

2574/1521

FILED
Horry County, S.C.
2001 JUL 25 PM 4:16
REGISTER OF DEEDS

~~FILED
Horry County, S.C.
2001 JUL 25 PM 3:46
REGISTER OF DEEDS~~

**DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR
BAREFOOT RESORT NONRESIDENTIAL
PROPERTIES**

TABLE OF CONTENTS

DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS FOR BAREFOOT RESORT NONRESIDENTIAL PROPERTIES

Article I	
<u>Definitions</u>	3
Article II	
<u>Property Rights</u>	8
Article III	
<u>Association function, Membership and Voting Rights</u>	10
Article IV	
<u>Rights and Obligations of the Association</u>	14
Article V	
<u>Maintenance</u>	17
Article VI	
<u>Insurance and Casualty Losses</u>	21
Article VII	
<u>No Partition</u>	26
Article VIII	
<u>Condemnation</u>	26
Article IX	
<u>Community Expansion and Withdrawal</u>	27
Article X	
<u>Assessments</u>	29
Article XI	
<u>Overall Community Appearance, Architecture, Design and Landscaping</u>	35
Article XII	
<u>Community Activities: Use Restrictions and Rules</u>	42
Article XIII	
<u>Easements</u>	45
Article XIV	
<u>Rights of Silver Carolina</u>	50

Article XV	
<u>Golf Courses</u>	51
Article XVI	
<u>Dispute Resolutions and Limitations on Litigation</u>	52
Article XVII	
<u>General Provisions</u>	56
Exhibit A	
<u>Land Initially Included in the Declaration</u>	A-1
Exhibit B	
<u>Land Initially Excluded in the Declaration</u>	B-1
Exhibit C	
<u>Formula for Assessments and Voting Rights</u>	C-1
Exhibit D	
<u>Initial Use Restrictions and Rules</u>	D-1
Exhibit E	
<u>Rules of Arbitration</u>	E-1
Exhibit F	
<u>Bylaws of Barefoot Nonresidential Owners Association, Inc.</u>	F-1
Exhibit G	
<u>Overlay District and Maintenance Areas Designation</u>	G-1

**ALL OR SOME OF THIS AGREEMENT MAY BE SUBJECT TO ARBITRATION
PURSUANT TO SECTION 15-48-10 ET SEQ. OF THE SOUTH CAROLINA CODE OF
LAWS (THE SOUTH CAROLINA UNIFORM ARBITRATION ACT).**

STATE OF SOUTH CAROLINA)	DECLARATION OF COVENANTS,
)	CONDITIONS, AND RESTRICTIONS
COUNTY OF HORRY)	FOR
)	BAREFOOT RESORT
)	NONRESIDENTIAL PROPERTIES

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (hereinafter the "Declaration" as may be amended as set forth herein) is made this 13 day of July, 2001, by SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C., a Delaware limited liability company, and by INTRACOASTAL DEVELOPMENT COMPANY, LLC, a South Carolina limited liability company (collectively referred to herein for ease of reference as "Silver Carolina," as further defined in Section 1.15). Joining as Parties to this Declaration are BAREFOOT RESORT GOLF CLUB, LLC, a South Carolina limited liability company, CAROLINA FIRST BANK, successor in interest to THE ANCHOR BANK, a state bank association ("Carolina First"), THE DYE COURSE AT BAREFOOT RESORT, LLC, a South Carolina limited liability company, and WACHOVIA BANK, N.A. ("Wachovia"). (Barefoot Resort Golf Club, LLC, The Dye Course at Barefoot Resort, LLC, Wachovia Bank, N.A., Carolina First, Silver Carolina Development Company, L.L.C., and Intracoastal Development Company, LLC may hereafter be collectively referred to as the "Parties").

Silver Carolina is the owner of the real property described in Exhibits "A" and "B," which are attached and incorporated herein by reference. Silver Carolina hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined below in Article I hereof) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to real property subjected to this Declaration. This Declaration imposes upon the Properties (as defined in Article I hereof) mutually beneficial restrictions under a general development plan which benefits all owners of the Properties and any portion thereof. This Declaration is intended to create and establish procedures for the overall improvements, maintenance, preservation and administration of the Properties.

This Declaration shall be binding on and shall inure to the benefit of all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns.

This Declaration does not and is not intended to create a "Horizontal Property Regime" within the meaning of Sections 27-31-10 et seq., of the South Carolina Code of Laws (1976), as amended.

RECITALS
PERTAINING TO THE BAREFOOT RESORT COMMUNITY

WHEREAS, Silver Carolina has established this Declaration to provide a system of governance which affords flexibility yet provides a foundation for the overall development of Barefoot Resort including its improvements, maintenance, administration and preservation as a master planned resort community embodying the essence of quality coastal living;

WHEREAS, this Declaration supplies a foundation for guidance and reliability through the implementation of community standards maintaining the flexibility to change as individual needs evolve and as the community and our environment grows and develops;

WHEREAS, for a community to succeed and thrive, all members of that community must participate and support it, and the establishment of the Barefoot Resort Nonresidential Owners Association, Inc., provides the tool by which the Owners can participate and contribute to the community;

WHEREAS, various rights are reserved by this Declaration to Silver Carolina so as to foster the effective development of Barefoot Resort with the ultimate goal of facilitating quality coastal living and recreation, while providing a mechanism for dealing with inevitable changes which will occur throughout the stages of development; and

WHEREAS, the unique character of Barefoot Resort and the very nature of living in a quality coastal planned community of this type requires the creation of provisions and standards to address the special needs and responsibilities of the Owners, Silver Carolina, the Association, and others within the community.

NOW THEREFORE, Silver Carolina hereby declares that this declaration and the covenants, conditions, and restrictions established herein shall be deemed covenants to run with the land and an equitable servitude on the Properties and that all Properties are subject and subordinate to the terms, provisions and conditions hereof, to the extent provided herein. By the recording or acceptance of the conveyance of any portion of the Properties or any interest therein, the person or entity to which such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration.

Silver Carolina, as the owner of the real property described on Exhibits "A" and "B" (attached hereto and incorporated by reference), intends by the recording of this Declaration, and by the recording of the Residential Declaration, to create a general plan of development for the planned coastal community known as Barefoot Resort. This Declaration provides for the overall development, administration, maintenance, and preservation of the nonresidential real property now and hereafter comprising Barefoot Resort. An integral part of Silver Carolina's

development plan is the creation of Barefoot Resort Nonresidential Owners Association, Inc., which shall be comprised of owners of nonresidential real property in Barefoot Resort, to the extent provided herein, and which shall operate and maintain various common areas and community improvements and administer and enforce this Declaration and the other governing documents referred to herein. This Declaration also establishes procedures which supply the flexibility for the future expansion of Barefoot Resort so that additional property may be included and be made subject to the governance of this Declaration or the Residential Declaration.

All property described on Exhibit "A," and any additional property which is made subject to this Declaration as nonresidential property of Barefoot Resort in the future by the filing of one or more Supplemental Declarations in the Office of Register of Deeds of Horry County, South Carolina (hereinafter referred to as the "Nonresidential Properties," as defined in Section 1.32) shall be owned, conveyed, and used subject to all of the provisions of this Declaration, which shall run with the title to such Nonresidential Properties. *This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of the Nonresidential Properties, as well as the occupants of any Unit and their guests and invitees.*

If any court finally determines that a provision of this Declaration is invalid, in whole or as applied in a particular instance, such determination shall not affect the validity of other provisions or applications. The duration of this Declaration is further addressed at Article XVII hereof.

The "Governing Documents" (as defined hereafter in Section 16.2) create a general plan of nonresidential development for Barefoot Resort which may be supplemented by additional covenants, restrictions, and easements applicable to particular areas within Barefoot Resort, including the Residential Declaration. In the event of a conflict between or among the Governing Documents and any such additional covenants or easements, or the provisions of any other articles of incorporation, by-laws, rules, or policies governing any area within the nonresidential areas of Barefoot Resort subject to this Declaration, the Governing Documents shall control. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants applicable to any portion of the Nonresidential Properties from containing more restrictive provisions than this Declaration. The Association may, but shall not be required to, enforce any such additional covenants.

ARTICLE I DEFINITIONS

The terms used in this Declaration shall generally be given their natural, commonly-accepted meanings, except as otherwise specified. Capitalized terms shall be defined as set forth below or as otherwise defined throughout this Declaration.

1.1. "Area of Common Responsibility": the Common Areas, together with those areas, if any, which by the terms of this Declaration, any Supplemental Declaration or other applicable covenants, or by contract become the responsibility of the Association, including but

not limited to the "Common Areas" as defined in Section 1.12.

1.2. "Articles of Incorporation" or "Articles": the Articles of Incorporation of Barefoot Resort Nonresidential Owners Association, Inc., as filed with the Secretary of State of South Carolina.

1.3. "Association": Barefoot Resort Nonresidential Owners Association, Inc., a South Carolina nonprofit corporation, and its successors and assigns.

1.4. "Barefoot Resort": all property shown on the Master Plan and any other property added in the future, as defined herein, which is now or hereafter made subject to this Declaration or the Residential Declaration.

1.5. "Base Assessments": assessments levied on all Units subject to assessment under Section 10.8 to fund Common Expenses for the general benefit of all Units, as more particularly described in Sections 10.1 and 10.3.

1.6. "Board of Directors" or "Board": the body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under South Carolina corporate law.

1.7. "Builder": any Person which purchases one or more Units for the purpose of constructing improvements for later sale to consumers or parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person's business.

1.8. "By-Laws": the By-Laws of Barefoot Resort Nonresidential Owners Association, Inc., attached as Exhibit "F" and incorporated by reference, as they may be amended.

1.9. "Class "B" Control Period": the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors, as specified in Section 3.3.

1.10. "Committee" or "Joint Committee": the Barefoot Resort Joint Committee, Inc., a South Carolina nonprofit corporation, its successors and assigns.

1.11. "Committee By-Laws" or "Joint Committee By-Laws": the By-Laws of Barefoot Resort Joint Committee, Inc., as they may be amended.

1.12. "Common Area": all real and personal property within Barefoot Resort or other additional property which is made subject to this Declaration pursuant to Article IX which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. Any such area cannot be deemed "Common Area" unless it has

been released from the First Mortgage and, if encumbered by the Carolina First Mortgages, by Carolina First. The term shall include the Exclusive Common Area, as defined below.

1.13. "Common Expenses": the actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Units, including any reasonable reserves, as the Board may find necessary and appropriate in its judgment pursuant to this Declaration, the By-Laws, and the Articles of Incorporation. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs. After the Class "B" Control Period, Common Expenses shall not include expenses for such items unless approved by Members holding a majority of the total Class "A" votes and by Silver Carolina, as long as Silver Carolina owns any Unit.

1.14. "Community-Wide Standard": the standard of conduct, operation, design, maintenance, or other activity generally prevailing throughout the Nonresidential Properties, which shall not be lower than the standards established by the Barefoot Resort Joint Committee, Inc. for all properties within Barefoot Resort. Such standard is expected to evolve over time as development progresses and may be more specifically determined by the Board of Directors, the Architectural Review Committee, if any, and the board of directors of Barefoot Resort Joint Committee, Inc.

1.15. "Declarant" or "Silver Carolina": a term referring collectively (or singly, when the context so requires) for ease of reference to Silver Carolina Development Company, L.L.C., a Delaware limited liability company, and Intracoastal Development Company, LLC, a South Carolina limited liability company, or any of their successors, successors-in-title, or assigns who are or may be assigned any of the rights, duties, responsibilities, and obligations of Silver Carolina Development Company, L.L.C.; and/or Intracoastal Development Company, LLC, as the developers of Barefoot Resort and as Declarant of this Declaration, pursuant to a recorded instrument executed by the immediately preceding successors, successors-in-title, or assigns to those rights, duties, responsibilities, and obligations assigned, but only to the extent of such assignment.

1.16. "Design Guidelines": the architectural guidelines and procedures, if any, adopted pursuant to Article XI and applicable to all Units within the Properties.

1.17. "Development P.U.D. Ordinance" or "P.U.D.": that certain Planned Unit Development Ordinance adopted by the City Council of North Myrtle Beach, South Carolina, on October 16, 1999, and recorded on October 29, 1999, in Book 2203, Page 187, in the Office of Register of Deeds of Horry County, South Carolina, as it may be amended.

1.18. "Exclusive Common Area": a portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Parcels, as more particularly described in Article II.

1.19. "Golf Course": one or more parcels of land adjacent to or within the Properties

which are privately owned by Silver Carolina, its successors, successors-in-title, or assigns, or which have been sold by Silver Carolina to any third parties, and which are or will be operated as golf courses, and all related and supporting facilities and improvements operated in connection with such courses, including but not limited to practice areas, driving ranges, event staging areas, instruction facilities and clubs.

1.20. "Master Plan": the master site plan for the development of the Barefoot Resort community shown in the P.U.D. adopted as referenced in Section 1.17 above (dated May 12, 1999), as it may be amended, which plan includes the property described on Exhibits "A" and "B" hereto and may include additional property in the future which Silver Carolina or the Association may from time to time add to the community and subject to this Declaration or the Residential Declaration. Inclusion of additional property on the Master Plan shall not, under any circumstances, obligate Silver Carolina to subject such property to this Declaration, the Residential Declaration, or any other similar document.

1.21. "Member": a Person entitled to membership in the Association, as provided in Section 3.2.

1.22. "Mortgage": a mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to a Unit, including, but not limited to, a Seller's security interest as established in a contract of sale. The term "First Mortgage" shall mean that certain Mortgage, Assignment of Rents, Security Agreement and Financing Statement dated February 8, 2000, and recorded in Book 2515, Page 1261, Horry County Register of Deeds, as amended from time to time. The term "Carolina First Mortgages" is defined herein in Section 17.21(a).

1.23. "Mortgagee": the holder of a Mortgage which makes, holds, insures, or guarantees Mortgage loans in the ordinary course of its business.

1.24. "Mortgagor": any Person who gives a Mortgage.

1.25. "Owner": one or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a contract of sale, then the purchaser (rather than the fee owner) will be considered the Owner, if the contract specifically so provides. In the event a contract of sale is not recorded to reflect a property purchase, the new Owner, or its designee, shall provide some form of notice of the sale to the Association; further, the Association may request documentation from the Owner or its designee to satisfactorily demonstrate the Owner's identity. Further, the owners of any timeshare units shall not be deemed Owners pursuant to the terms of this Declaration; instead, any timeshare unit owners within the Properties shall act and shall exercise their rights by and through their own timeshare regime, which itself shall be deemed an Owner for the purpose of this Declaration.

1.26. "Parcel": one or more Units which share common interests other than those common to all Units, as more particularly described in Section 3.4. By way of illustration and

not limitation, an office complex comprised of several Units surrounding a common plaza, a retail/commercial center comprised of various Units sharing common public areas, a rental apartment development, or a business condominium, might each be designated as separate Parcels. Where the context permits or requires, the term "Parcel" shall also refer to the Parcel Association or the Parcel Committee, if any, established in accordance with the By-Laws to act on behalf of the Owners of Units within the Parcel. Parcel boundaries may be established and modified as provided in Section 3.4.

1.27. "Parcel Assessments": assessments levied against the Units in a particular Parcel or Parcels to fund Parcel Expenses, as described in Section 10.4.

1.28. "Parcel Association": any condominium association or other owners association having concurrent jurisdiction over any Parcel.

1.29. "Parcel Expenses": the actual and estimated expenses incurred or anticipated to be incurred by the Parcel Association for the benefit of the Owner(s) and occupant(s) of the Unit(s) within a particular Parcel or Parcels, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize and as may be authorized herein or in any Supplemental Declaration applicable to the Parcel.

1.30. "Person": a natural person, a corporation, a partnership, a trustee, or other legal entity.

1.31. "Private Amenities": certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Nonresidential Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis, use fee basis, or otherwise, and shall include, without limitation, the Golf Courses, the marina and green space, if any.

1.32. "Properties" or "Nonresidential Properties": the real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX.

1.33. "Residential Association": Barefoot Resort Residential Owners Association, Inc., a nonprofit corporation formed under the laws of the State of South Carolina to serve as a mandatory membership owners association having jurisdiction over all of the property made subject to the Residential Declaration.

1.34. "Residential Declaration": that certain Declaration of Covenants, Conditions, and Restrictions for Barefoot Resort Residential Properties executed by Silver Carolina and recorded in the Office of Register of Deeds of Horry County, South Carolina, as it may be amended.

1.35. "Special Assessment": assessments levied in accordance with Section 10.6 of this Declaration.

1.36. "Specific Assessment": assessments levied in accordance with Section 10.7 of this Declaration.

1.37. "Supplemental Declaration": an amendment or supplement to this Declaration filed in the Office of the Register of Deeds of Horry County, South Carolina, for such purposes as such declaration may provide.

1.38. "Timeshare Property Owners Association": any timeshare association comprised of timeshare property owners which is organized and which will operate and manage a timeshare project within Barefoot Resort as allowed by Silver Carolina upon consent of the holder of the First Mortgage and, if located on property encumbered by the Carolina ~~First Mortgages~~ of Carolina First.

1.39. "Unit": a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed (and may be defined by a subdivision plat, a legal property description, or other means intended to show or describe the property as a discrete and legally definable portion) and which is intended for development, use, occupancy and a purpose consistent with this Declaration, any other applicable covenants, and applicable zoning, including but not limited to the P.U.D. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall not include Common Areas, common property of any Parcel Association, spoil easements or property dedicated to the public. If any Unit is subdivided or re-subdivided, whether by plat or deed, each such subdivision shall be considered a Unit hereunder and votes and liability for assessments shall be re-computed for each subdivision in accordance with the formula set forth in Exhibit "C."

1.39. "Village": one or more Parcels whose Owners vote on a common slate for election of directors to the Board of Directors, as more particularly described in Section 3.4(b) and in the By-Laws, or if the context so indicates, the group of Owners whose Units comprise such Parcels.

ARTICLE II PROPERTY RIGHTS

2.1. Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) This Declaration, the By-Laws, and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area;

(d) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Section 4.7;

(e) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

(f) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Exclusive Common Areas," as more particularly described in Section 2.2.

Any Owner may extend its rights of use, access and enjoyment to its employees and invitees (and in the case of the Timeshare Property Owners Association, its members, guests, invitees and any person occupying a Timeshare Unit within a timeshare project in accordance with the rules and regulations of the Timeshare Property Owners Association) and to the lessees of its Unit, their employees, and invitees, subject to reasonable Board regulation. An Owner who leases its Unit shall be deemed to have assigned all such rights to the lessee of such Unit, its employees, and invitees.

2.2. Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners, occupants, and invitees of less than all Units. By way of illustration and not limitation, Exclusive Common Areas may include signage, landscaping, plazas, promenades, malls, parking areas, lakes, and other portions of the Common Area within a particular Parcel or Parcels. All costs associated with maintenance, repair, replacement, and insurance of Exclusive Common Areas shall be assessed as a Parcel Assessment against Owners of Units to which the Exclusive Common Area is assigned. With the consent of the holder of the First Mortgage and, if located on property encumbered by the Carolina First Mortgages, of Carolina First, Silver Carolina shall designate such portions of the Common Area as Exclusive Common Area whenever the use of such tract is primarily by a particular Owner or a particular Owner's patrons, customers, invitees or guests. If any Owner believes that Silver Carolina has unreasonably failed to designate a Common Area as Exclusive Common Area, the Owner shall submit a request for designation of Exclusive Common Area in writing to Silver Carolina, stating the basis for the Owner's request. Should Silver Carolina deny the request or fail to respond to it within a reasonable time, the Owner may pursue a Claim pursuant to Article XVI hereof.

Initially, Silver Carolina, with the consent of the holder of the First Mortgage and, if located on property encumbered by the Carolina First Mortgages, of Carolina First, shall designate any Exclusive Common Area as such and shall assign the exclusive use thereof in the deed conveying the Common Area to the Association or on the plat or survey relating to such Common Area; provided, any such assignment shall not preclude Silver Carolina from later assigning use of the same Exclusive Common Area to additional Units and/or Parcels, so long as Silver Carolina has a right to subject additional property to this Declaration pursuant to Section 9.1. Thereafter, a portion of the Common Area may be assigned as Exclusive

Common Area and Exclusive Common Area may be reassigned upon the vote of Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes allocated to the Units(s) to which the Exclusive Common Areas are assigned, if applicable, and a majority of the Class "A" votes allocated to the Units to which the Exclusive Common Areas are to be assigned. As long as Silver Carolina owns any property subject to this Declaration or has the right to subject additional property to this Declaration, any such assignment or reassignment shall also require Silver Carolina's consent.

The Association may, upon approval of a majority of the votes allocated to the Units to which certain Exclusive Common Areas are assigned, permit Owners of other Units to use all or a portion of such Exclusive Common Areas upon payment of user fees, which fees shall be used to offset the Parcel Expenses attributable to such Exclusive Common Areas.

2.3. Private Amenities. Access to and use of the Private Amenities is strictly subject to the rules and procedures of the respective owners of the Private Amenities, and no Person gains any right to enter or to use those facilities by virtue of membership in the Association or ownership or occupancy of a Unit.

All Persons, including all Owners, are hereby advised that no representations or warranties, either written or oral, have been or are made by Silver Carolina, the Association, or any other Person with regard to the nature or size of improvements to, or the continuing ownership or operation of, the Private Amenities. No purported representation or warranty, written or oral, in conflict with this Section shall be effective without an amendment to this Declaration executed or joined into by Silver Carolina and/or the owner(s) of the Private Amenity(ies) which are the subject thereof.

The ownership or operational duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent entity, (b) conversion of the membership structure to an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Private Amenity, or (c) the conveyance of a Private Amenity to one or more affiliates, shareholders, employees, or independent contractors of Silver Carolina. No consent of the Association, any Parcel Association, or any Owner shall be required to effectuate such a transfer or conversion.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether, subject to the terms of any written agreements entered into by such owners.

ARTICLE III ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS

3.1. Association Functions. The Association shall be the entity responsible for management, maintenance, operation, and control of the Common Area within the Nonresidential Properties. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Nonresidential Properties as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with this Declaration, the By-Laws, the Articles and South Carolina law.

The Association shall be a member of Barefoot Resort Joint Committee, Inc., a South Carolina nonprofit corporation which serves as a unifying entity for the residential and nonresidential elements of the Barefoot Resort community. The Association shall appoint one or more representatives to serve on the board of directors of the Joint Committee in accordance with the Joint Committee By-Laws and shall cooperate with the Joint Committee in upholding the Community-Wide Standard for the Barefoot Resort community.

3.2. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.3(c) and in the By-Laws, and all co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights and privileges may be exercised by the Owner or, in the case of an Owner which is a corporation, partnership or other legal entity, by any officer, director, partner, trustee or by any other individual designated by the Owner from time to time in a written instrument provided to the Secretary of the Association.

In the case of timeshare owners, the Timeshare Property Owners Association and not the individual timeshare owners, shall be a Member and accordingly, the Timeshare Property Owners Association shall represent and exercise rights on behalf of its timeshare owners. The timeshare owners and persons occupying Timeshare Units within a timeshare project in accordance with the rules and regulations of the Timeshare Property Owners Association shall possess rights conferred upon them by the timeshare regime documents and shall be entitled to exercise the use rights of Owners, but shall not independently exercise rights conferred upon Members.

3.3. Voting. The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners, as defined herein. Each Class "A" Member shall be entitled to the number of votes assigned to its Units in accordance with the formula set out in Exhibit "C"; provided, no votes shall be exercised on account of any unimproved property owned by the Class "B" Member as long as the Class "B" Membership exists, and no votes shall be exercised on account of any property which is exempt from assessments under Section 10.11.

(b) Class "B". The sole Class "B" Member shall be Silver Carolina. The rights of the Class "B" Member under this Declaration and the By-Laws are specified elsewhere in the Declaration and the By-Laws.

The Class "B" membership shall terminate upon the earlier of: (1) two years after termination of the Class "B" Control Period, or (2) when, in its discretion, the Class "B" Member so determines and declares in a recorded instrument. The Class "B" Control Period is that period until the first of the following to occur:

(i) when the following acreage has been conveyed to Persons other than the Class "B" Member or Builders: (A) 75% percent of the total acreage described in Exhibits "A" and "B" of the Declaration and (B) 75% of the total acreage described in any Supplemental Declaration (provided that, if a Supplemental Declaration covers property also included on Exhibits A or B, the acreage shall be counted only once for purposes of this subsection);

(ii) 40 years after the date upon which the Declaration is recorded in the Office of Register of Deeds of Horry County, South Carolina; or

(iii) when, in its discretion, the Class "B" Member so determines.

After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in Section 3.18 of the By-Laws.

(c) Exercise of Voting Rights. If there is more than one Owner of any Unit, the votes for such Unit shall be exercised as such co-Owners determine among themselves or as they may designate and advise the Secretary of the Association in writing prior to the meeting at which they are to be cast. In the absence of such advice, the votes for such Unit shall be suspended if more than one co-Owner seeks to exercise them.

Any Owner may assign the right to cast all or a portion of the votes allocated to his Unit to the lessee of any portion of such Unit by written proxy filed with the Secretary of the Association in accordance with Section 2.9 of the By-Laws.

In the case of timeshare ownership, the individual timeshare owners shall be deemed to have delegated their right to cast votes in the Association to their Timeshare Property Owners Association; the Timeshare Property Owners Association shall exercise such voting rights on behalf of its individual timeshare owners.

3.4. Parcels and Villages.

(a) Parcels. Every Unit shall be located within a Parcel; if an entire Parcel is owned by a single Person, the Parcel shall be both a Unit and a Parcel. In the discretion of the Owner(s) and developer(s) of each Parcel, the Units within a particular Parcel may be made subject to additional covenants and the Unit Owners may be mandatory members of a Parcel

Association in addition to being Members of the Association. There shall be no requirement that a Parcel Association be created for any Parcel except in the case of a Parcel which is to be developed as a condominium. In the event an Owner establishes a condominium or timeshare regime on any Tract, such condominium or timeshare regime shall have its own specific common elements which shall be exclusive to the condominium or timeshare regime owners who have ownership interests in such condominium regime and/or timeshare regime. In such event it shall be assumed that any such specific common elements will be the responsibility of such condominium or timeshare owners and any benefits of such specific common elements will inure to those owners; any nonexclusive common elements within said Tract shall be appropriately identified. Furthermore, the assignment of common elements specific to such condominium or timeshare regime shall be totally within the discretion of the Owner establishing such regime, and the manner in which the common expenses are assessed against the property owners within such condominium and/or timeshare regime shall be established in accordance with the Declaration filed by the Owner creating the regime. No Owners other than the Owners who have an ownership interest in the condominium or timeshare regime shall have the right to access or utilize any of the specific common elements that are established in such condominium and/or timeshare regime. The Owners of Units within any Parcel which does not have a Parcel Association may elect a Parcel Committee, as described in Section 5.3 of the By-Laws, to represent the interests of such Owners.

Any Parcel may request that the Association provide a higher level of service or special services for the benefit of Unit(s) in the Parcel, and, upon the affirmative vote, written consent, or any combination thereof, of Owners holding a majority of the total votes allocated to Units within the Parcel, the Association shall provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any administrative charge shall apply uniformly to all Parcels receiving the same service), shall be assessed against the benefited Unit(s) in accordance with the formula set forth on Exhibit "C," unless a different allocation is agreed upon by all Owners of Units within the Parcel.

(b) Villages. Silver Carolina may designate Villages consisting of one or more Parcels for the purpose of electing directors to the Board, in order to allocate representation on the Board of Directors among the various concerns and areas within the Properties and to ensure that no group, by virtue of its size or the amount of property owned by it, is able to elect the entire Board of Directors and to exclude representation of others. Following termination of the Class "B" Control Period, the number of Villages within the Properties shall not exceed the total number of directors to be elected by Class "A" Members pursuant to the By-Laws. The Owners of Units within each Village shall vote on a separate slate of candidates for election to the Board, with each Village being entitled to elect that number of directors determined in accordance with Section 3.5 of the By-Laws.

(c) Establishment. Parcels and Villages initially shall be established by Silver Carolina not later than the date of expiration of the Class "B" Control Period by filing with the Association and in the Office of Register of Deeds of Horry County, South Carolina, a Supplemental Declaration designating by map or other description all Parcels and the Villages

of which they are a part. As additional property is subjected to this Declaration pursuant to Article IX, Silver Carolina may amend such Supplemental Declaration to change the composition of existing Parcels or Villages or to establish new Parcels or Villages to account for the additional property.

After expiration of Silver Carolina's right to annex property pursuant to Article IX, the Board of Directors shall have the right to file or amend such Supplemental Declaration upon the vote of a majority of the total number of directors and the consent of Silver Carolina, if Silver Carolina owns any land subject to this Declaration. Neither recordation nor amendment of such Supplemental Declaration shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph. Until such time as Villages are established, all of the Properties shall constitute a single Parcel and a single Village. After a Supplemental Declaration establishing Villages has been filed, any and all portions of the Properties which are not assigned to a specific Parcel or Village shall constitute a single Parcel and a single Village.

ARTICLE IV RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Areas and all improvements thereon (including, without limitation, furnishings, equipment, and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, consistent with this Declaration, the Community-Wide Standard, the P.U.D. and all applicable governmental regulations.

4.2. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. Silver Carolina and its designees may convey to the Association improved or unimproved real estate located within the properties described in Exhibits "A" or "B," personal property and leasehold or other property interests; provided, Silver Carolina shall not convey any real estate to the Association as Common Area which Silver Carolina knows or with reasonable diligence should have known to contain hazardous substances which would require remediation or create liability for the property owner under state or federal law and Silver Carolina shall not transfer or convey any real or personal property (including leasehold or other property interests) pursuant to this provision to the extent that any debt incurred is greater than the fair market value of such property. Such conveyed property shall be accepted by the Association and thereafter shall be maintained as Common Area by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. In the event any property previously designated as a Common Area is sought to be released from such designation, Silver Carolina shall agree to provide twenty (20) days' prior written notice to the City of North Myrtle Beach (provided the Properties have been annexed into said jurisdiction) of such proposed change.

4.3. Enforcement. The Association may impose sanctions for violations of this

Declaration, any applicable Supplemental Declaration, the By-Laws, or Association rules in accordance with procedures set forth in the By-Laws, including imposition of the suspension of the right to vote and reasonable monetary fines, such fines being subordinate to the rights of the holder(s) of a first Mortgage and/or Carolina First Mortgages to the extent the involved Unit(s) is encumbered by such Mortgages. In addition, in accordance with Section 3.23 of the By-Laws, the Association may exercise self-help to cure violations to the extent consistent with applicable law, and may suspend any services it provides to the Unit of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration or Association rules, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action. The Joint Committee shall be authorized to take any enforcement action which the Association would be authorized to take, in addition to such enforcement action as is authorized by its by-laws.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the likelihood of prevailing under the circumstances of the particular case is outweighed by the detrimental impact to the Association of taking such enforcement action. Any such determination shall not be construed as a waiver of the right to enforce such provision under other circumstances or estop the Association from enforcing any other covenant, restriction, or rule.

4.4. Implied Rights; Board of Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, and any right or privilege which could reasonably be implied from or which is reasonably necessary to effectuate any express right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws or under applicable law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5. Governmental Interests. So long as Silver Carolina owns any property described in Exhibits "A" or "B," or any additional property made subject to this Declaration by Supplemental Declaration, Silver Carolina may designate sites within the Properties which Silver Carolina has not previously sold, for government, education, or religious activities and interests, including but not limited to, fire, police, utility facilities, schools or education facilities, houses of worship, parks, recreation, and other public facilities. The sites may include Common Areas and in such case, the Association shall dedicate and convey such sites as directed by Silver Carolina, and no membership approval shall be required; however, in such instance any such conveyance shall be subject to a reimbursement to the Association in an amount not less than fair market value of the site conveyed.

4.6. Indemnification. The Association shall indemnify every officer, director, and committee member against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any

suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions as to which liability is limited under this Section and South Carolina law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall be cumulative of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers and directors liability insurance to fund this obligation, if such insurance is reasonably available.

4.7. Dedication of Common Areas. The Association may dedicate portions of the Common Areas to the City of North Myrtle Beach, South Carolina, or to Horry County, South Carolina, or to any other local, state, or federal governmental or quasi-governmental entity.

4.8. Disclaimer; Permissive Enhancement of Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. **NEITHER THE ASSOCIATION, SILVER CAROLINA, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM, OR OTHER SECURITY SYSTEM CAN NOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ANY OR ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS AND OTHER INVITEES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, AND COMMITTEES, SILVER CAROLINA, AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS OF SAFETY OR PROPERTY AND THAT EACH PERSON USING THE PROPERTIES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS, AND TO THE CONTENTS OF UNITS RESULTING FROM ACTS OF THIRD PARTIES.**

4.9. Relationship With Tax-Exempt Organizations. Silver Carolina or the Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to nonprofit, tax-exempt organizations, the operation of which confers some benefit upon the Properties, the Association, its Members, or residents. The Association may contribute money, real or personal property, or services to such entity. However, any such agreement, contract, grant of easement, or contribution of money or property or services to such tax exempt entity must be approved by the Board of Directors of the Association. Any such contribution shall be a Common Expense and included as a line item in the Association's annual budget. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), including but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time, or as replaced by any other federal tax code with provisions of like tenor and effect.

The Association may maintain multiple-use facilities within the Properties and allow temporary use by tax-exempt organizations. Such use may be on a scheduled or "first-come, first-served" basis. A reasonable maintenance and use fee may be charged for the use of such facilities.

4.10. Assumption of Obligations Under P.U.D. Silver Carolina shall have the right to assign to the Association or the Joint Committee, or both, any of its continuing obligations or responsibilities under the P.U.D., and the Association or the Joint Committee shall accept, assume, and fulfill such obligations and responsibilities, subject, however, to the following: (a) in no event shall the Association or the Joint Committee assume any continuing obligation or responsibilities for P.U.D. or governmental obligations incurred during the Class "B" Control Period for initial development costs, installation of infrastructure, original capital improvements, or other original construction costs; and (b) in no event shall the Association or the Joint Committee assume any continuing obligation or responsibility which shall result in an unreasonable material increase in the annual assessment unless the assumption of such obligation is approved by a 2/3 majority vote of the Board of Directors of the Association and the Joint Committee and also a majority vote of the Class "A" votes in the Association. It is not the intent of the foregoing restriction or limitation to restrict or impede Silver Carolina's right to add contiguous property or restrict future expansion activities of Silver Carolina which may result in the Association or the Joint Committee assuming additional obligations for maintenance, management, operations, and control of Common Areas within such contiguous or expansion property.

4.11. No Promotion of Separate Municipal Incorporation. Neither the Joint Committee nor the Association shall sponsor, support, or encourage the incorporation of all or any part of the Properties as a separate municipality, or the inclusion of all or any part of the Properties in a separate municipality composed of property outside of the Properties, except to the extent consistent with the annexation described in the Development Agreement and the P.U.D.

ARTICLE V
MAINTENANCE

5.1. Association's Responsibility. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage, maintain, repair and control the Area of Common Responsibility and all improvements thereon (including, without limitation, furnishings, equipment, and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair consistent with this Declaration, the Community-Wide Standard, all applicable governmental regulations and the P.U.D., which shall include, but is not limited to:

(a) all landscaping and other flora, parks, lakes, signage, structures, improvements, private streets, if any, and pedestrian pathways/trails situated upon the Common Area;

(b) landscaping, sidewalks, streetlights, and signage within public rights-of-way within or abutting the Properties, and landscaping and other flora within any public utility easement within the Properties (subject to the terms of any easement agreement relating thereto), except to the extent that responsibility therefor has been assigned to or assumed by other parties under a written agreement;

(c) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;

(d) all ponds, streams, and/or wetlands and wetland buffers located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any swales, retaining walls, bulkheads or dams (earthen or otherwise), retaining or managing water therein, and any pipes, fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith except to the extent that responsibility therefor has been assigned to or assumed by other parties under a written agreement

There will exist an overlay district in regard to maintenance of certain ponds, lakes, and surrounding areas located adjacent to the Golf Courses due to the fact that such areas are part of the master drainage system. (See Exhibit "G" which is attached hereto and incorporated by reference herein.) The Association, the Residential Association and the abutting golf course owner shall have the right to maintain these areas. The Associations will be required to maintain the areas to the Community-Wide Standard similar to all Common Areas. However, the owner of the adjacent Golf Course or its designee may maintain the area to a higher standard at its own expense. The Associations will at all times maintain the right to perform any necessary work on these areas to ensure proper drainage of the Properties:

(e) any future beach club and improvements thereon, as further discussed in Article XVII Section 17.23 hereof; and

(f) any property and facilities owned by Silver Carolina and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and some or all of its Members, such property and facilities to be identified by written notice from Silver Carolina to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time, if any, as Silver Carolina revokes such privilege of use and enjoyment by written notice to the Association.

There are hereby reserved to the Association easements over the Properties as necessary to enable the Association to fulfill its responsibilities under this Section. The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation. This requirement of continuous operation shall not apply to streets or roadways which the Association owns or controls; the Association, acting through the Board, may temporarily or permanently close portions of any such streets or roadways to control traffic or traffic flow, or to enhance privacy, or for other similar purposes, without approval of the membership.

The Association may maintain other property which it does not own, but which benefits the Nonresidential Properties and the Owners thereof, including, without limitation, publicly-owned property and other property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and would not result in an unreasonable material increase in Annual Assessments to its Members.

The Association may assume responsibility for maintenance of any Unit or Parcel and assess all costs of such maintenance against the benefited Unit or Parcel pursuant to Section 10.7 of this Declaration, as appropriate. This assumption of responsibility may take place only by contract with the Owner(s) of such Unit or Parcel or because, in the opinion of the Board, the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. The provision of services in accordance with this Section shall not constitute discrimination within a class.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair, and replacement of and within the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair, and replacement of Exclusive Common Areas shall be a Parcel Expense assessed as a Parcel Assessment solely against the Units within the Parcel(s) to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

Notwithstanding the above, the Association may delegate any of its maintenance

responsibilities hereunder to the Joint Committee, by agreement with the Joint Committee, and any portion of the Common Area may be made part of the Joint Committee's "Area of Common Responsibility," as such term is defined in Section 1.3(a) of the Joint Committee By-Laws. No such delegation shall be revoked without the written consent of the Joint Committee.

If the Association fails to properly perform its maintenance responsibilities hereunder, Silver Carolina may, upon not less than 10 days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Association for all costs incurred. Provided however, if the failure to perform the maintenance results in an immediate risk to health or safety or damage to property in the community, then Silver Carolina may perform the maintenance without providing 10 days notice.

5.2. Owner's Responsibility. Each Owner shall maintain its Unit and all structures, parking areas, and other improvements comprising the Unit, in a manner consistent with the Community-Wide Standard, all applicable covenants and governmental requirements, unless such maintenance responsibility is otherwise assumed by the Association pursuant to a contract with such Owner or by a Parcel Association pursuant to any additional declaration of covenants applicable to such Unit. However, the buffer area adjacent to wetlands that comprises any part of a Unit must be maintained in its natural state as defined in the Restrictive Covenant recorded or to be recorded pursuant to Permit Number P/N 98-1X-304. Such maintenance shall include, but is not limited to, the following:

- (a) prompt removal of all litter, trash, refuse, and waste;
- (b) lawn mowing and fertilizing on a regular basis;
- (c) tree and shrub pruning and mulching;
- (d) watering of landscaped areas;
- (e) keeping exterior lighting and maintenance facilities in proper working order;
- (f) implementing and maintaining erosion-sedimentation control measures;
- (g) painting or staining, as appropriate, and regular maintenance and repair of the exterior of all improvements and signage;
- (h) roof repair and replacement as necessary to maintain a neat, uniform appearance;
- (i) keeping lawn and garden areas alive, free of weeds, and attractive;
- (j) keeping parking areas, driveways, and roads in good repair and free of

potholes, excessive cracks, and weeds;

- (k) complying with all government health and police requirements;
- (l) prompt repair of any exterior damages to improvements; and
- (m) if appropriate, striping of parking areas and repainting of improvements.

In addition, each Owner shall be responsible for:

- (a) maintaining that portion of any private drive or service road providing access to the Owner's Unit which lies within the public right-of-way between the Unit boundary and the curb or roadbed of the street to which it connects; and
- (b) mowing any grassed areas within the public right-of-way between the Unit boundary and the curb or roadbed of the adjoining street.

If any Owner fails properly to perform such Owner's maintenance responsibility hereunder, the Association may perform it and assess all costs incurred by the Association against the Unit and the Owner thereof in accordance with Section 10.7; provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner notice and a reasonable opportunity to cure the problem prior to entry. If an Owner violates any governmental requirement controlling buffer wetland or other areas protected or managed under the authorizations, certifications or permits obtained for the development, the Association or Silver Carolina may correct or restore the area of the violation and assess all costs incurred by the association or Silver Carolina against the Unit and the Owner in accordance with Section 10.7.

5.3. Parcel's Responsibility. Upon approval of the Board of a Parcel Association, the Owners of Units within each Parcel shall be responsible for paying, through Parcel Assessments, costs of maintaining certain portions of the Area of Common Responsibility within or adjacent to such Parcel, which may include, without limitation, the costs of maintaining any signage, right-of-way and open space between the Parcel and adjacent public roads, private streets within the Parcel, and lakes or ponds within the Parcel, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Parcels which are similarly situated shall be treated the same.

Any Parcel Association having any responsibility for maintenance of property within a particular Parcel shall perform, with respect to such property, all maintenance required of an Owner under Section 5.2 in a manner consistent with the Community-Wide Standard. If it fails to do so, the Association may perform such responsibilities and assess the costs against all Units within such Parcel as provided in Section 10.7.

5.4. Standard of Performance. Maintenance, as used in this Article, shall include,

without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate to satisfy the Community-Wide Standard. All maintenance and irrigation shall be performed in a manner consistent with the Community-Wide Standard, all applicable covenants, the requirements and restrictions set forth in the P.U.D. and all governmental requirements.

Notwithstanding anything to the contrary contained herein, the Association, and/or an Owner and/or a Parcel Association shall not be liable for property damage or personal injury occurring on or arising out of the condition of property which it does not own, unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

ARTICLE VI INSURANCE AND CASUALTY LOSSES

6.1. Association Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair, and/or replacement in the event of a casualty. The Association shall have the authority to and interest in insuring any privately or publicly-owned property for which the Association has maintenance or repair responsibility. Such property shall include, by way of illustration and not limitation, any insurable improvements on or related to parks, rights-of-way, medians, easements, and walkways which the Association is obligated to maintain. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including both primary and any umbrella policies) shall have a limit of at least \$5,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost such that a reasonably prudent person would obtain the additional coverage and limits, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability

(iv) Directors and officers liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Association funds, in an amount to be determined in the Board's business judgment. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance, wind and hail insurance, boiler and machinery insurance, and building ordinance coverage.

In addition, the Association may obtain and maintain property insurance on the insurable improvements within any Parcel in such amounts and with such coverages as agreed upon pursuant to Section 3.4(a). Any such policies shall provide for a certificate of insurance to be furnished to the Parcel Association or Parcel Committee, as applicable, and to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment, except that (i) premiums for property insurance obtained on behalf of a Parcel shall be charged to the Owners of Units within the benefited Parcel as a Parcel Assessment, and (ii) premiums for insurance on Exclusive Common Areas may be included in the Parcel Assessment of the Parcel(s) benefited unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of insurance coverages by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the North Myrtle Beach, Horry County, South Carolina area.

All Association policies shall provide for a certificate of insurance to be furnished to each Member insured, upon their request, and to the Association.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 6.1(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Parcel Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.23 of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Units pursuant to Section 10.7.

All insurance coverage obtained by the Board shall:

(i) be written with a company whose primary business is providing insurance coverage and which is authorized to conduct business in the State of South Carolina and which satisfies such minimum size and financial strength standards as the Board, in the exercise of its best business judgment, deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Parcel shall be for the benefit of the Owners of Units within the Parcel and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees; and

(iv) include an agreed amount endorsement, if the policy contains a co-insurance clause.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager their tenants, employees, agents, and invitees;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(iv) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(v) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(vi) a cross liability provision; and

(vii) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board

or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless Owners representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Parcel, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds received, after application of any applicable deductible, are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1(a).

6.2. Owners' Insurance. By virtue of taking title to a Unit (or any portion of the Properties), each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Parcel Association (if any) for the Parcel in which the Unit is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners hereunder, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner thereof pursuant to Section 10.7.

Each Owner further covenants and agrees that in the event of damage to or destruction

of structures on or comprising the Owner's Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

Each Owner shall also maintain liability insurance to fund its obligation to indemnify the Association and the Joint Committee pursuant to Section 17.8.

The requirements of this Section shall apply to any Parcel Association responsible for common property within the Parcel in the same manner as if the Parcel Association were an Owner and the common property were a Unit. Additional recorded covenants applicable to any Parcel may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Parcel and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

ARTICLE VII NO PARTITION

Except as permitted in this Declaration, there shall be no judicial partition of the Common Areas. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring or disposing of real property which may or may not be subject to this Declaration.

ARTICLE VIII CONDEMNATION

If any part of the Common Areas shall be taken (or conveyed in lieu of or under threat of condemnation by the Board upon approval of Owners representing at least 67% of the total Class "A" vote in the Association and Silver Carolina, so long as Silver Carolina owns any property described on Exhibits "A" or "B," or any additional property made subject to this Declaration by Supplemental Declaration) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice; provided, however, the Association shall not be entitled to any of the proceeds now or hereafter arising out of the condemnation of Carolina Bays Parkway. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Areas on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Areas to the extent lands are available, unless within 60 days after such taking Silver Carolina, so long as Silver Carolina owns any property described on Exhibits "A" or "B," or any additional property made subject to this Declaration by

Supplemental Declaration, and Owners representing at least 75% of the total Class "A" vote in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 6.11(c) regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any improvements on the Common Areas, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE IX

COMMUNITY EXPANSION AND WITHDRAWAL

9.1. Expansion by Silver Carolina. Until all property described on Exhibit "B" has been subjected to this Declaration or 40 years after the recording of this Declaration, whichever is later, Silver Carolina may unilaterally subject to the provisions of this Declaration all or portions of the real property described in Exhibit "B" or any other real property which Silver Carolina may acquire or denominate in the future. Silver Carolina may transfer or assign this right, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" or the other real property designated to be included and that such transfer is memorialized in a written, recorded instrument executed by Silver Carolina. Nothing in this Declaration shall be construed to require Silver Carolina or any successor to develop or subject to this Declaration any of the property set forth in Exhibit "B" in any manner whatsoever.

Any such action to subject additional property to this Declaration shall be accomplished by filing a Supplemental Declaration in the Office of Register of Deeds of Horry County, South Carolina, describing the property to be included and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Silver Carolina. Any such action shall be effective upon the filing for record of such Supplemental Declaration, unless otherwise provided therein.

9.2. Expansion by Association. The Association may subject any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of Silver Carolina, so long as Silver Carolina owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

Such action shall be accomplished by filing a Supplemental Declaration in the Office of Register of Deeds of Horry County, South Carolina, describing the property to be included and specifically subjecting it to the terms of this Declaration. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the

property to be included, and by Silver Carolina, if Silver Carolina's consent is required. Any such expansion shall be effective upon filing unless otherwise provided therein.

9.3. Additional Covenants and Easements. Silver Carolina and any owner and/or purchaser of a tract within Barefoot Resort may, with the express written consent of Silver Carolina, subject any additional property to this Declaration or subject any portion of the property subject to this Declaration, or any additional property, to additional covenants and easements, including, but not limited to, covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Parcel Assessments, Special Assessments, or Specific Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the action taken to include the subject property, and shall require the written consent of the owner(s) of such property, if other than Silver Carolina. Any such Supplemental Declaration may supplement or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4 Withdrawal of Property. Silver Carolina reserves the right to amend this Declaration, so long as it has a right to subject additional property pursuant to this Section, for the purpose of removing any portion of the Properties from the coverage of this Declaration, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties, and does not result in an unreasonable material decrease in the Assessments collected. Such amendment shall not require the consent of any Person other than the owner of the property to be withdrawn, if not Silver Carolina. If the property is Common Area, the Association shall consent to such withdrawal.

9.5 Conversion to Residential. Silver Carolina reserves the right to amend this Declaration, so long as it has a right to subject additional property to this Declaration pursuant to Section 9.1, for the purpose of removing any portion of the Properties from the coverage of this Declaration, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties. In the event that the Owner of any portion of the Properties desires to convert the use of its property to residential use (other than residential uses and related amenities already allowed as described in Exhibit "D"), such Owner shall be entitled to amend this Declaration for the purpose of withdrawing such property from the coverage of this Declaration; provided, however, that Silver Carolina's prior written consent must be obtained and such amendment shall be signed by the Association to acknowledge the withdrawal of property and simultaneously with the filing of such amendment to this Declaration, an amendment shall be filed to the Residential Declaration in accordance with the terms thereof submitting the property to the Residential Declaration, and further provided that the withdrawal of such property will not result in a material decrease in the Assessments collected. Any attempt to withdraw property from the coverage of this Declaration without simultaneously submitting it to the Residential Declaration shall be ineffective to withdraw the property from this Declaration.

9.6. Amendment. This Article shall not be amended without the prior written consent of Silver Carolina so long as Silver Carolina owns any property described in Exhibits

"A" or "B," or any additional property made subject to this Declaration by Supplemental Declaration.

9.7. Dye Course Lodge Property ("Lodge") Inclusion. With respect to the portion of area "57" on Drawing Number 4 of a plat entitled "Barefoot Resort Final Master Plat" prepared for Silver Carolina Development Company, L.L.C. by DDC Engineers, Inc., dated January 2000, revised February 4, 2000 and recorded March 10, 2000 in Plat Book 168 at Pages 119-119H, as revised by recombination plat entitled "Map of 82.56 Acres Designated as Tract 'X'", dated March 29, 2000 and recorded April 10, 2000 in Plat Book 169 at Page 022, in the public records of Horry County, South Carolina, the recordation of the final subdivision plat for the Lodge constitutes an addition of the land depicted on the final subdivision plat to this Declaration pursuant to Section 9.1.

ARTICLE X ASSESSMENTS

10.1. Creation of Assessments. The Barefoot Resort Joint Committee, Inc. is hereby authorized to levy assessments against each Unit for (a) the Unit's share of the common expenses of the Joint Committee, as authorized and established pursuant to the Joint Committee's By-Laws; and (b) Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments for Association expenses: (a) Base Assessments to fund Common Expenses for the general benefit of all Units; (b) Parcel Assessments for Parcel Expenses benefiting only Units within a particular Parcel or Parcels; (c) Special Assessments as described in Section 10.6; and (d) Specific Assessments as described in Section 10.7. Each Owner (as defined in Section 1.25), by accepting a deed or entering into a recorded contract of sale for any portion of the Properties is deemed to covenant and agree to pay these assessments.

All assessments, together with interest from the due date of such assessment at a rate determined by the Joint Committee (but not less than 10% per annum, subject to the limitations of South Carolina law), reasonable late charges in such amount as is established by resolution of the Joint Committee's board of directors, costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon the Unit against which each assessment is levied until paid, as more particularly provided in Section 10.9. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit, in good faith and for value, by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

All assessments on behalf of the Association shall be levied and collected by the Joint Committee or its designee. Assessments shall be paid in such manner and on such dates as the Joint Committee may establish. If the Joint Committee so elects, assessments may be paid in two or more installments. Unless the Joint Committee otherwise provides, the Base

Assessment and any Parcel Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Joint Committee may require any unpaid installments of all outstanding assessments to be paid in full immediately.

The Joint Committee shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Joint Committee or its designated agent setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Joint Committee may require the advance payment of a reasonable processing fee for the issuance of such certificate.

No Owner may exempt himself from liability for assessments by non-use of Common Areas, abandonment of its Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed by or allowed for an Owner or other relevant party for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action or inaction.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with Silver Carolina or other entities for payment of Common Expenses provided that the costs for such materials or services are reasonable and the fair market value of any such services or materials does not exceed the Common Expenses as to which they are contributed.

10.2. Silver Carolina's Obligation for Assessments. During the Class "B" Control Period, Silver Carolina may annually elect either to pay regular assessments on its unsold Units or to pay the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Silver Carolina may make such election at any time prior to the end of the fiscal year for such fiscal year. Regardless of such election, the Association shall have a lien against all Units owned by Silver Carolina to secure Silver Carolina's obligations under this paragraph, which lien shall have the same attributes and shall be enforceable in the same manner as the Association's lien against other Units under this Article. Silver Carolina's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

10.3. Computation of Base Assessment. At least 90 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses for the coming year, which may include a capital contribution to a reserve fund in accordance with a budget separately prepared as provided in Section 10.5. In determining the total funds to be generated through Base Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year. The total Base Assessment to be levied

against each Unit subject to assessment under Section 10.8 shall be determined in accordance with the formula set forth on Exhibit "C."

So long as Silver Carolina has the right unilaterally to annex additional property pursuant to Section 9.1, Silver Carolina may, but shall not be obligated to, reduce the Base Assessments for any fiscal year by payment of a subsidy (in addition to any amounts paid by Silver Carolina under Section 10.2), which may be either a contribution, an advance against future assessments due from Silver Carolina, or a loan, in Silver Carolina's discretion. Any such subsidy and the nature thereof shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and its nature shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate Silver Carolina to continue payment of such subsidy in future years.

The Board shall send a copy of the budget and notice of the amount of the Base Assessment for the following year to each Owner, and in the case of a condominium, condominium association or similar governing body, at least 60 days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by a vote of Owners representing at least a majority of the total Class "A" vote in the Association, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering a budget except on petition of the Owners as provided for special meetings in the By-Laws, which petition must be presented to the Board within 10 days after delivery of the notice of assessments.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

At least 30 days prior to the beginning of each fiscal year, the Board shall provide a copy of the budget and notice of the assessments to be levied on each Unit to the Joint Committee. The Joint Committee shall include such assessment in its annual billing of Owners and shall be responsible for collecting all assessments on behalf of the Association and disbursing the collected funds, less costs of collection, to the Association. Nothing herein shall prohibit the Joint Committee from delegating the collection of assessments attributable to a condominium association or its management firm.

10.4. Computation of Parcel Assessments. At least 90 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Parcel Expenses for the benefit of each Parcel on whose behalf Parcel Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration or the By-Laws or any applicable Supplemental Declaration specifically authorizes the Board to assess certain expenses as a Parcel Assessment. Any Parcel may request that additional services or a higher level of services be provided by the Association, and in such case, any additional expenses, including any additional overhead expenses associated with such services, shall be added to such budget. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of capital

items maintained as a Parcel Expense, if any, within the Parcel. Parcel Assessments shall be allocated among all Units within the benefited Parcel in accordance with the formula set forth on Exhibit "C."

The Board shall cause a copy of such budget and notice of the amount of the Parcel Assessment for the coming year to be delivered to each Owner of a Unit in the Parcel or in the case of a condominium, its governing body, at least 60 days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by a majority of the Owners of Units in the Parcel to which the Parcel Assessment applies; provided, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 10% of the Units in such Parcel, which petition must be submitted to the Board within 10 days after delivery of the notice of assessments. This right to disapprove shall only apply to those line items in the Parcel budget which are attributable to services requested by the Parcel.

If the proposed budget for any Parcel is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

At least 30 days prior to the beginning of each fiscal year, the Board shall provide a copy of the budget and notice of the assessments to be levied on each Unit to the Joint Committee. The Joint Committee or its designee shall include such assessment in its annual billing of Owners and shall be responsible for collecting all assessments on behalf of the Association and disbursing the collected funds, less costs of collection, to the Association.

10.5. Reserve Budget and Capital Contribution. The Board may annually prepare reserve budgets for both general and Parcel purposes which take into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the asset's expected repair or replacement cost. The Board may set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the reserve budget, with respect both to amount and timing by annual Base Assessments or Parcel Assessments, as appropriate, over the budget period.

10.6. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against all Units, if such Special Assessment is for general Common Expenses, or against only the Units within a particular Parcel or Parcels, if such Special Assessment is for Parcel Expenses; provided, however, except as otherwise specifically provided in this Declaration, any Special Assessment must be reasonable under the circumstances, and to the extent that such Special Assessment would exceed 25% of the annual budget for the year immediately preceding that in which the Special Assessment is to be approved, it shall require the affirmative vote or written consent of Owners representing at least 51% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class

"B" Member, if any. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

The Board shall notify the Joint Committee of any Special Assessment to be levied on behalf of the Association and the Units to be assessed. The Joint Committee or its designee shall be responsible for sending notices of such assessment to the Owners of such Units, collecting such assessments, and disbursing all funds collected, less costs of collection, to the Association.

10.7. Specific Assessments. The Board shall have the power to levy Specific Assessments against a particular Unit or Units constituting less than all Units within the Properties or within a Parcel as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscape maintenance, janitorial service, pest control, courier service, etc.), which assessments may be levied in advance of the provision of the requested benefit, item, or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the By-Laws, or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with By-Laws Section 3.23, before levying a Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against any Parcel to reimburse the Association for costs incurred in bringing the Parcel into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, the governmental requirements, and rules, provided the Board gives the Owners within such Parcel prior written notice and an opportunity to be heard before levying any such assessment.

The Board shall notify the Joint Committee of any Specific Assessment to be levied on behalf of the Association and the Unit or Units to be assessed. The Joint Committee or its designee shall be responsible for sending notices of such assessment to the Owner(s) of such Unit(s), collecting such assessments, and disbursing all funds collected, less costs of collection, to the Association.

10.8. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Unit on the first day of the month following either (a) the month in which such Unit is made subject to this Declaration, or (b) the month in which the Board first determines and levies assessments pursuant to this Article, whichever is later. The first annual

Base Assessment and Parcel Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

10.9. Lien for Assessments. Except as provided in any Supplemental Declaration and expressly approved in writing by Silver Carolina and the Association, all assessments authorized in this Article shall constitute a lien against the Unit against which they are levied, until paid. The lien shall also secure payment of interest (subject to the limitations of South Carolina law), and costs (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any Mortgages of record made in good faith and for value, including but not limited to the First Mortgage and the Carolina First Mortgages. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages on real property are foreclosed under South Carolina law.

The Association or the Joint Committee may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Joint Committee following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Joint Committee. The Joint Committee may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 10.8, including such acquirer, its successors and assigns.

The lien right created in this Declaration shall be for the benefit of the Joint Committee and the Association, in that order of priority.

10.10. Failure to Assess. Failure of the Board to fix assessments or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay annual Base and Parcel Assessments on the same basis as during the last year for which an assessment was levied, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

10.11. Exempt Property. In addition to the exemption set forth in Section 10.12 below, the following property shall be exempt from payment of Base Assessments, Parcel Assessments, and Special Assessments:

- (a) all Common Area and any property owned by Silver Carolina, which is included in the Area of Common Responsibility pursuant to Article V;
- (b) any property dedicated to and accepted by any governmental authority or public utility; and
- (c) any property owned by a Parcel Association for the common use and enjoyment of its members, or owned by members of a Parcel Association as tenants-in-common.

In addition, the Board may, but shall not be obligated to, exempt from payment of assessments any property devoted to museums, art galleries, sports, religious, school, or similar civic purposes or educational or family centers.

10.12 Capital Contribution. A capital contribution, which is computed based upon percentage of a Unit's total Gross Sales, will be levied by the Joint Committee on each Unit. The percentage to be paid by a Unit will be based on a graduated scale to be determined annually by the Barefoot Resort Marketing Co-op with the approval of the Joint Committee. For purposes of this section, "Gross Sales" shall mean the income derived from a Unit's primary use including, but not limited to, use for retail sales, rentals, or the provision of services. Primary use of a Unit for purposes of this Section shall be determined by the Joint Committee.

In the case of a rental income producing Unit, if the use of the Unit changes from either primarily rental to residential (non-income producing) or primarily residential (non-income producing) to rental, then the Owner shall pay a 1% capital contribution based on the gross sales price of the Unit at the time of closing of any sale of the Unit; in such case the Owner will receive a credit against the 1% capital contribution for amounts previously collected during the period of use of the Unit as a rental property up to but not to exceed 1% of the gross sales price. Subsequent purchasers of said Unit will pay the 1% capital contribution on each subsequent sale subject to the above referenced credit. For purposes of this section, each Unit's proportionate share of gross rental income shall be deemed to inure to the Owners of each such Unit. Notwithstanding the forgoing, the assessment set forth in this section shall not apply to primary Builders of rental Units.

This capital contribution will be collected by the Joint Committee on an annual basis. The Joint Committee shall remit any such contributions collected to the Barefoot Resort Marketing Co-op for payment of marketing-related expenses incurred in marketing the Barefoot Resort community. The Joint Committee shall not be responsible for pursuing any failure to pay such contributions; however, the Barefoot Resort Marketing Co-op may enforce the lien rights of the Joint Committee solely in regard to the capital contribution provided for in this Section as to those Units for which the contributions levied pursuant to this Section are delinquent and/or have not been paid. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages on real property are foreclosed under South Carolina law. The sale or transfer of any Unit shall not affect the capital

contribution lien or relieve such Unit from the lien for any subsequent capital contributions.

The capital contribution as set forth in this section shall not apply to the Timeshare Property Owners Association or the individual timeshare units or Timeshare Plans as defined under the South Carolina Vacation Timesharing Plans Act §§27-32-10 et seq.

10.13 Utilities Assessment. The Association will provide to each Unit and levy an assessment for basic telephone services, cable television service, and intranet service provided the Association can assure the Owners that no other telephone service, cable television service, or internet service provider shall be entitled to levy any charges against the Units. The assessment will be at such a rate that is comparable to providers of similar services in the region.

ARTICLE XI
OVERALL COMMUNITY APPEARANCE: ARCHITECTURE, DESIGN
AND LANDSCAPING

11.1. Applicability. If Silver Carolina has reserved rights of architectural review and control over any portion of the Properties pursuant to any contract, deed, covenant, or other recorded instrument outside of this Declaration, then the provisions of such instrument shall control as to any matter within the scope of this Article, and approval by Silver Carolina pursuant to such instrument of any matter within the scope of this Article shall be deemed full compliance with this Article unless, and except to the extent that:

(a) Silver Carolina has assigned in writing any or all of its reserved rights under such instrument to the Architectural Review Committee established pursuant to this Article; or

(b) Silver Carolina has recorded an instrument in the Office of Register of Deeds of Horry County, South Carolina, declaring its intent that this Declaration thereafter control as to any matter within the scope of this Article.

Except as otherwise provided above, no structure shall be placed, erected, or installed upon any portion of the Properties and no improvements (including staking, clearing, excavation, grading, and other site work, exterior alteration of existing improvements, plantings or removal of landscaping materials, and construction of docks, piers, boathouses or any other similar structure) (such activities being referred to in this Article as "Work") shall take place within the Properties except in compliance with the Master Plan, this Article and the Design Guidelines, if any, promulgated pursuant to Section 11.3.

This Article shall not apply to the activities of Silver Carolina, nor shall it apply to the activities of the Association during the Class "B" Control Period.

This Article may not be amended without the written consent of Silver Carolina, so long as Silver Carolina owns any land subject to this Declaration or subject to annexation or addition to the community under this Declaration.

11.2. Architectural Review

(a) Review By Silver Carolina. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that, as the developer of the Properties and as an Owner of significant portions of the Properties as well as other real estate within the vicinity of the Properties, Silver Carolina has a substantial interest in ensuring that the improvements within the Properties enhance Silver Carolina's reputation as a high quality coastal developer and do not impair Silver Carolina's ability to market, sell, or lease its property. In addition, each Owner acknowledges that Silver Carolina has obtained federal, state, and local authorizations, certifications and permits for various aspects of the development of Barefoot Resort for the benefit of each Owner and the Nonresidential Properties. Therefore, each Owner agrees that no Work shall be commenced on such Owner's Unit unless and until Silver Carolina has given its prior written approval for such Work, which approval may be granted or withheld in Silver Carolina's sole discretion. In reviewing and acting upon any request for approval, Silver Carolina shall be acting in its own interest and shall owe no duty to any other Person, except to governmental agencies that have issued authorizations, certifications and permits to Silver Carolina for the development.

The rights reserved to Silver Carolina under this Article are or will be exercised as independent rights of Silver Carolina and not as agent or instrumentality of the Association. Furthermore, the rights reserved to Silver Carolina under this Article shall continue so long as Silver Carolina owns any portion of the Nonresidential Properties or any real property adjacent to the Properties, unless earlier terminated in a written instrument executed by Silver Carolina and recorded in the Office of Register of Deeds of Horry County, South Carolina.

(b) Architectural Review Committee. Silver Carolina may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to an architectural review committee appointed by the Association's Board of Directors (the "ARC"), subject to (i) the right of Silver Carolina to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) the right of Silver Carolina to veto any decision of the ARC which Silver Carolina determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Silver Carolina has any rights under this Article, the jurisdiction of the ARC shall be limited to such matters as are specifically delegated to it by Silver Carolina. Unless and until such time as Silver Carolina delegates all or a portion of its reserved rights, the Association shall have no jurisdiction over architectural matters; the ARC shall accept and exercise the jurisdiction so delegated in accordance with this Article.

Upon expiration or termination of Silver Carolina's rights under this Article, the Association shall assume jurisdiction over architectural matters hereunder and the Association, acting through the ARC, shall be entitled to exercise all powers previously reserved to Silver

Carolina under this Article; provided, however, in exercising the discretion previously reserved to Silver Carolina, the Association and the ARC shall act in the interest of the Association membership.

The ARC, if and when appointed, shall consist of at least three, but not more than five, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. In addition, the ARC may, with the prior approval of the Board, retain architects, engineers, or other professionals to assist in the review of any application and the Association may charge any fees incurred for such assistance to the applicant.

11.3. Design Guidelines.

(a) Option to Establish Guidelines. In efforts to provide guidance to Owners and Builders regarding matters of particular concern to Silver Carolina in considering applications for architectural approval, Silver Carolina, or to the extent that the ARC has jurisdiction hereunder, the ARC (the entity having jurisdiction at any particular time is referred to in this Article as the "reviewing entity") may but shall not be required to establish design and construction guidelines and review procedures (the "Design Guidelines") which may contain specific provisions varying according to land use and from one Parcel to another, depending upon the location, unique characteristics, and intended use of the Parcel. The Design Guidelines shall not be the exclusive basis for decisions hereunder and compliance with the Design Guidelines shall not guarantee approval of an application. Any such Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions that vary from one portion of the Properties to another depending upon the location, type of construction or use, and unique characteristics of the property, and may refer to requirements of governmental authorizations, certifications or permits. Failure to reference governmental requirements in the Design Guidelines does not affect the applicability of such requirements or the ability of the governmental agencies to enforce such requirements.

(b) Amendment of Guidelines. Any Design Guidelines adopted pursuant to this Section shall be subject to amendment from time to time in the sole discretion of the entity adopting them. Amendments to the Design Guidelines shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no other limitations on the scope of amendments to the Design Guidelines; amendments may remove requirements previously imposed or otherwise make the Design Guidelines more or less restrictive in whole or in part.

The reviewing entity shall make copies of the Design Guidelines, if any, available to Owners, Builders, and developers who seek to engage in development or construction within the Properties, and may charge a reasonable fee to cover its printing costs.

11.4. Design Procedures.

(a) Review by Silver Carolina. Prior to commencing any Work within the scope of Section 11.1, an application for approval of such Work shall be submitted to Silver-Carolina, and such application shall be in conformance with the requirements of any contract, governmental requirements, or additional covenants or restrictions applicable to the Unit or Parcel. In the event architectural guidelines or review procedures have not been set forth in such contract or additional covenants or restrictions, the review procedures set forth below in Section 11.4(b) shall apply to reviews performed by Silver Carolina.

(b) Review by ARC. If Silver Carolina has delegated all or a portion of its reserved rights under this Article to the ARC, the following shall apply to reviews performed by the ARC:

(i) Application. Prior to commencing any Work within the scope of Section 11.1, an application for approval of such work shall be submitted to the ARC. The application shall include plans and specifications ("Plans") showing the site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefor, and other features of the proposed construction, as required by the Design Guidelines and governmental requirements as applicable. The ARC may require the submission of such additional information as it deems necessary to consider any application. Additionally, the ARC may require a reasonable Review Fee, as discussed below, upon submission of plans to the ARC.

The ARC may consider (but shall not be restricted to consideration of) visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, location in relation to surrounding structures and plant life, compliance with the general intent of the Design Guidelines, and architectural merit. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The ARC shall, within thirty (30) days after receipt of each submission of the Plans, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of either (A) the approval of Plans, or (B) the disapproval of such Plans, specifying the segments or features of the Plans which are objectionable and suggestions, if any, for the curing of such objections. If the ARC fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, the applicant may give the ARC written notice of such failure to respond, stating that unless the ARC responds within ten (10) days of receipt of such notice, approval shall be deemed granted and, upon such further failure, approval shall be deemed to have been given, subject to the right of Silver Carolina to veto approvals by the ARC as set forth in this Section and subject to compliance with governmental agencies. However, no approval, whether expressly

granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines or governmental requirements, if any, unless a variance has been granted in writing pursuant to Section 11.4(iii) or to applicable government procedure. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and notice shall be deemed to have been given at the time of delivery.

Within three (3) business days after the ARC has approved any application relating to proposed Work within the scope of matters delegated to the ARC by Silver Carolina, the ARC shall give written notice to Silver Carolina of such action, together with such other information as Silver Carolina may require. Silver Carolina shall have ten (10) days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC and the applicant. Upon the expiration of this 10 day period and before construction begins the ARC may require a Builder's Bond, in an amount as determined by the sole discretion of the ARC, which is refundable upon receiving the Certificate of Compliance discussed in (a) below.

If construction does not commence on any Work for which approval has been granted within 6 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to re-submit the Plans for reconsideration prior to commencing such Work. All Work shall be completed within two years of commencement or such other period as may be specified in the notice of approval, unless completion is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the ARC.

(a) Certificate of Compliance. To ensure that ARC guidelines and procedures are complied with, an inspection will be performed by the ARC, if created, of the subject property prior to any sale, resale, refinancing or other transfer of ownership and all violations will be noted and forwarded to the closing attorney. A reasonable fee may be charged for each such inspection. However, such inspection and notice may not be relied upon for compliance with governmental requirements.

(b) Review Fees/Builders Bond. As authorized above, a Review Fee will be charged, in an amount determined solely by the ARC, upon the submission of plans to the ARC (this provision includes both Residential & Nonresidential/Commercial Development Plans). Additionally, during construction, the ARC may require the builders and/or owners to submit a Builders Bond, as discussed above, to ensure ARC compliance, document compliance, site cleanliness and landscape installation and for any other reason as determined in the sole discretion of the ARC. After the initial construction of the unit but before any transfer of ownership of any Unit, any Builder's Bond balance due the owner(s) and/or builder(s) will be refunded only after the Certificate of Compliance has been issued.

(ii) No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications under this Section will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not

always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be too late to require changes to the improvements involved, but the ARC may refuse to approve similar proposals in the future. Approval of proposals, plans and specifications, or drawings for any Work done or proposed, or in connection with any matter requiring approval, shall not be deemed a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters whatsoever subsequently or additionally submitted for approval.

(iii) Variations. The ARC may, with prior written approval of Silver Carolina, but shall not be required to, authorize variances from compliance with any of the provisions of the Design Guidelines, if any, when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, or when architectural merit warrants such variance. Such variances shall be granted only when, in the ARC's judgment, unique circumstances exist and no Owner shall have any right to demand or obtain a variance. No variance shall (a) be effective unless in writing, (b) be contrary to this Declaration, or applicable governmental requirements, or (c) estop the ARC from denying a variance in other circumstances.

11.5. Limitation of Liability. The standards and procedures established by this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Properties but shall not create any duty to any Person. NEITHER SILVER CAROLINA NOR THE ARC SHALL BEAR ANY RESPONSIBILITY FOR ENSURING STRUCTURAL INTEGRITY OR SOUNDNESS, OR COMPLIANCE WITH BUILDING CODES AND OTHER GOVERNMENTAL REQUIREMENTS, OR ENSURING THAT STRUCTURES ON UNITS ARE LOCATED SO AS TO AVOID IMPAIRING VIEWS FROM OR OTHER NEGATIVE IMPACT ON NEIGHBORING UNITS. NO REPRESENTATION IS MADE THAT ALL STRUCTURES AND IMPROVEMENTS CONSTRUCTED WITHIN THE PROPERTIES ARE OR WILL BE OF COMPARABLE QUALITY, VALUE, SIZE, OR DESIGN. NEITHER SILVER CAROLINA, THE ASSOCIATION, THE BOARD, THE ARC, NOR ANY MEMBER OF ANY OF THE FOREGOING SHALL BE HELD LIABLE FOR SOIL CONDITIONS, DRAINAGE PROBLEMS, OR OTHER GENERAL SITE WORK, NOR FOR DEFECTS IN ANY PLANS OR SPECIFICATIONS SUBMITTED, NOR FOR ANY STRUCTURAL OR OTHER DEFECTS IN WORK DONE ACCORDING TO APPROVED PLANS, NOR FOR ANY INJURY, DAMAGES, OR LOSS ARISING OUT OF THE MANNER, DESIGN, OR QUALITY OF APPROVED CONSTRUCTION ON OR MODIFICATIONS TO ANY UNIT.

11.6. Enforcement. Any Work performed in violation of this Article or in a manner inconsistent with the approved Plans or government regulations shall be deemed to be nonconforming. Upon written request from Silver Carolina, the Association, the Board, or the ARC, Owners shall, at their own cost and expense, remove any nonconforming structure or improvement and restore the property to substantially the same condition as existed prior to construction of the nonconforming Work or conform the property, structure or improvement to

the approved Plans. Should an Owner fail to remove and restore as required, Silver Carolina, the Board, or their designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed, and any such action shall not be deemed a trespass. Upon demand, the Owner shall reimburse all costs incurred by any of the foregoing in exercising its rights under this Section. The Association may assess any costs incurred in taking enforcement action under this Section, together with interest at the maximum rate then allowed by law, against the benefited Unit as a Specific Assessment.

Silver Carolina and the Association, acting separately or jointly, may preclude any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article, applicable governmental regulations, and the Design Guidelines, if any, from continuing or performing any further activities in the Properties, subject to the notice and hearing procedures contained in the By-Laws. Neither Silver Carolina, the Association, nor their officers, directors, or agents shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association and Silver Carolina shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the reviewing entities under this Article.

If the Association fails to take enforcement action within 30 days after receipt of a written demand from Silver Carolina identifying the violator and specifying the nature of the violation, then the Association shall reimburse Silver Carolina for any and all costs reasonably incurred by Silver Carolina in taking enforcement action with respect to such violation if, in its sole discretion, any enforcement action is taken.

ARTICLE XII

COMMUNITY ACTIVITIES: USE RESTRICTIONS AND RULES

[FOR THE INITIAL USE RESTRICTIONS AND RULES AFFECTING THE PROPERTIES, PLEASE REFERENCE EXHIBIT "D," ATTACHED HERETO AND INCORPORATED FULLY BY REFERENCE HEREIN, AS IT MAY HEREAFTER BE AMENDED TO THE EXTENT PROVIDED FOR AND ALLOWED HEREIN OR BY APPLICABLE LAW.]

12.1. Regulatory Overview. Silver Carolina has established a general plan of development for the Nonresidential Properties and Residential Properties as part of a master planned community designed to embody the essence of high quality coastal businesses, which nevertheless affords the Board and the Members the opportunity and the ability to respond to changes in circumstances, conditions, needs, and desires within the community and to regulate and control the Area of Common Responsibility. The Nonresidential Properties are subject to the land development, architectural, and design provisions set forth in Article XI, the other provisions of this Declaration governing individual conduct and uses of and actions upon the Nonresidential Properties, and the guidelines, rules, and restrictions promulgated pursuant to this Article, all of which establish affirmative and negative covenants, easements, and

restrictions on the Nonresidential Properties.

ALL PROVISIONS OF THE GOVERNING DOCUMENTS (AS DEFINED IN SECTION 16.2), INCLUDING THE USE RESTRICTIONS AND RULES, SHALL APPLY TO ALL OWNERS, TENANTS, OCCUPANTS, GUESTS, AND INVITEES OF ANY UNIT. EACH OWNER SHALL BE RESPONSIBLE FOR INSERTING A PROVISION IN ANY LEASE OF ITS UNIT INFORMING THE LESSEE AND ALL OCCUPANTS OF THE UNIT OF THE GOVERNING DOCUMENTS AND ALL USE RESTRICTIONS AND RULES AFFECTING THE UNIT, THE COMMON AREA, OR THE EXCLUSIVE COMMON AREA; HOWEVER, FAILURE TO INCLUDE SUCH A PROVISION IN THE LEASE SHALL NOT RELIEVE ANY PERSON OF RESPONSIBILITY FOR COMPLYING WITH THE GOVERNING DOCUMENTS.

12.2. Authority to Issue Restrictions and Rules. As referenced above in this Article, the Initial use restrictions applicable to all of the Nonresidential Properties are attached as Exhibit "D" to this Declaration. Subject to the terms of this Article, such initial use restrictions may be modified in whole or in part and repealed or expanded, as follows:

(a) Subject to its duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the initial Use restrictions set forth on Exhibit "D." The Board shall conspicuously publish notice (which specifically includes but is not limited to posting notice at the entrance to Barefoot Resort) of any such proposed action at least 30 business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Any rule adopted by the Board shall become effective 30 days thereafter unless disapproved at a meeting by Members representing at least 51% of the total Class "A" votes in the Association and by the Class "B" Member, if any. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon petition of the Members as required for special meetings in the By-Laws.

(b) The Members, at a meeting duly called for such purpose as provided in By-Laws Section 2.4, may adopt rules which modify, cancel, limit, create exceptions to, or expand use restrictions and rules previously adopted by a vote of at least 51% of the total Class "A" votes in the Association and the approval of the Class "B" Member, if any.

(c) At least twenty (20) days prior to the effective date of any action taken under subsections (a) or (b) of this Section, the Board shall send a copy of the rule to each Owner. The Association shall provide, without cost, a copy of the Use Restrictions and Rules to any requesting Member or Mortgagee.

(d) The Use Restrictions and Rules may vary by Parcel and by Village. The Association shall provide, without cost, a copy of the Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

Notwithstanding the above, after termination of the Class "B" Membership, no amendment to or modification of any Use Restrictions and Rules shall be effective without prior notice to and the written approval of Silver Carolina, so long as Silver Carolina owns any portion of the property described on Exhibits "A" or "B," or any additional property made subject to this Declaration by Supplemental Declaration.

(e) Nothing in this Article shall authorize the Board or the Members to modify, repeal, or expand the Design Guidelines, which may be modified only as provided in Article XI. All matters of architectural control and aesthetics shall be governed by the Design Guidelines.

12.3. Owners' Acknowledgment and Notice To Purchasers. All Owners and occupants of Units are given notice that use of their Units is limited by the Use Restrictions and Rules, as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of its property may be affected by this provision and that the Use Restrictions and Rules may change from time to time.

12.4. Protection of Owners and Others. Except as may be specifically set forth in this Declaration (either initially or by amendment) or in Exhibit "D," neither the Board nor the Members may adopt any rule in violation of the following provisions:

(a) Equal Treatment. Similarly situated Owners and occupants shall be treated similarly; provided, the Use Restrictions and Rules may vary from one portion of the Nonresidential Properties to another depending upon allowable uses.

(b) Signs and Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations on their Units shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions (including design criteria) for the purpose of minimizing damage and disturbance to other Owners and occupants. No rules shall regulate the content of political signs; however, rules may reasonably regulate the time, place and manner (including design criteria) of posting or displaying such signs.

(c) Activities Within Unit. No rule shall interfere with the activities carried on within the confines of structures on Units, except that the Association may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants or invitees of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Unit, or that create an unreasonable source of annoyance.

(d) Allocation of Burdens and Benefits. The initial allocation of financial burdens and rights to use Common Areas among the various Units shall not be changed to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Areas available,

complying with governmental requirements, from adopting generally applicable rules for use of Common Areas, or from denying use privileges to those who abuse the Common Area, violate rules or this Declaration, or fail to pay assessments; provided, no Owner or occupant of a Unit shall be deprived of access to public streets or utilities which were available to the Unit prior to such action by the Association. This provision does not affect the right to increase the amount of assessments as provided in Article X.

(e) Alienation. No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit. The Association shall not impose any fee on transfer of any Unit greater than an amount reasonably based on the administrative costs to the Association of the transfer; however, this provision shall not preclude imposition of transfer or similar fees for the benefit of the Association or other entities pursuant to other recorded covenants. The Association shall not impose any transfer or administrative fees or costs on the sale or transfer of a timeshare interest or timeshare plan.

(f) Rights to Develop. No rule or action by the Association or Board shall impede Silver Carolina's right to develop or add to the Nonresidential Properties.

(g) Abridging Existing Rights. If any rule would otherwise require Owners or occupants of Units to dispose of personal property which they maintained in or on the Unit prior to the effective date of such rule, and in compliance with all rules in force at that time, such rule shall not apply to any such Owners without their written consent unless the rule was in effect at the time such Owners or occupants acquired their interest in the Unit.

The foregoing limitations in (a) through (g) shall apply to new rules only; nothing herein shall invalidate rules set forth initially on Exhibit "D" nor be construed as a limitation on amendments to this Declaration pursuant to Section 17.2.

ARTICLE XIII EASEMENTS

13.1. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units, necessary due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered on a Unit or the Common Area (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary between each Unit and the adjacent portion of the Common Areas or as between said adjacent Units, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Association. No reciprocal appurtenant easements of encroachment for maintenance and use of any permitted easement may be used in violation of any governmental requirement.

13.2. Easements for Utilities. There are hereby reserved to Silver Carolina, so long

as Silver Carolina owns any property described on Exhibits "A" or "B" or any additional property made subject to this Declaration by Supplemental Declaration, and to the Association, and the designees of each (including without limitation, Horry County, South Carolina, and any utility): (a) a non-exclusive easement upon, across, over, and under all of the Properties (but not through a structure) for the purpose of, ingress, egress, installation, monitoring, replacing, constructing, repairing, and maintaining cable television systems, master television antenna systems, telephone, voice, video, entertainment, security or other devices for sending or receiving data and/or other electronic signals and any similar systems used for various purposes including any transmission of intelligence; walkways; drainage systems; street lights; signage; and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity; for the purpose of altering drainage and water flow across the Properties; and otherwise as may be necessary, in the sole discretion of Silver Carolina or the Association, for the performance of the Association's maintenance responsibilities under this Declaration; and (b) the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Silver Carolina, in connection with the orderly development of any property described on Exhibits "A" or "B" or any additional property made subject to this Declaration by Supplemental Declaration. Silver Carolina hereby grants to the Association the right of access to Common Areas or such other areas as Silver Carolina may designate from time to time as a designee for any or all of such easements reserved hereby. Silver Carolina and the Association, as appropriate, may designate any public utility as an agent under these easements for the purpose of installing, maintaining or repairing any such utilities and systems.

The Owner of any property to be burdened by any easement granted pursuant to this Section shall be given written notice in advance of the grant. The location of any easement granted pursuant to this Section shall be subject to the written approval of the owner of the property burdened by that easement, which approval shall not be unreasonably withheld, delayed or conditioned. Upon the grant of any easement pursuant to this Section, the grantee shall (a) cause all work associated with that easement to be performed with the least possible interference to the use and enjoyment of the property burdened by that easement; and (b) upon completion of all work associated with that easement, cause the property burdened by that easement to be restored, to the extent reasonably possible, to its condition prior to the commencement of the work.

This easement shall not entitle the holders or agents to construct or install any of the foregoing systems, facilities, or utilities over, under, or through any protected area or any existing dwelling (whether complete or under construction or renovation) on a Unit, and any damage to a protected area or Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after notice to the Owner or occupant.

Silver Carolina specifically grants to the utilities supplying water, electricity, cable, telephone (or similar electronic services), and natural gas services in or under agreements or easements granted therefore, easements across the Properties for ingress, egress, installation,

reading, replacing, repairing, and maintaining such utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the dwelling or structures on any Unit, nor shall any utilities be installed or relocated on the Properties except as approved by the Board or Silver Carolina and in conformance with the Community-Wide Standards and governmental requirements.

Notwithstanding anything to the contrary contained in this Section, no above ground sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties except as (a) may be approved by Silver Carolina, as long as it has the unilateral right to subject additional property to this Declaration, or the Board of Directors of the Association after the expiration of such rights; or (b) may be constructed as a part of the original development and/or sale by Silver Carolina; or (c) may be permitted by the terms of ~~any instrument affecting the~~ Properties and recorded prior to the recording of this Declaration.

The easements provided for in this Section shall in no way adversely affect any other recorded easement on the Properties, nor shall they be exercised in any manner which materially restricts or interferes with the use and development of the Units.

13.3. Easements for Lake and Pond Maintenance and Flood Water. Silver Carolina reserves for itself and its successors, assigns, and designees the non-exclusive right and easement, but not the obligation, to enter upon the lakes, ponds, wetlands, and streams and wetlands buffers, if any located within the Area of Common Responsibility (a) to install, keep, maintain, and replace pipes and pumps thereon in order to provide water, including treated effluent approved for land application, for the irrigation of any of the Area of Common Responsibility and the Golf Courses, (b) to construct, maintain, and repair any swale, landscaping, bulkhead, wall, dam, or other structure retaining or managing water therein, and (c) to remove trash and other debris therefrom and fulfill its maintenance responsibility as provided in this Declaration or any governmental requirement.

Silver Carolina's rights and easements provided in this Section shall be transferred to the Association at such time as Silver Carolina shall cease to own property subject to the Declaration, or such earlier time as Silver Carolina may decide, in its sole discretion, and transfer such rights by a written instrument. Silver Carolina and the Association shall have an easement over and across any of the Properties abutting or containing any portion of any of the lakes, ponds, or streams for the purpose of allowing Silver Carolina to exercise its rights and responsibilities as herein and otherwise set forth; provided, however, Silver Carolina, its designees, and the Association shall use reasonable care in the exercise of such easement and shall repair any damage caused in the exercise of such easement.

There is further reserved herein and hereby granted, for the benefit of Silver Carolina and the Association, a perpetual, non-exclusive right and easement of access and encroachment over Common Areas and Units (but not the structures thereon) adjacent to or within 50 feet of lakes, ponds, wetlands, wetlands buffers, and streams within the Properties, in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Properties; (b) to fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the

lakes, ponds, streams, and manage in their natural state the wetlands and wetlands buffers within the Area of Common Responsibility; (c) to maintain and landscape the slopes and banks pertaining to such lakes, ponds, and streams; and (d) to enter upon and across such portions of the Properties to the extent reasonably necessary for the purpose of exercising its or their rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Silver Carolina or any other Person liable for damage resulting from flooding due to; (i) any reasonable exercise of the rights herein reserved and granted, including the right to take no action, or; (ii) due to hurricanes, storms, heavy rainfall, natural disasters, or; (iii) the actions of any other Person whether such action be on or off of the Properties.

13.4. Easements to Serve Additional Property. Silver Carolina hereby reserves for itself and its duly authorized agents, representatives, successors, successors-in-title, assigns, licensees and mortgagees, a perpetual nonexclusive easement over the Common Areas for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes but is not limited to a right of ingress and egress over the Common Areas for construction of roads and for tying in and installation of utilities and services on such property. Silver Carolina agrees that it, and/or its successors or assigns, shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic connected with development of such property. Silver Carolina further agrees that if the easement is exercised for permanent access to the such property and such property or any portion thereof is not made subject to this Declaration, Silver Carolina, its successors, or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any private roadway serving such property.

13.5. Easements for Golf Courses.

(a) Every Unit and the Common Area and the common property of any Parcel Association are burdened with an easement permitting golf balls unintentionally to come upon such Common Area, Units, or common property of a Parcel and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Parcel, or the exterior portions of a Unit to retrieve errant golf balls; provided, however, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry.

The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: Silver Carolina as such; the Association or its Members (in their capacity as such); Silver Carolina Development Company, its successors, successors-in-title to the Golf Courses, Barefoot Resort Golf Club, LLC, The Dye Course at Barefoot Resort, LLC, or assigns or operators or lessees of any Golf Course or function or event; any Builder or contractor (in their capacities as such); any officer, director, or partner of any of the foregoing, or any officer or director of any partner thereof.

(b) The owners of the Golf Courses, their respective agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair and replacement of their respective Golf Courses.

(c) The Properties immediately adjacent to the Golf Courses are hereby burdened with a non-exclusive easement in favor of the adjacent Golf Courses for overspray of water from the irrigation system serving the Golf Courses. Under no circumstances shall the Association or the owners of the Golf Courses be held liable for any damage or injury resulting from such overspray or the exercise of this easement unless such party(ies) are shown to be negligent or grossly negligent with respect to such overspray of water.

(d) The owners of the Golf Courses, their respective successors and assigns, shall have a perpetual, exclusive easement of access over the Properties for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from their respective golf courses.

13.6. Easement for Maintenance, Emergency, and Enforcement. Silver Carolina, the Association, and their respective designees shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to this Declaration, and to inspect for the purpose of ensuring compliance with the Governing Documents, including but not limited to this Declaration, the By-Laws, and the Use Rules and Restrictions; which right may be exercised by any member of the Board, the Association and/or any of their officers, manager, agent, or employees acting with the permission of the Board, and all police, fire, and similar emergency personnel in the performance of their duties.

Except in an emergency situation, entry into any portion of a Unit not generally open to the public shall only be authorized during reasonable hours and after receipt of the Owner's or occupant's consent. This right of entry shall include the right of the Association to enter upon a Unit to perform maintenance or cure any condition which may increase the possibility of a fire or other hazard, if the Owner fails or refuses to perform such maintenance or cure such condition within a reasonable time after requested to do so by the Board.

13.7. Easement for Special Events. Silver Carolina hereby reserves for itself, its successors, assigns, and designees, a perpetual, non-exclusive easement over the Common Areas for the purpose of conducting special events including but not limited to parades, fairs, carnivals, and festivals, running, biking, boating, fishing or other sporting events or shows, educational, cultural, artistic, musical and entertainment activities and other activities of general community interest at such locations and times as Silver Carolina, in its sole discretion, deems appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Unit, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the occupants of its Unit to take no action, legal or otherwise, which would interfere with the exercise of such easement. Neither the Association

nor the Joint Committee shall take any action which would interfere with or otherwise attempt to restrict the exercise of this easement.

13.8. Easement for Use of Private Streets. Silver Carolina hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the private streets within the Common Area, for law enforcement, fire fighting, paramedic, rescue and other emergency vehicles, equipment and personnel; for local, state and federal agency representatives exercising any duty in their official capacities; for school buses; for U.S. Postal Service delivery vehicles and personnel; for private delivery and courier services; and for vehicles, equipment, and personnel providing garbage collection and recycling services to the Properties; provided, such easement shall not authorize any Persons to enter the Properties except while acting in their official capacities.

13.9. Easements for Stormwater Drainage and Retention. Each portion of the Properties is hereby subjected to a non-exclusive easement appurtenant to and for the benefit of each other portion of the Properties for the purpose of stormwater management drainage and runoff in accordance with the master drainage plan and specific stormwater management plans established by Silver Carolina's project engineer for the Planned Unit Development, and approved by the applicable governmental authorities, which easement shall include, but shall not be limited to, the right to tie in to existing stormwater management facilities and to divert stormwater runoff from each Unit into such stormwater management facilities at such points and in such manner as approved by Silver Carolina and subject to the governmental requirements and authorizations, and for the flow of stormwater runoff over the Properties to such points and from such points through the stormwater management facilities into wetlands buffers, wetlands, ponds, ditches, infiltration systems or other retention or detention facilities within or outside the Properties. The foregoing easements shall be subject to any and all restrictions regarding quantity, rate, and quality of discharge which Silver Carolina may hereafter impose or which may be imposed on the Properties, Silver Carolina, or any Owner by any governmental entity having jurisdiction.

ARTICLE XIV

RIGHTS OF SILVER CAROLINA

14.1. Transfer or Assignment of Silver Carolina's Rights. Any or all of the special rights and obligations of Silver Carolina reserved in this Declaration or the By-Laws may be transferred or assigned in whole or in part to other Persons, provided that the transfer or assignment shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the By-Laws, and provided further, no such transfer or assignment shall be effective unless it is in a written instrument signed by Silver Carolina and duly recorded in the Office of Register of Deeds of Horry County, South Carolina. The foregoing sentence shall not preclude Silver Carolina from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Silver Carolina in this Declaration where Silver Carolina does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Silver Carolina's consent to such exercise.

14.2. Right to Use Common Area. Silver Carolina and its designees may construct, maintain, and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Silver Carolina, may be required, convenient, or incidental to the construction or sale of Units, including, but not limited to, maintenance of business offices, signs, model units, and sales offices. Silver Carolina and its designees shall have an easement ~~for access~~ to such facilities. If Silver Carolina's use under this Section results in additional costs to the Association, Silver Carolina shall reimburse the Association for such costs, but Silver Carolina shall not be obligated to pay any use fees, rent, or similar charges for its use of Common Areas pursuant to this Section.

Silver Carolina and its employees, agents, and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

14.3. Right to Approve Additional Covenants. No Person shall record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Silver Carolina's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by recorded consent signed by Silver Carolina.

14.4. Right to Approve Changes in Community Standards. Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any Use Restrictions and Rules or Design Guidelines shall be effective without prior notice to and the written approval of Silver Carolina so long as Silver Carolina owns any property which is or may become subject to this Declaration or any supplement thereto pursuant to the terms hereof.

14.5. Exclusive Right to Use the Name of the Development. No person shall use the words "Barefoot Resort" or "Barefoot Landing" or any derivative thereof in the name of any building or any business or enterprise or in any printed or promotional material without Silver Carolina's prior written consent. However, Owners may use the terms "Barefoot Resort" in printed or promotional matter solely to specify that particular property is located within Barefoot Resort, and the Association, the Residential Association, and the Joint Committee shall be entitled to use the word "Barefoot Resort" in their names.

14.6. Amendment and Termination of Rights. This Article may not be amended without the written consent of Silver Carolina so long as Silver Carolina has any rights hereunder. The rights conferred upon Silver Carolina as contained in this Article shall terminate upon the earlier of (a) 75 years from the date this Declaration is recorded, or (b) upon recording by Silver Carolina of a written statement that all sales activity has ceased.

ARTICLE XV GOLF COURSES

15.1. Ownership and Operation of Golf Courses. All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Silver Carolina or any other Person with regard to the continuing existence, ownership, or operation of the Golf Courses, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment to this Declaration executed or joined into by Silver Carolina. Further, the ownership and/or operation of the Golf Courses may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations of one or more of the Golf Courses by an independent entity or entities; (b) the creation or conversion of the ownership and/or operating structure of the Golf Courses to an "equity" club or similar arrangement whereby the Golf Courses or the rights to operate it are transferred to an entity which is owned or controlled by its members; or (c) the transfer of ownership or control of the Golf Courses to one or more affiliates, shareholders, employees, or independent contractors of Silver Carolina. No consent of the Association, any Parcel Association, or any Owner shall be required to effectuate such transfer or conversion.

15.2. Right to Use. Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use the Golf Courses. Rights to use the Golf Courses will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the respective owner(s) of the Golf Courses. The owner(s) of the Golf Courses shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Golf Courses, including, without limitation, eligibility for and duration of use rights, categories of use, extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the provisions of any outstanding membership documents, or the rights of any third parties granted by an owner of a Golf Course through covenants of record that restrict the property upon which such Golf Course is situated.

15.3. View Impairment. Neither Silver Carolina, the Association, nor the owners or operators of the Golf Courses guarantee or represent that any view over and across the Golf Courses from adjacent Units will be preserved without impairment. The owners of the Golf Courses, if any, shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to their respective Golf Courses from time to time. In addition, the owners of the Golf Courses may, in their sole and absolute discretion, change the location, configuration, size, and elevation of the tees, bunkers, fairways, and greens and any infrastructure supporting such areas on their respective Golf Courses from time to time. Any such additions or changes to the Golf Courses may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

15.4. Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the owner(s) of the Golf Courses, no amendment to this Article, and no amendment in derogation of any rights reserved or granted to the owners of the Golf Courses by other provisions of this Declaration, may be made without the written

approval of the owner(s) of the affected Golf Courses. The limitations of this Section 15.4 shall not apply, however, to amendments made by Silver Carolina.

15.5. Jurisdiction and Cooperation. It is Silver Carolina's intention that the Association and the owners of the Golf Courses shall cooperate to the maximum extent possible in the operation of the Properties and the Golf Courses. Each shall reasonably assist the other in upholding the Community-Wide Standard. The Association shall have no power to promulgate rules and regulations affecting activities on or use of the Golf Courses.

ARTICLE XVI DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

16.1. Litigation.

(a) Agreement to Avoid Litigation. Silver Carolina, the Association, its officers, directors, and committee members, all Persons subject to this Declaration and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, in order to avoid the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances, or disputes described in Sections 16.2 ("Claims") shall be resolved using the procedures set forth in Section 16.3 in lieu of filing suit in any court.

(b) Commencement of Litigation. After termination of the Class "B" membership, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of Members holding 75% of the total Class "A" vote in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration, (b) the imposition and collection of assessments, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by Silver Carolina or is approved by the percentage votes, and pursuant to the same procedures necessary to institute proceedings as provided above. This provision shall apply in addition to the provisions of Article XVI, if applicable.

16.2. Claims. Unless specifically exempted herein or by applicable law, all claims, grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of the Declaration, any Supplemental Declaration, the By-Laws, the Articles, the Design Guidelines, if any, the Use Rules and Restrictions, or the Joint Committee By-Laws (collectively with other similar documents, the "Governing Documents"), or the rights, obligations, and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 16.3.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 16.3:

(a) any suit by the Association against any Bound Party to enforce the provisions of Article X (Assessments);

(b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article XI (Architectural Standards) and Article XII (Use Restrictions and Rules);

(c) any suit between Owners, which does not include Silver Carolina or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(d) any suit in which any indispensable party is not a Bound Party; and

(e) any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, however, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 16.3.

16.3. Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Litigants") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

(i) the nature of the Claim, and Respondent's role in the Claim, including the Persons involved and Respondent's role in the Claim;

(ii) the legal bases of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) Claimant's proposed remedy; and

(iv) that Claimant will meet with Respondent in good faith to discuss ways to resolve the Claim amicably.

(b) Negotiation and Mediation.

(i) The Litigants shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Litigants in resolving the dispute by negotiation.

(ii) If the Litigants do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Litigants) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to an agreed upon, independent agency or party providing dispute resolution services in the North Myrtle Beach, Horry County, South Carolina area.

(iii) If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator, preferably during, or at the conclusion of, the mediation. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Litigants are at an impasse and the date that mediation was terminated.

(v) Within five days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

(i) If the Litigants do not resolve the Claim through mediation, the Claimant shall have 30 days following Termination of Mediation to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "E" and the South Carolina Uniform Arbitration Act found at S.C. Code Ann. § 15-48-10, et seq., (the "Arbitration Act") or the Claim shall be deemed abandoned, and the Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge the Respondent from any liability to Persons not a Litigant to the foregoing proceedings. To the extent that Rules set forth in Exhibit "E" are inconsistent with the Arbitration Act, the Arbitration Act will apply.

(ii) Unless the Litigants agree in writing to be bound by the arbitrator's decision (the "Award") prior to the commencement of arbitration proceedings, any Litigant shall be free to reject the Award within 30 days thereafter by written notice to each Litigant and to sue in any court of competent jurisdiction or initiate proceedings before any appropriate administrative tribunal. Failure to reject the Award within 30 days shall be deemed an

acceptance of the Award and it shall thereupon become final and binding and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of South Carolina.

16.4: Allocation of Costs of Resolving Claims.

(a) Subject to Section 16.4(b), each Litigant shall bear its own costs, including any attorneys' fees incurred, and each Litigant shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

(c) If any of the Litigants rejects the Award and any non-rejecting Litigant pursues a judicial resolution under Section 16.3(c)(2), and the final judgment is either the same as the Award or more advantageous to any non-rejecting Litigant, each such non-rejecting Litigant shall be entitled to recover its Post Mediation Costs from the rejecting Litigant. If there is more than one rejecting Litigant, such non-rejecting Litigant's Post Mediation Costs shall be allocated pro rata among all rejecting Litigants.

16.5. Enforcement of Resolution. After resolution of any Claim, if any Litigant fails to abide by the terms of any agreement or Award, then any other Litigant may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 16.3. In such event, the Litigant taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Litigant (or if more than one non-complying Litigant, from all such Litigants pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

ARTICLE XVII
GENERAL PROVISIONS

17.1. Duration.

(a) Unless terminated as provided in Section 17.1(b), this Declaration shall have perpetual duration. If South Carolina law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each, unless terminated as provided below.

(b) Unless otherwise required by South Carolina law, this Declaration may not be

terminated within the first 30 years after the date of recording except by an instrument signed by Owners of 90% of the total acreage within the Properties and by Silver Carolina, if Silver Carolina owns any portion of the Properties. After the thirtieth anniversary of the date of recording, termination may be accomplished by an instrument signed by Owners of at least 80% of the total acreage within the Properties and by Silver Carolina, if Silver Carolina owns any portion of the Properties. Any such instrument shall set forth the intent to terminate this Declaration and shall be recorded in the Office of Register of Deeds of Horry County, South Carolina. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

17.2. Amendment.

(a) By Silver Carolina. Until termination of the Class "B" Control Period, Silver Carolina may unilaterally amend this Declaration for any purpose, with the consent of the holder of the First Mortgage and of Carolina First and except as may be expressly set forth otherwise in any Supplemental Declaration of any Timeshare Property Owners' Association, which Supplemental Declaration is fully approved by Silver Carolina, with the consent of the holder of the First Mortgage and, if such property described in such Supplemental Declaration is encumbered by the Carolina First Mortgages, by Carolina First. Thereafter, Silver Carolina may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which is in conflict therewith; (ii) to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Properties; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. So long as Silver Carolina still owns property described in Exhibits "A" or "B," or any additional property made subject to this Declaration by Supplemental Declaration, for development as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner. Notwithstanding the foregoing, to the extent that Sections within this Declaration pertain to ownership and maintenance of common areas they may not be amended in such a way as to allow a change in use from common area to another use without the written approval of the City of North Myrtle Beach.

(b) By Owners. Except as provided above and otherwise specifically provided elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners representing 51% of the total Class "A" vote in the Association and the consent of the Class "B" Member, if any. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to this Declaration

shall become effective upon recordation in the Office of Register of Deeds of Horry County, South Carolina, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the owner and a third party will affect the validity of such amendment.

No amendment may directly or indirectly remove, revoke, or modify the status of, or any right or privilege of, the Joint Committee, Silver Carolina, or the Class "B" Member without the written consent of the Joint Committee, Silver Carolina, or the Class "B" Member, respectively (or the assignee of such right or privilege).

17.3. Severability. The provisions of this Declaration shall be severable. The unenforceability, of any provision in this Declaration shall not affect the validity of the remaining provisions, unless either party should determine in its sole and complete discretion that such term or provision materially or adversely affects the benefit of its bargain under this Declaration in which case said party may terminate this Declaration without further liability to the other party hereto.

17.4. Perpetuities. Notwithstanding any of the provisions herein, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue for the maximum time allowed by law, but no less than until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

17.5. Mortgagee Rights. The following provisions are for the benefit of holders, insurers, and guarantors of Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

(a) Notices of Action. Any institutional holder, insurer, or guarantor of a Mortgage who provides a written request to the Association stating its name and address and the street address of the Unit to which its Mortgage relates shall be deemed an eligible mortgage holder ("Eligible Holder") and shall be entitled to timely written notice of:

1. Any condemnation loss or any casualty loss which affects a material portion of the Properties, any portion of the Common Area or which affects any Unit on which there is a Mortgage held, insured, or guaranteed by such Eligible Holder;

2. Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days;
3. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association;
4. Any proposed action which would require the consent of a specified percentage of Eligible Holders;
5. Any meeting of the membership to be held for a vote on any material amendment to the governing documents of the Association, including the following: material amendment to this Declaration; material amendment to the Articles or Bylaws; any proposed termination of this Declaration or dissolution of the Association; any proposed merger of the Association with another association; or
6. Any extraordinary actions to be taken by the Association, or any emergency extraordinary actions taken by the Association.

(b) Additional Provisions. If any portion of the Properties is subject to a condominium form of ownership then the provisions of this Section 17.5(b) shall apply. Unless at least 67% of the Mortgagees or Voting Members representing at least 67% of the total Class "A" votes in the Association and the Class "B" Member, if any, consent, the Association shall not:

1. By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);
2. Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (actions by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding assessments for Service Areas or other similar areas shall not be subject to this provision where such action or subsequent declaration is otherwise authorized by this Declaration);
3. By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or

maintenance of Units and the Common Area (the issuance and amendment of Design Guidelines, procedures, and Use Restrictions and Rules shall not constitute a change, waiver, or abandonment within the meaning of this provision);

4. Fail to maintain insurance as required by this Declaration; or
5. Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such property.

Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

(c) Other Provisions for Mortgagees. To the extent not inconsistent with South Carolina law:

1. Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications, unless the approval is obtained of the Eligible Holders of Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.
2. Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.
3. An election to terminate the Association under any other circumstances shall require the consent of Voting Members representing at least 67% of the Class "A" votes and of Silver Carolina, so long as it owns any land subject to this Declaration, and the approval of the Eligible Holders of Mortgages on Units to which at least 67% of the votes of Units subject to a Mortgage held by an Eligible Holder appertain.

(d) Amendments to Documents. The approval of Eligible Holders of Mortgages on Units to which at least 51% of the votes of Units subject to a Mortgage held by an Eligible Holder appertain shall be required to materially amend any provisions of this Declaration, the By-Laws, or the Articles, which are for the express benefit of holders, guarantors, or insurers of Mortgages on Units.

(e) No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

(f) Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

(g) Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of its respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may record an amendment to this Article to reflect such changes.

(h) Construction of Article XVII. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or South Carolina law for any of the acts set out in this Article.

(i) Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

(j) Additional Mortgagee Rights. In addition to the foregoing, any Mortgagee shall have the following rights:

1. The right of the Mortgagees of a majority of the Units to demand professional management of the Association;
2. The right of the Mortgagees of a majority of the Units to demand an audit of the Association's financial records, not to exceed one audit per calendar year; and
3. The right of each Mortgagee to inspect Association documents and records on the same terms as the Members of the Association.

17.6. Cumulative Effect: Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Parcel Association and the Association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants, restrictions, and provisions or any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Parcel shall be subject to and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor

of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other covenants applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than set forth in this Declaration, and the Association shall have the standing and authority to enforce the same.

17.7. Ownership of Unit by Government. Silver Carolina shall have the right to exempt the United States, the State of South Carolina, Horry County, South Carolina, the City of North Myrtle Beach, South Carolina, or any related entity, as the Owner of a Unit, from any of the restrictions contained in this Declaration, the By-Laws, or rules and regulations of the Association if such exemption is legally and reasonably required by the United States, the State of South Carolina, Horry County, South Carolina, the City of North Myrtle Beach, South Carolina, or any related entity.

17.8. Compliance and Indemnification. Every Owner and occupant of any Unit shall comply with this Declaration, any Supplemental Declaration and other covenants applicable to its Unit, the Design Guidelines, By-Laws, and the rules of the Association. Subject to the terms of Article XVI, failure to comply shall be grounds for an action by the Association, the Joint Committee, or, in a proper case, by any aggrieved Unit Owner(s), to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity in addition to those enforcement powers granted to the Association in Section 4.3 and in By-Laws Section 3.23.

Each Owner shall indemnify and hold harmless the Association and the Joint Committee from any loss, damages, and expenses, including attorneys' fees, which they may incur as a result of the failure of such Owner, any occupant of such Owner's Unit, or any contractor, employee, or agent of such Owner acting within the scope of his contract, agency, or employment to comply with this Declaration, any Supplemental Declaration, or other covenants applicable to such Owner's Unit, the Design Guidelines, By-Laws, and rules of the Association.

17.9. Notice of Sale or Transfer of Title. Except in connection with the sale or transfer of any timeshare interest or timeshare plan (records of which shall be adequately maintained by the Timeshare Property Owners Association), any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

As more fully discussed in Article XI Section 11.3, a Certificate of Compliance must be completed by the ARC, along with the necessary inspection and fee, prior to any sale, resale, refinancing or other transfer of ownership and all violations will be noted and forwarded to the closing attorney. However, such inspection and notice may not be relied upon for compliance with governmental requirements.

17.10 Shared Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Maintenance; Damage and Destruction. All Owners who make use of any party structure shall share the cost of reasonable repair and maintenance of such structure equally.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners subsequently use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(c) Right to Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(d) Disputes. Any dispute concerning a party structure shall be subject to the dispute resolution procedures set forth in Article XVI.

17.11 Succession and Assignment. This Declaration shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Declaration or any of his or her or its right, interests, or obligations hereunder, except as provided herein, without the prior written approval of the Parties named herein.

17.12 Governing Law. This Declaration shall be construed and governed by the laws of South Carolina, without giving effect to the conflict of laws provisions thereof.

17.13 Non-Waiver. No waiver by either of the parties hereto of any failure by the other party to keep or perform any provision, covenant or condition of this Declaration shall be deemed to be a waiver of any preceding or succeeding breach of the same or of any other provision, covenant or condition. All rights and remedies herein granted or referred to are cumulative; resort to one shall not preclude resort to another or any other right or remedy provided by law or equity in the State.

17.14 Entire Agreement/Modification or Amendment. This Declaration along with the exhibits attached hereto, constitute the entire agreement of the parties hereto pertaining to this subject matter and supersedes all prior or contemporaneous agreements, undertakings and

understandings of the parties in connection with the subject matter hereof, and it may be modified or amended only in writing duly signed by the Parties to this Declaration. Notwithstanding the foregoing, the Parties recognize that this Declaration at all times is to be subject to applicable local, state and federal laws, rules and regulations and shall be subject to amendment in the event that such laws, rules or regulations are amended or enacted. Any provisions of law that invalidate, or otherwise are inconsistent with the terms of this Declaration or that would cause one or both of the parties to be in violation of the law, shall be deemed to have superseded the terms of this Declaration, provided, however, that the parties shall exercise their best efforts to accommodate the terms and intent of this Declaration to the greatest extent possible consistent with the requirements of law.

17.15 Notices. All notices which either party is required or may desire to give to the other under or in conjunction with this Declaration shall be in writing and shall be given by addressing the same to such other party at the address set forth below, and by depositing the same so addressed, certified mail, postage prepaid, return receipt requested, or by overnight mail or by delivering the same personally to such other party.

If to Silver Carolina Development Co., L.L.C.:

Attn: Robert S. Guyton, Esquire
4898 Highway 17 South
North Myrtle Beach, SC 29598

With a copy to: John C. Stewart, Jr., Esq.
Nelson Mullins Riley & Scarborough, LLP
Founders Centre, Suite 301
2411 North Oak Street
Post Office Box 3939 (29578-3939)
Myrtle Beach, SC 29577-3165

If to Intracoastal Development Co., LLC:-

Attn: Robert S. Guyton, Esquire
4898 Highway 17 South
North Myrtle Beach, SC 29598

With a copy to: John C. Stewart, Jr., Esq.
Nelson Mullins Riley & Scarborough, LLP
Founders Centre, Suite 301
2411 North Oak Street
Post Office Box 3939 (29578-3939)
Myrtle Beach, SC 29577-3165

If to the Association:

Attn: Robert S. Guyton, Esquire
4898 Highway 17 South
North Myrtle Beach, SC 29598

With a copy to: John C. Stewart, Jr., Esq.
Nelson Mullins Riley & Scarborough, LLP
Founders Centre, Suite 301
2411 North Oak Street
Post Office Box 3939 (29578-3939)
Myrtle Beach, SC 29577-3165

Any notice mailed shall be deemed to have been given three (3) United States Post Office delivery days following the date of mailing. Overnight mail shall be deemed to have been given on the next business day following the date of mailing. Any notice delivered in person shall be deemed effective immediately upon delivery. Either party may change the address for the service of notice upon it by written notice given to the other in the manner herein provided for the giving of notice.

17.16 Exhibits. The exhibits attached hereto constitute a part of this Declaration and are incorporated herein by reference in their entirety as if fully set forth in the Declaration at the point where first mentioned herein.

17.17 Headings. The headings of this Declaration are inserted for convenience only and are not to be considered in the construction of the provisions hereof and shall not in any way limit scope or modify the substance or context of any section of paragraph hereof.

17.18 Inclusive Words. Unless the context otherwise requires, any terms of the Declaration which indicate the neuter of any gender shall be held to include the neuter and the

other gender, as the case may be; and the words in singular shall be held and constructed to include the plural and vice versa.

17.19 Execution in Multiple Counterparts. This Declaration may be signed by each party upon a separate copy, in such case one counterpart of this Declaration shall consist of enough of such copies to reflect the signature of each party. This Declaration may be executed in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary to produce or account for more than one such counterpart.

17.20 Acknowledgment of Municipal Improvements Act of 1999. The existence and possible use of the Municipal Improvements Act of 1999 (S.C. Code Ann. § 5-37-10 et seq. (1976 as amended)) by Silver Carolina and others is hereby acknowledged in its entirety.

17.21 Joinder by Wachovia and Carolina First. Wachovia and Carolina First join in this Declaration so as to subordinate the liens of their respective mortgages on the portions of Barefoot Resort to the terms hereof. The subordinations by Wachovia and Carolina First are expressly subject to the following conditions, to the extent provided below:

(a) Any condemnation proceeds or casualty proceeds paid in respect to any property subject to any mortgage executed in favor of: (i) Wachovia by Silver Carolina with respect to the Barefoot Resort and recorded in the Office of the Register of Deeds for Horry County (the "Wachovia Mortgages"), and (ii) Carolina First by Barefoot Golf Properties Limited Partnership and Barefoot Private Golf, LLC with respect to the Barefoot Resort and recorded in the Office of the Register of Deeds for Horry County (the "Carolina First Mortgages"), will be applied against the indebtedness secured by such Wachovia Mortgages and Carolina First Mortgages pursuant to the terms of the Wachovia Mortgages and the Carolina First Mortgages, respectively.

(b) As a condition precedent to consenting to these Covenants, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged, Wachovia has required, and Silver Carolina has agreed, to collaterally assign certain rights reserved herein to Silver Carolina, pursuant to that certain Collateral Assignment of Rights, dated July ____, 2001, and recorded in the Horry County Register of Deeds on the date hereof (the "Collateral Assignment"). The terms and conditions of such Collateral Assignment are incorporated herein by reference as if fully set forth herein.

17.22 Golf Course Consent. Silver Carolina shall not make any changes pursuant to its rights herein reserved which substantially or adversely affect the drainage, water supply, maintenance or operation of the Golf Courses without the prior written consent of Carolina First and the owners of the Golf Courses.

17.23 Beach Club. It is intended that a beach club with access to the Atlantic Ocean will be constructed by the Residential Association; however, the Residential Association is not obligated to construct the club.

(a) Shuttle Service. A shuttle service to the beach will be provided from Barefoot Resort. All individuals utilizing the shuttle service shall be supplied public beach access. Those individuals with rights to use the beach club will be provided with access to the beach club facilities.


(b) Use by Nonresidential Unit Owners. Certain Owners of the Nonresidential Association may, at the option of the Residential Association, use the beach club with the approval of the Joint Committee. Such Owners shall pay an assessment fee, which will be subsequently determined.

IN WITNESS WHEREOF, this Declaration has been executed as of this ___ day of July, 2001.

DECLARANT:

SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C. a Delaware limited liability company

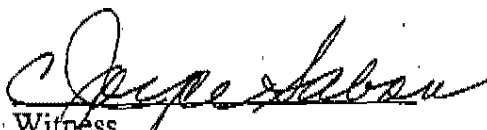
By:



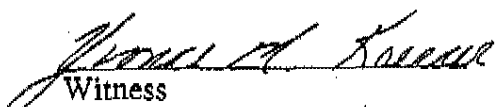
Samuel W. Puglia

Its:

Manager



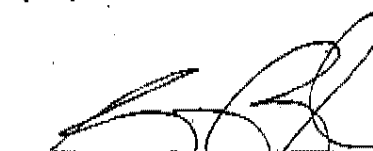
Witness



Witness

INTRACOASTAL DEVELOPMENT COMPANY, LLC, a South Carolina limited liability company

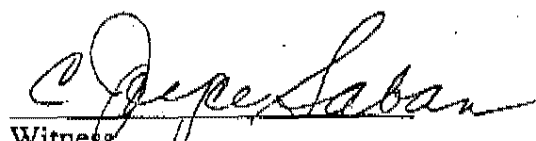
By:



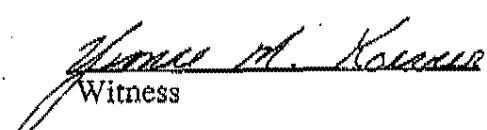
Samuel W. Puglia

Its:

Manager



Witness



Witness

ADDITIONAL PARTIES:

BAREFOOT RESORT GOLF CLUB, LLC, a South Carolina limited liability company

Witness

Witness

Witness

Witness

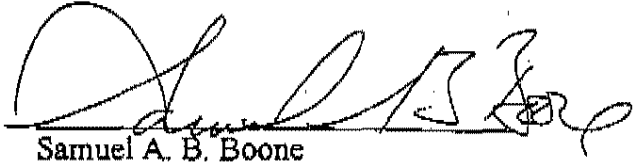
By:

Its:

~~Samuel W. Puglia
Manager~~

By:

Its:


Samuel A. B. Boone
Manager

THE DYE GOLF COURSE AT BAREFOOT
RESORT, LLC, a South Carolina limited liability
company

[Signature]
Witness

[Signature]
Witness

[Signature]
Witness

[Signature]
Witness

By: *[Signature]*
Samuel W. Pughia
Its: Manager

By: *[Signature]*
Samuel A. B. Boone,
Its: Manager

THE DYE GOLF COURSE AT BAREFOOT
RESORT, LLC, a South Carolina limited liability
company

Witness X

Witness [Signature]

Witness [Signature]

By: X
Samuel W. Puglia
Its: Manager

By: [Signature]
Samuel A. B. Boone
Its: Manager

CAROLINA FIRST BANK, successor in interest
to The Anchor Bank

By: *James H. [Signature]*
Its: Senior Vice President

Thomas M. [Signature]
Witness #1
[Signature]
Witness #2

WACHOVIA BANK, N.A.

By: Charles D. Bryant, Jr.

Its: SVP

Colleen Kennedy
Witness #1

Autumn O'Connell
Witness #2

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 24th day of July, 2001 by Samuel W. Puglia, its Manager on behalf of SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C., a Delaware limited liability company.

[Signature] (SEAL)

Notary Public for South Carolina

My Commission expires 4/28/2007

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 24th day of July, 2001 by Samuel W. Puglia, its Manager on behalf of INTRACOASTAL DEVELOPMENT COMPANY, LLC, a South Carolina limited liability company.

[Signature] (SEAL)

Notary Public for South Carolina

My Commission expires 4/28/2007

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 24th day of July, 2001 by Samuel W. Puglia, its Manager on behalf of BAREFOOT RESORT GOLF CLUB, LLC, a South Carolina limited liability company.

C. Joseph Saban (SEAL)

Notary Public for South Carolina

My Commission expires 4/28/2007

STATE OF Ky.)
)
COUNTY OF Fayette)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 13th day of July, 2001 by Samuel A. B. Boone, its Manager on behalf of BAREFOOT RESORT GOLF CLUB, LLC, a South Carolina limited liability company.

Anna-Steph Oliver (SEAL)

Notary Public for State at Large - Ky.

My Commission expires 9-14-03

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 24th day of July, 2001 by Samuel W. Puglia, its Manager on behalf of THE DYE GOLF COURSE AT BAREFOOT RESORT, LLC, a South Carolina limited liability company.

[Signature] (SEAL)

Notary Public for South Carolina

My Commission expires 4/23/2007

STATE OF Ky)
)
COUNTY OF Fayette)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 13th day of July, 2001 by Samuel A. B. Boone, its Manager on behalf of THE DYE GOLF COURSE AT BAREFOOT RESORT, LLC, a South Carolina limited liability company.

[Signature] (SEAL)

Notary Public for State at Large - Ky

My Commission expires 9-14-03

STATE OF ^{LOO} ~~TO~~ NC)
)
COUNTY OF WAKE)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 23 day of July, 2001 by

Charles D. Bryant Jr., its SVP on behalf of WACHOVIA BANK, N.A., a
duly authorized national banking association.

Linda Diane Borden (SEAL)

Notary Public for Wake County, North Carolina

My Commission expires 04-02-2002

STATE OF SOUTH CAROLINA)

COUNTY OF Horry)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 25 day of July, 2001 by James S. Watson, Jr. its Senior Vice President on behalf of CAROLINA FIRST BANK, a state banking association, successor in interest to The Anchor Bank.

Thomas H. Kerner (SEAL)
Notary Public for South Carolina

My Commission expires 02-19-08

EXHIBIT "A"**Land Initially Included In the Declaration**

The land initially included as being subject to this Declaration will be all that land designated on the Master Plan contained as an exhibit on the P.U.D. as it may be amended within the boundaries of the Master Plan's (1) "Town Center," (including all areas labeled as (Proposed) Town Center, Future Commercial Development and (Proposed Hotel)) and specifically including, without limitation, the areas designated as the Sales Center, Public Facilities (Police/Fire/Rescue), Convenience Store, Temporary Office, Temporary Parking and Office Building; (2) the "Dye Course Lodge"; and (3) excluding any properties referenced on Exhibit "B", which included property is more fully described as:

ALL AND SINGULAR those certain pieces, parcels, or tracts of land shown and designated as areas "2", "3", "4", "5", "6" and "57" on Drawing Numbers 4 and 5 of a plat entitled "Barefoot Resort Final Master Plat" prepared for Silver Carolina Development Company, LLC by DDC Engineers, Incorporated, dated January 2000, revised February 4, 2000 and recorded March 10, 2000 in Plat Book 168 at Pages 119-119H in the public records of Horry County, South Carolina;

LESS and EXCEPTING a portion of area "57" (that portion containing the Dye Course Clubhouse and associated parking) on Drawing Number 4 of a plat entitled "Barefoot Resort Final Master Plat" prepared for Silver Carolina Development Company, L.L.C. by DDC Engineers, Inc., dated January 2000, revised February 4, 2000 and recorded March 10, 2000 in Plat Book 168 at Pages 119-119H, as revised by recombination plat entitled "Map of 82.56 Acres Designated as Tract 'X'", dated March 29, 2000 and recorded April 10, 2000 in Plat Book 169 at Page 022, in the public records of Horry County, South Carolina.

EXHIBIT "B"
Land Initially Excluded From This Declaration

The land initially excluded from this Declaration will be all that land described as follows:

None.

EXHIBIT "C"**Formula for Assessments and Voting Rights**

(A) Determination of Equivalent Units. Assessment Obligations and voting rights under the Declaration shall be based upon the number of "Equivalent Units" assigned to a particular Unit relative to all other Units subject to a particular assessment or entitled to vote on a particular matter. The number of Equivalent Units assigned to each Unit shall be determined as follows:

Each Unit is assigned: (i) one Equivalent Unit for each 10,000 square feet of unimproved land and any fraction thereof, whether or not developable or shown upon a recorded plat comprising the Unit, and (ii) one Equivalent Unit for each 1,000 square feet of improvement(s) and any fraction thereof. "Improvements" for purposes of this section shall include, but not be limited to, all buildings, structures, vertical construction, parking garages, and recreational facilities such as pools and tennis courts; however, the term shall specifically exclude landscaping, installation of utilities, sidewalks, parking lots, and roads. Land shall be deemed "improved" when a certificate of occupancy is issued for a particular building, structure or facility, or, when a certificate of occupancy may not be applicable, at such time the structure or facility has been completed and no additional governmental approvals are required in order for it to be used or habitable.

For example: The Owner of 1 acre of land subject to these Declarations or any Supplement thereto or amendment thereof shall be assigned 4.36 Equivalent Units. Should that Owner build a 20,000 square foot building on the land, the Owner would be assigned 20 more Equivalent Units for a total of 24.36 Equivalent Units upon which the Assessment would be made.

(B) Calculation of Assessment. The percentage of a particular assessment to be levied on each Unit shall be computed by multiplying the total amount to be assessed by a fraction, the numerator of which is the Equivalent Units assigned to such Unit as provided above and the denominator of which is the total Equivalent Units assigned to all Units subject to the particular assessment.

(C) Calculation of Voting Rights. The percentage of the total voting power allocated to each Unit shall be computed by dividing the Equivalent Units assigned to such Unit by the total Equivalent Units assigned to all Units eligible to vote.

(D) Computation by Board. The number of Equivalent Units and resulting percentages for allocation of assessments and voting rights shall be computed annually by the Board of Directors as of a date which is not less than 60 days prior to the beginning of each fiscal year. Notice of the percentages for each Unit shall be sent to each Owner together with the annual notice of assessments.

Upon the addition of property to this Declaration between annual cutoff dates for computation of assessments and voting rights, the Board shall recompute assessment and voting

percentages for each Unit; however, no adjustments need be made in any assessments previously levied to reflect such recomputation.

EXHIBIT "G"
Overlay District And Maintenance Areas Designation

Legend
MAIN DRAINAGE OUTFALL

OUTFALL 1

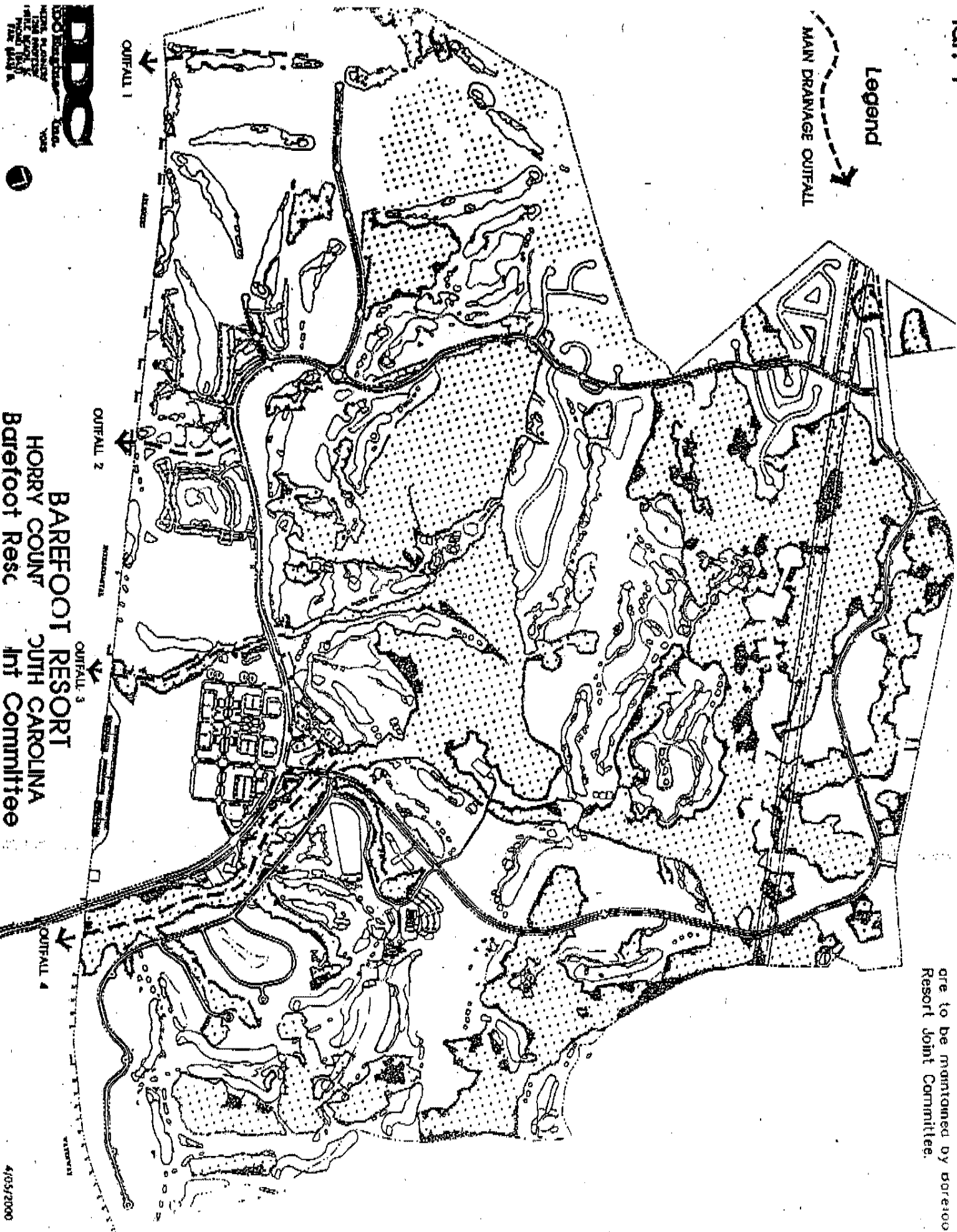
OUTFALL 2

OUTFALL 3

OUTFALL 4



BAREFOOT RESORT
HORRY COUNTY
SOUTH CAROLINA
Barefoot Resc
Int Committee

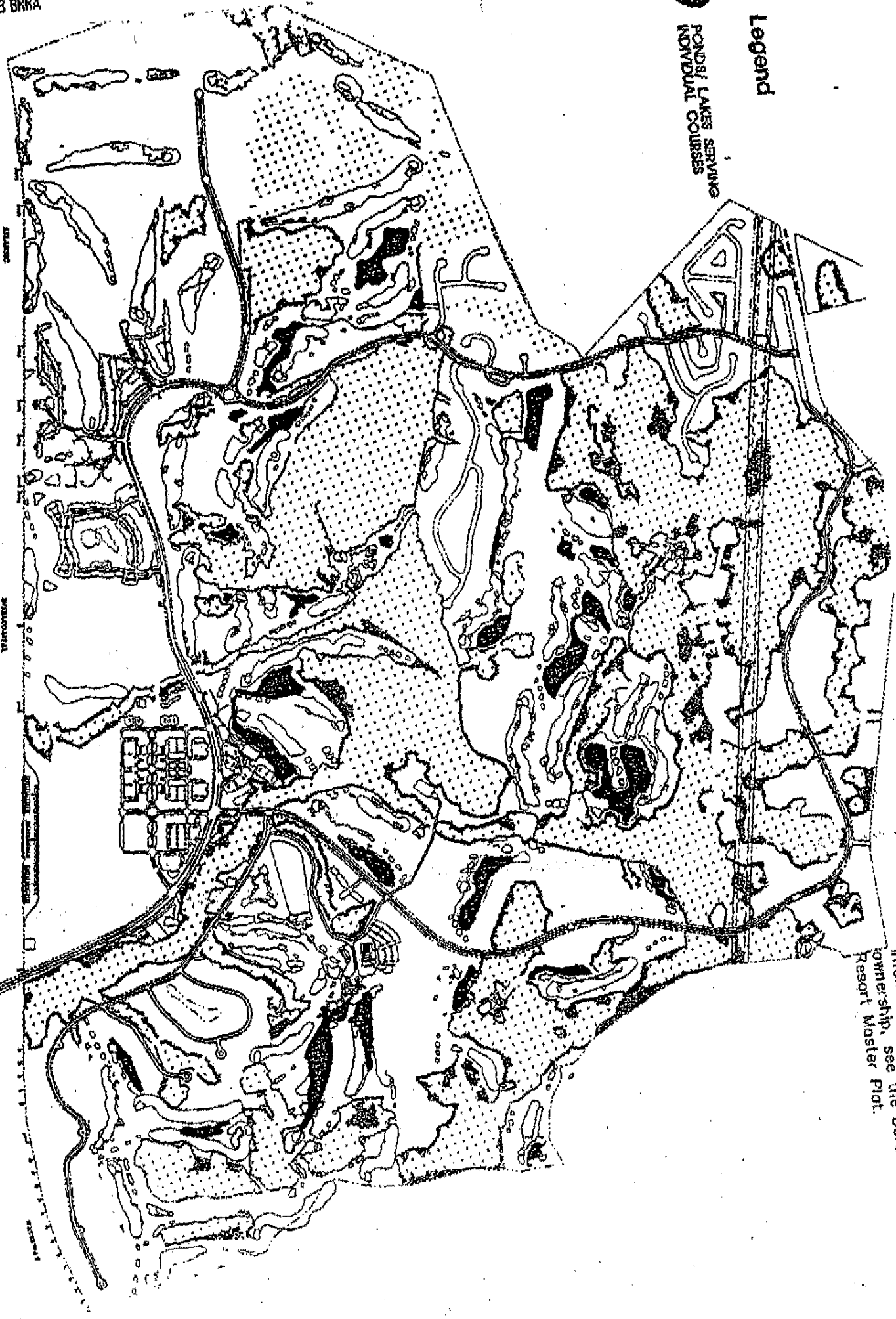


are to be maintained by Barefoot
Resort Joint Committee.



Legend

PONDS/ LAKES SERVING INDIVIDUAL COURSES



BAREFOOT RESORT
HORRY COUNTY SOUTH CAROLINA
Golf Ownership Responsibility

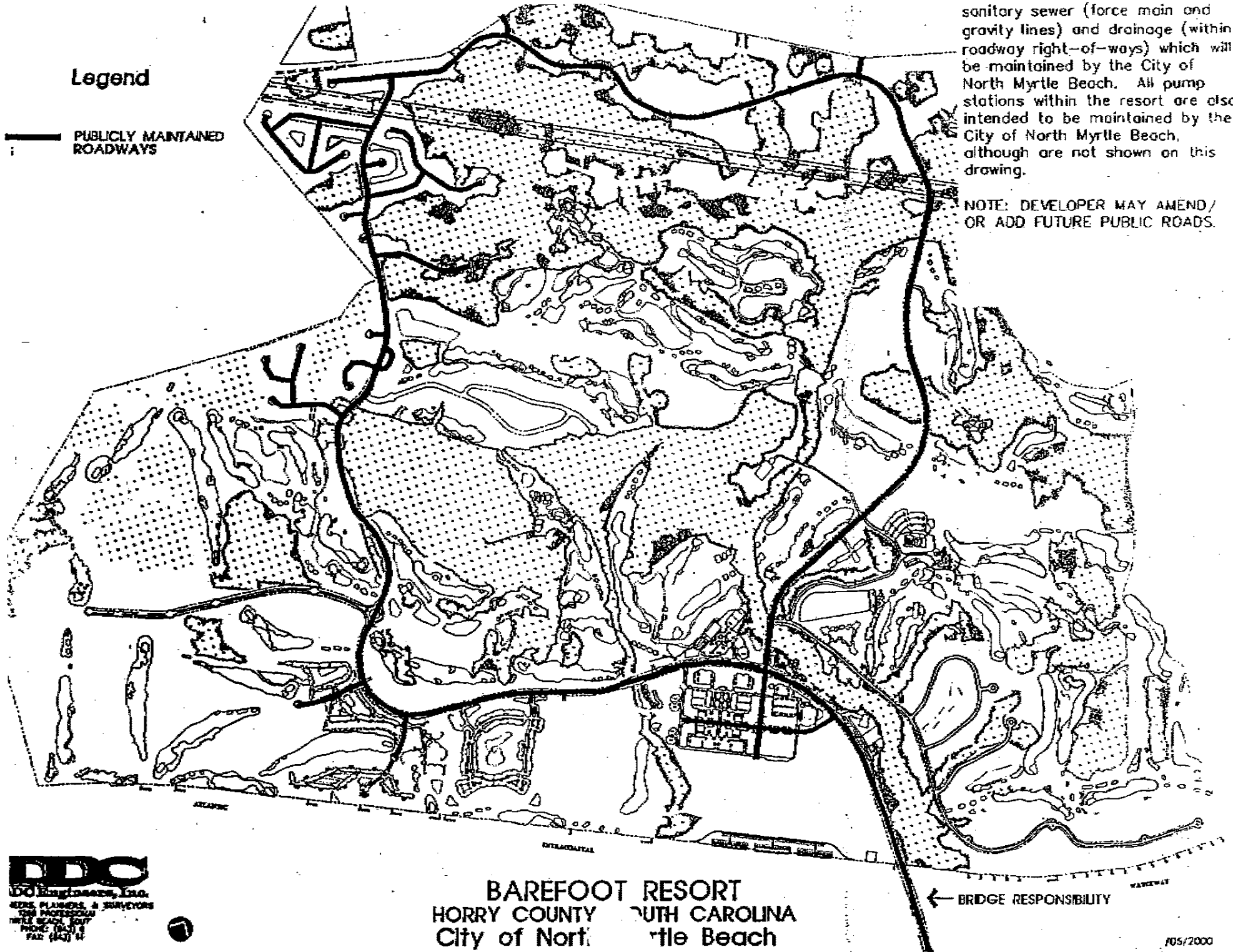
Information concerning
ownership, see the Barefoot
Resort Master Plan.

Legend

 PUBLICLY MAINTAINED ROADWAYS

sanitary sewer (force main and gravity lines) and drainage (within roadway right-of-ways) which will be maintained by the City of North Myrtle Beach. All pump stations within the resort are also intended to be maintained by the City of North Myrtle Beach, although are not shown on this drawing.

NOTE: DEVELOPER MAY AMEND/ OR ADD FUTURE PUBLIC ROADS.





← BRIDGE RESPONSIBILITY

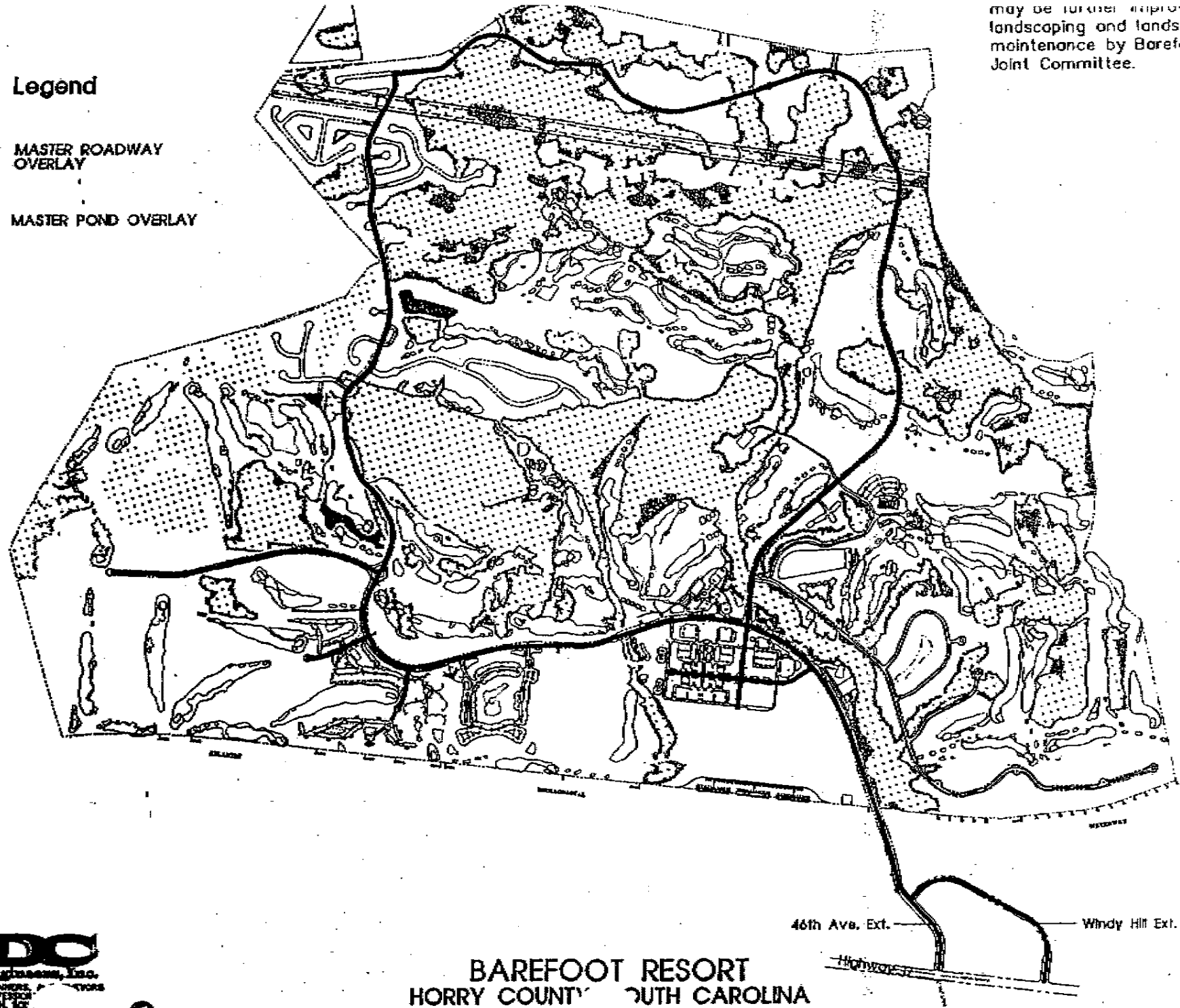
DDC
 DDC Engineers, Inc.
 SITE PLANNERS & SURVEYORS
 2501 HORTON ROAD
 MYRTLE BEACH, SOUTH CAROLINA 29577
 PHONE: (843) 661-1111
 FAX: (843) 661-1112

BAREFOOT RESORT
 Horry County South Carolina
 City of North Myrtle Beach

may be further improved through landscaping and landscape maintenance by Barefoot Resort Joint Committee.

Legend

-  MASTER ROADWAY OVERLAY
-  MASTER POND OVERLAY

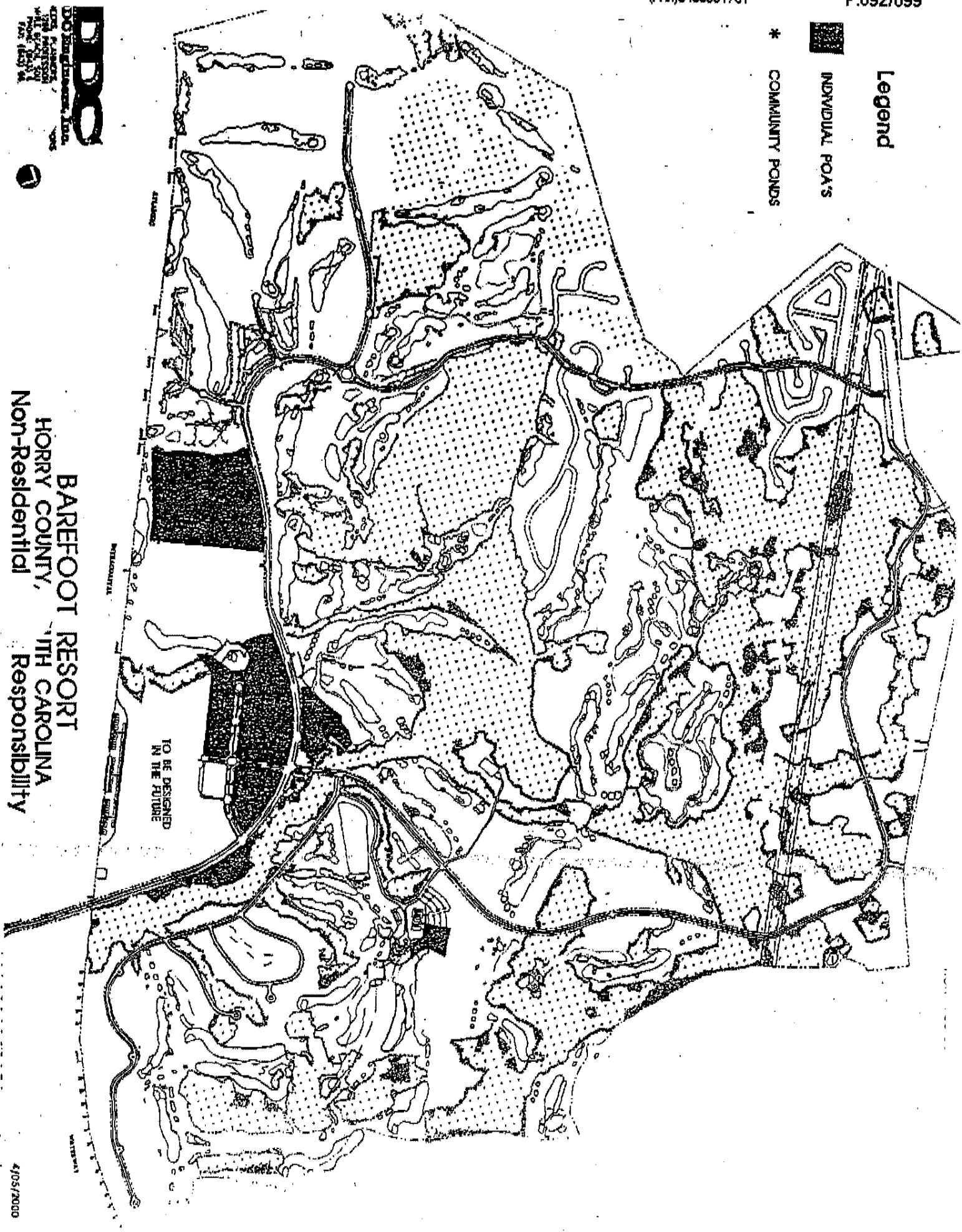


DDC
 DDC Design Group, Inc.
 CIVIL ENGINEERS, ARCHITECTS
 AND PLANNERS
 1115 SOUTH 10TH STREET
 FORT WORTH, TEXAS 76104
 PHONE (817) 339-1111
 FAX (817) 339-1112

BAREFOOT RESORT
HORRY COUNTY SOUTH CAROLINA
Barefoot Resort Joint Committee 'Overlay'

DDO Engineering, Inc.
4275 Parkside
WALLACE, NC 28786
Phone: (843) 399-1761
Fax: (843) 399-1761

- Legend**
- INDIVIDUAL POA'S
 - * COMMUNITY PONDS



BAREFOOT RESORT
HORRY COUNTY, NORTH CAROLINA
Non-Residential Responsibility

TO BE DESIGNED
IN THE FUTURE

EXHIBIT "D"
Initial Use Restrictions and Rules

The following restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed, or limited by rules of the Association adopted pursuant to Article XII of the Declaration.

1. General. The Properties or any additional properties made subject to this Declaration, may generally be used for any lawful purpose unless prohibited by the provisions of this Declaration, any applicable Supplemental Declaration, governmental regulations, the P.U.D. or other applicable recorded covenants. Notwithstanding any provision hereof, if a conflict or potential conflict exists between any allowed uses described in the P.U.D. and the Use Rules and Restrictions, the P.U.D. shall control.

2. Restricted Activities. The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking of trucks or other vehicles on streets or thoroughfares, for delivery, loading, unloading or otherwise; provided, however, nothing herein shall prevent the parking of trucks or other vehicles on the Properties during construction and construction related activities;

(b) Any activity which tends to cause an unclean, unhealthy, or untidy conditions to exist outside of enclosed structures on the Unit;

(c) Any activity which emits foul or obnoxious odors, fumes, dust, smoke, or pollution outside the Unit or which creates noise, unreasonable risk of fire or explosion, or other conditions which tend to disturb the peace or threaten the safety of the occupants and invitees of other Units; provided, however, nothing herein shall preclude normal and customary operation of any restaurant or medical or hospital facility;

(d) Any activity which violates local, state, or federal laws or regulations;

(e) Outside burning of trash, leaves, debris, or other materials;

(f) Outdoor storage or business operations of any kind, except that outdoor storage of building materials shall be permitted during construction on the Unit on which such materials are stored and outdoor dining facilities shall be permitted;

(g) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and filed in the Office of the Register of Deeds of Horry County, South Carolina, except that Silver Carolina and Persons authorized by Silver Carolina shall be permitted to subdivide or replat Units which they own;

(h) Fishing, swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams or other bodies of water within the Common Area, except that the owner(s) of the Golf Courses, and their successors and assigns, shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas which are within range of golf balls hit from their respective Golf Courses. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams or other bodies of water within or adjacent to the Properties. The above restrictions shall not apply to timeshare common areas or the timeshare limited common areas that are situated within the boundaries of the area on the Master Plan designated as "2MF-1" or otherwise described as that tract of land totaling 32.42 acres or are for the benefit of timeshare unit owners;

(i) Any modifications to existing construction or landscaping, or exterior additions to Units except as provided in Article XI;

(j) Any activity or condition that violates any governmental requirement under any authorization, certification or permit for the Properties, including but not limited to any construction in or land disturbance in wetlands, wetland buffers, archeological or historical sites, stormwater management facilities and natural areas;

(k) Any operation of golf carts within the Properties in violation of S.C. Code Ann. § 56-3-115 (1998 as Amended) and in unpaved areas; and

(l) Any noxious or offensive activity carried on upon any Unit, or at any place within Barefoot Resort, or anything done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to Barefoot Resort or its Owners.

3. Prohibited Conditions. The following shall be prohibited within the Properties:

(a) Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties;

(b) Sprinkler or irrigation systems of any type which draw water from creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties, except that this shall not apply to Silver Carolina and except that the Association and the Residential Association shall be entitled to draw water from such sources for the purpose of irrigating their respective common areas if, and to the extent that, irrigation quality water supplied by the City of North Myrtle Beach, South Carolina, or other relevant utility suppliers is not available;

(c) Septic systems, other than those installed by or with the permission of Silver Carolina, if any;

(d) Any fence, wall, hedge, or shrub planting which does or tends to create a traffic or sight problem;

(e) Tents, trailers or any structure of a temporary nature, such as a tent, shack, or utility shed, except for construction trailers during ongoing construction on the Unit and except that this provision shall not apply to Silver Carolina. Notwithstanding anything to the contrary contained herein, temporary tents and structures in connection with community events or grand opening activities shall be permitted with the prior approval of the Board for a period not to exceed three consecutive days;

(f) Overhead service entrance conductors, except for temporary lines required during construction and high voltage distribution lines; and

(g) Obstruction or rechanneling of drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except Silver Carolina shall have such right;

(h) Exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind unless completely contained within the dwelling on the Unit so as not to be visible from outside the dwelling or unless otherwise approved pursuant to Article XI and in compliance with State and Federal Communications laws. Unless the Board of Directors disapproves or the reviewing entity under Article IV determines that the apparatus is aesthetically incompatible with the surrounding structure or environment, one such apparatus measuring no more than 24 inches in diameter may be placed on a Unit. Such structure shall be placed in a location consistent with the Design Guidelines and shall not extend above the ridge line of any roof, or be visible from any street.

Silver Carolina and the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Properties. Nothing in this Declaration shall prohibit Silver Carolina from installing equipment necessary for a master antenna system, security system, cable television and mobile radio systems or any voice, video or other system used for the transmission of intelligence or other similar systems within Barefoot Resort.

(i) Leasing and Renting of Units.

(a) Leasing of Units. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit (Units available for Leasing will be defined by each Parcel) by any person, other than the Owner, for which the Owner receives any consideration or benefit; including, but not limited to, a fee, service, gratuity, or emolument for a period of not less than one (1) year. Except as otherwise provided in any applicable Supplemental Declaration or other applicable covenants, Units may be leased in their entirety. Notwithstanding any language to the contrary, nothing herein shall prohibit or limit Silver Carolina's rights to lease Units or conduct any other similar activities (whether described herein or not), and Silver Carolina reserves the right to assign its rights in its sole discretion by

written agreement. Except in the case timeshare units, all leases shall be for an initial term of no less than one (1) year.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the Use Restrictions and Rules. There shall be no subleasing or assignment of any lease unless prior written approval is obtained from the Board of Directors or its designated administrator.

(b) Renting of Units. "Renting," for purposes of this Declaration, is defined as the exclusive occupancy of a rental Unit (Units available for Renting will be defined by each Parcel) by any person, other than the Owner, for which the Owner receives any consideration or benefit; including, but not limited to, a fee, service, gratuity, or emolument for a period of not less than one (1) day. Except as otherwise provided in any applicable Supplemental Declaration or other applicable covenants, rental Units must be rented in their entirety, except that each side of "lock-out" units maybe rented separately.

Notwithstanding any language to the contrary, nothing herein shall prohibit or limit Silver Carolina's rights concerning rental Units.

(j) Signs. All signs must meet the guidelines adopted by the Board of Directors.

(k) Bridges. Silver Carolina expressly reserves to itself, its successors and assigns, any other provisions in this Declaration notwithstanding, the right to build bridges, walk-ways, or fixed spans across any or all natural or man-made canals, creeks, walkways, or lagoons in Barefoot Resort. However, nothing in this Declaration shall be construed as placing an affirmative obligation on Silver Carolina to provide or construct any such improvement.

4. Prohibited Uses. In addition to uses which are inconsistent with applicable zoning or the P.U.D. or are prohibited or restricted by other recorded covenants, conditions, restrictions or easements, the following uses are prohibited on the Properties:

(a) trailer court, mobile home parks, and recreation vehicle campgrounds;

(b) oil, gas, or mineral exploration, drilling, boring, development, refining, quarrying, or mining operations and all construction and equipment incident thereto, oil or gas wells, related equipment or facilities, excavations for minerals, and mine shafts;

(c) junk yards, scrap metal yards, automobile used parts and/or dismantling operations, sanitary landfills, and recycling facilities (which shall include facilities for the processing of recyclable materials but shall not include centers established solely for collection and sorting of household recyclable materials);

(d) commercial excavation of building or construction materials, except in the usual course of construction of improvements;

(e) residential uses, except for (i) residential multi-family housing devoted entirely to use as rental apartments, timeshares and related facilities, (ii) other residential uses allowed in the Town Center under the P.U.D.; and (iii) residential uses in areas where specifically authorized by any Supplemental Declaration;

(f) dumping, storage (other than temporary storage while awaiting disposal), on-site disposal, incineration, treatment, processing or reduction of garbage, dead animals, medical waste, toxic waste, or refuse, except that a hospital or medical facility may store biomedical waste generated solely within that facility provided it is handled and disposed of in accordance with all applicable laws and governmental regulations;

(g) sawmills;

(h) flea markets, and fire and bankruptcy sale operations;

(i) truck terminals and truck stop-type facilities;

(j) massage parlors (as defined in the P.U.D.), and businesses primarily engaged in the sale of obscene or pornographic materials or in the provision of entertainment featuring topless or nude performers;

(k) businesses involving the outdoor boarding of pets or other animals, except for uses related to the equestrian center and except as otherwise allowed under the P.U.D.; and

(l) any industrial use, except for light manufacturing activities and shop uses allowed under the P.U.D. and other such uses otherwise complying with all restrictions set forth in this Article.

5. Capital Contribution. It is the Owner's obligation upon sale of the Owner's Unit to notify the prospective purchaser of the capital contribution to be levied pursuant to Section 10.12.

EXHIBIT "E"
Rules Of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Litigants stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's desire to submit the Claim to arbitration ("Arbitration Notice").
2. Each Litigant shall select an arbitrator ("Litigant Appointed Arbitrator"). The Litigant Appointed Arbitrators shall, by agreement, select one or two neutral arbitrators ("Neutral(s)") so that the total arbitration panel ("Panel") has an odd number of arbitrators. If any Litigant fails to appoint a Litigant Appointed Arbitrator within 20 days from the date of the Arbitration Notice, the remaining arbitrators shall conduct the proceedings, selecting a Neutral in place of any missing Litigant Appointed Arbitrator. The Neutral arbitrator(s) shall select a ~~Multiperson~~ ("Chair").
3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, Claimant may notify _____, which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Litigants in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator ("Arbitrator"), and any Litigant Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.
4. No person may serve as a Neutral in any arbitration under these Rules in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral shall immediately disclose in writing to all Litigants any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Litigant objects to the service of any Neutral after receipt of that Neutral's Bias Disclosure, such Neutral shall be replaced in the same manner in which that Neutral was selected.
5. The Arbitrator or Chair, as the case may be, shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Litigants.
6. Any Litigant may be represented by an attorney or other authorized representative throughout the arbitration proceedings.
7. All persons who, in the judgment of the Arbitrator or Chair, have a direct interest in the arbitration are entitled to attend hearings.
8. There shall be no stenographic record of the proceedings.
9. The hearing shall be conducted in whatever manner will, in the Arbitrator's or

Chair's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Litigants.

10. The Litigants may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator or Chair may deem necessary to an understanding and determination of the Claim. The Arbitrator or Chair shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator or Chair shall be authorized, but not required, to administer oaths to witnesses.

11. The Arbitrator or Chair shall declare the hearings closed when satisfied the record is complete.

12. There will be no posthearing briefs.

13. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Litigants. The Award shall be in writing, shall be signed by the Arbitrator or Chair and acknowledged before a notary public. If the Arbitrator or Chair believes an opinion is necessary, it shall be in summary form.

14. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

15. Each Litigant agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Litigant or its attorney at the address communicated to the Arbitrator or Chair at the hearing.