the expense of the lot owner(s). Whenever the Old Nags Head Cove Association, or their respective successors, assigns, agents or employees are required under this paragraph to enter the property of a lot owner, the entering thereon and the taking of such action shall not be deemed to be trespass.

J. General Provisions.

1. Duration. All covenants, restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them to specifically include, but not be limited to, the successors and assigns, if any, of

Declarant for a period of twenty-five (25) years from the date of the Declaration, after which time, all said covenants shall be automatically extended for successive periods of ten (10) years.

2. Notices. Any notice required to be sent to an Owner, under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing. Notice to any one of the Owners, if title to a Lot is held by more than one, shall constitute notice to all Owners of a Lot.

3. Enforcement. In the event of any violation or breach of any of the restrictions contained herein by any property owner or agent of such owner, Declarant, its successors or assigns, or the Owners of Lots within Old Nags Head Cove Subdivision, or any of them, jointly or severally, shall have the right to proceed in law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach of any of the restrictions set out above, but before litigation may be instituted thirty days written notice of such violation shall be given to the Owner or his agent. The failure to enforce any right, reservation or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any restriction contained in this Declaration shall in no way affect any of the other restrictions, but they and each of them shall remain in full force and effect.

4. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that reasonable interpretation or construction which, in the opinion of the Board of Directors will best effect the intent of the general plan of development. 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 provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. In the event of any conflict between any provisions provided herein and any other prior recorded provisions, these provisions shall be controlling.

5. 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 of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

6. Notice of Sale, Lease, or Mortgage. In the event an Owner sells, leases, or otherwise disposes of any Lot or Dwelling, the Owner or Owner's attorney must promptly furnish to the Association in writing the name and address of such purchaser, lessee, or transferee.

7. Amendment of Declaration. This Declaration may be amended by a majority vote of members of Old Nags Head Cove Association, Inc. If any amendment to the Declaration creates an inconsistency in the By-Laws to the extent such inconsistency exists, the Declaration shall control. No amendment to this Declaration shall be effective until recorded in the Office of the Register of Deeds of Dare County, North Carolina.

IN WITNESS WHEREOF, Old Nags Head Cove Association, Inc. Has caused this REVISED PROTECTIVE COVENANTS OF OLD NAGS HEAD COVE SUBDIVISION to be executed in its corporate name, signed by its President, attested by its Secretary, its common corporate seal affixed hereto, all as the act and deed of said corporation. And furthermore, that the required number of members of the non-profit corporation record their desire to amend these restrictive covenants as evidenced by their signatures, attached hereto, and properly notarized. And furthermore, that these restrictive covenants shall be recorded in the Register of Deeds office in Dare County, North Carolina with each and every member of Old Nags Head Cove Association, Inc. recorded as the Grantor and Old Nags Head Cove Association, Inc. recorded as the Grantee.

This, the \_\_\_\_\_ day of March, 1998.

(Place seal here)

Old Nags Head Cove Association, Inc.

BY: \_\_\_\_\_  
President

ATTESTED BY: \_\_\_\_\_  
Secretary