

URBANNA HARBOUR YACHT CLUB – A CONDOMINIUM
RESTATED BY-LAWS
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**RESTATED
BY-LAWS
OF**

**URBANNA HARBOUR YACHT CLUB, A CONDOMINIUM
URBANNA, VIRGINIA**

**ARTICLE I
GENERAL**

Section 1.1 Applicability. These Restated By-Laws provide for the self-government of Urbanna Harbour Yacht Club, a condominium, pursuant to the requirements of Article 3, Chapter 4.2 of Title 55 of the Code of Virginia. Urbanna Harbour Yacht Club, A Condominium is located in the Town of Urbanna, County of Middlesex, Commonwealth of Virginia.

Section 1.2. Compliance. Pursuant to the provisions of Section 55'79.53, Code of Virginia, as amended, every Unit Owner and all those entitled to occupy a Unit shall comply with these Restated By-Laws.

Section 1.3. Office. The office of the Condominium Unit Owners Association and the Board of Directors shall be located at the Condominium or at such other place as may be designated from time to time by the Board of Directors.

Section 1.4. Definitions. **Any provisions not defined in these Restated By-Laws or in conflict with the Condominium Act shall be defined by the provisions related to Condominiums.**

The following terms have the following meanings in the Condominium Instruments:

(a) "Majority of the Unit Owners" means those Unit Owners owning Condominium Units to which more than fifty per cent of the aggregate Undivided Interests actually voted in person or by proxy at a duly convened meeting at which a quorum is present. Any specified percentage of the Unit Owners shall mean the Unit Owners owning Condominium Units to which such percentage of Undivided Interests appertain.

(b) "Undivided Interest" means the share assigned to each Unit by the Declaration which establishes each Unit's undivided interest in the Common Elements, Common Expenses and Common Profits and votes in the Unit Owners Association.

(c) "Unit" shall, if required for the sense of the provision, be deemed to include the undivided interest in the Common Elements and be interchangeable with "Condominium Unit".

(d) "Unit Owners Association" or "Association" means the unincorporated, non-profit association of all the Unit Owners owning Condominium Units in the Condominium.

(e) "Urbanna Harbour Community Association* and the "Urbanna Harbour Subdivision" mean the subdivision recorded in Deed Book 200 at Page 213 among the land records of Middlesex County and the Urbanna Harbour Homeowners Association, Inc. established for said subdivision pursuant to the Declaration of Covenants, Conditions and Restrictions recorded in Deed Book 220 at Page 244 among said land records.

(g) Also see Section 14.4 "Interchangeable Terms".

ARTICLE II **UNIT OWNERS ASSOCIATION**

Section 2.1. Composition. All of the Owners of Units contained in the Condominium, acting as a group in accordance with the Condominium Act, the Declaration and these By-Laws, shall constitute the "Unit Owners Association," which as Agent for the Unit Owners shall have the responsibility of administering the Condominium, establishing the means and methods of collecting the assessments for the Common Expenses and Charges, arranging for the management of the Condominium and performing all of the other acts that may be required to be performed by the Unit Owners Association, by the Condominium Act and the Declaration. Except to those matters which either the Condominium Act or the Declaration specifically require be performed by the vote of the Unit Owners, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth in Article III.

Section 2.2. Annual Meetings

(a) The Unit Owners Association shall hold a meeting at least once each year ("Annual Meetings").

(b) The Annual Meetings of the Unit Owners Association shall be held on the Saturday of Memorial Day Weekend or such other date as may be established by the Board of Directors. The Board of Directors shall be elected by vote of the Unit Owners at the Annual Meetings. If the special meeting provided for in Section 2.4(b) of this Article is held within four months of a scheduled Annual Meeting that special meeting shall be deemed to be the Annual Meeting for that year.

Section 2.3. Place of Meetings. Meetings of the Unit Owners Association shall be held at the principal office of the Condominium or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Directors.

Section 2.4. Special Meetings.

It shall be the duty of the President to call a special meeting of the Unit Owners Association if so directed by resolution of the Board of Directors, **or a special meeting may be called** upon a petition signed and presented to the Secretary by Unit Owners owning not less than twenty-five percent (25%) of the total undivided interests of all Unit Owners. The notice of any special meeting shall state the time, place and purpose of such meeting. **Any business to be transacted at a special meeting must be stated in the notice of the meeting.**

Section 2.5. Notice of Meetings.

It shall be the duty of the Secretary to mail a notice of each annual or special meeting of the Unit Owners pursuant to the provisions of Section 55-79.75 of the Condominium Act, as amended, and Section 14.1 of these Bylaws. The Secretary shall, at least twenty-one (21) **days**, but not more than sixty (60) **days** in advance of any annual or regularly scheduled meeting; and at least seven (7) days in advance of a **special** meeting, send to each Unit Owner notice of the time, place and purpose or purposes of such meeting. Notices of any meeting at which any amendment to the Articles of Incorporation shall be voted upon shall be given as required by the Virginia Nonstock Corporation Act.

Section 2.6. Adjournment of Meetings. If any meetings of the Unit Owners Association cannot be held because a quorum is not present, Unit Owners owning a majority of the Undivided Interests who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty eight (48) hours from the time the original meeting was called.

Section 2.7. Order of Business. The order of business at all meetings of the Unit Owners Association shall be as follows:

- (a) Roll Call or Proof of Quorum
- (b) Proof of notice of meeting
- (c) Reading of minutes of preceding meeting
- (d) Election or appointment of inspectors of election (when so required)
- (e) Election of members of the Board of Directors (when so required)
- (f) Reports of officers and Board of Directors
- (g) Reports of committees
- (h) Report of managing agent, if any, and if present
- (i) Unfinished business
- (j) New business
- (k) Adjournment

The meeting may proceed pending, and subject to, proof of quorum.

Section 2.8. Voting. Each Condominium Unit shall have one (1) vote. At every meeting of the Unit Owners, each Unit Owner shall have the right to cast the vote for each Unit to which said Unit Owner shall have legal title. **No Unit Owner can vote, either in person or by proxy who is known to be more than thirty (30) days delinquent in any financial obligation due the association.**

The vote appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed on behalf of the Unit Owner, or, in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No proxy shall be revocable except by actual notice to the person presiding over the meeting, by the Unit Owner or by any such persons, that said proxy be revoked. Any proxy shall be void if not signed by a person having authority, at the time of its execution, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of proxy. Any proxy shall comply with the requirements of Section 55-79.77(d) of the Condominium Act. All proxies: shall be dated; shall be revocable only by actual notice to the person presiding over the meeting, by the Unit Owner or, if the Unit Owner is more than one person, then by any of such persons on behalf of all such persons; shall be signed by a person having authority, at the time of execution to execute deeds on behalf of that person and the signatures of those executing same shall be witnessed by a person who shall sign his full name and address.

If a Unit is owned by a corporation, the vote appertaining to such Unit may be exercised by any corporate officer present or by a person designated in writing by a resolution of the corporation's Board of Directors. If a Unit is owned by more than one person the vote for that Unit shall be cast by the person designated to do so in a certificate executed by all the owners of such Unit and filed with the secretary or, in the absence of any such designated person, by the owner present at the meeting, such certificate will be valid until revoked by a subsequent certificate executed according to the same requirements. Without such certificate the vote for such Unit shall be cast as provided in Section 55-79.77 (c) of the Condominium Act.

Any specified percentage of the Unit Owners means the Unit Owners owning such votes in the aggregate. If the Declarant owns or holds title to one or more Units, the Declarant shall have the right to cast the votes to which such Unit or Units are entitled.

Section 2.9. Conduct of Meeting. The President shall preside over all meetings of the Unit Owners Association and the Secretary shall be responsible for keeping the minutes of the meeting and recording in a Minute Book all resolutions adopted by the meeting as well as a record of all transactions occurring thereat. The President may appoint a person to serve

as Parliamentarian at any meeting of the Unit Owners Association. Questions of conduct and procedure shall be determined by 1) the Condominium Act, 2) the Declaration, 3) these By-Laws and 4) the then current edition of Roberts Rules of Order.

Section 2.10. Quorum. The presence, either in person or by proxy, of members representing at least twenty- five per cent (25%) of the total votes of the Association shall be requisite for, and shall constitute a quorum for the transaction of business at all meetings of members.

Section 2.11. Association as Unit Owner. The Unit Owners Association may acquire, hold and transfer full legal title to one or more Condominium Units in the Condominium in its own name.

ARTICLE III **BOARD OF DIRECTORS**

Section 3.1. Number and Qualification. The affairs of the Condominium shall be governed by a Board of Directors. Until the expiration of the Declarant Control Board and thereafter until their successors shall have been elected by the Unit Owners, the Board of Directors shall be designated and appointed by the Declarant. The initial Board of Directors shall consist of two (2) persons, who may be, but are not required to be, officers, directors, or designees of the Declarant, Unit Owners or spouses of Unit Owners, or mortgagees (or designees of mortgagees) of Units. The term of each designee shall be fixed by the Declarant. The successor board elected at the special meeting called pursuant to Section 2.4(b) shall consist of five (5) persons. Thereafter the Board shall consist of not less than three (3) nor more than seven (7) **board members**. The size of the Board shall be determined from time to time by a majority of the Directors then in office or a majority of Unit Owners. Except for Directors designated by the Declarant, Directors must own an interest, other than a security interest, in a Condominium Unit.

Section 3.2. Term of Office. Except as provided above, the Board Members of the Unit Owners Association shall be elected to a term of three (3) years **and hold office until their respective successors have been duly elected by the members of the Unit Owners Association. (See Section 3.6 regarding vacancies)**

Section 3.3. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things which neither the Condominium Act nor these By-Laws require to be exercised and done by the Unit Owners Association. The Board of Directors shall have the power to from time to time adopt any Rules and Regulations deemed necessary for the benefit and enjoyment of the Condominium provided such Rules and Regulations shall not be in conflict with the Condominium Act, the Declaration, nor these By-Laws. In addition to the duties imposed by these

By-Laws or by any resolution of the Unit Owners Association that may hereafter be adopted, the Board of Directors shall have the **powers and duties as enumerated in Sections 55-79.79 and 55-79.80, of the Virginia Condominium Act, as amended.**

Section 3.4. Managing Agent. The Board of Directors may employ for the Condominium a professional Managing Agent at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize.

(a) Requirements. The Managing Agent shall be a bona fide business enterprise, which may be affiliated with the Declarant, which manages common interest communities or marinas. Such firm shall have a minimum of two years experience in real estate community or marina management and shall employ persons possessing a high level of competence in the technical skills necessary to proper management of the Condominium. The Managing Agent must be able to advise the Board of Directors regarding the administrative operation of the Condominium and shall employ personnel experts in the areas of marina operations, condominium insurance, accounting, labor relations and condominium regulation.

(b) Duties. The Managing Agent shall perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors by these By-Laws other than the powers of establishing a budget, levying assessments, establishing policy, borrowing money and owning property. The Managing Agent shall perform the obligations, duties and services relating to management of the property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of the Condominium instruments.

(c) Standards. The Board of Directors shall impose appropriate standards of performance upon the Managing Agent* unless the Managing Agent is instructed otherwise by the Board of Directors:

(1) the accrual method of accounting shall be employed. Expenses charged to one or more but less than all of the Unit Owners pursuant to these By-Laws shall be accounted for separately;

(2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures;

(3) cash accounts of the Unit Owners Association shall not be commingled with any other accounts;

(4) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Unit Owners Association whether in the form of commissions, finder's fees,

service fees or otherwise; any discounts received shall benefit the Unit Owners Association;

(5) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Unit Owners Association shall be disclosed promptly to the Board of Directors; and

(6) a quarterly report shall be prepared for the Unit Owners Association disclosing:

- (i) all income and disbursement activity for the preceding month;
- (ii) expense and disbursement activity for the preceding month on a cash basis;
- (iii) the status of all accounts in an "actual- versus "projected" (budget) format; and
- (iv) any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent;
- (v) the names of all Unit Owners who are delinquent in paying Condominium assessments and describing the status of any actions to collect such assessments.

(d) Limitations. Subject to the provisions of Section 55.79-74(b) of the Condominium Act, the Board of Directors may employ a Managing Agent for an initial term not to exceed two years. Any contract with the Managing Agent must provide that it may be terminated with cause on no more than thirty (30) days' written notice and without cause and without payment of a termination fee on no more than ninety (90) days' written notice. The term of any such contract may not exceed two years.

Section 3.5. Removal of Members of Board of Directors. At any regular or special meeting of the Unit Owners Association duly called any one or more of the Board of Directors may be removed with or without cause by a vote of the majority of the Unit Owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners shall be given at least ten (10) days notice of the calling of the meeting and the purpose thereof and he shall be given an opportunity to be heard at the meeting. Directors may resign at any time, and shall be deemed to have resigned pursuant to Section 55-79.78 of the Condominium Act upon disposition of his Unit or after absences at three consecutive regular meetings of the Board unless the minutes reflect consent to such absences.

Section 3.6. Vacancies. A vacancy in the Board of Directors caused by any reason other than the removal of a director by a vote of the Unit Owners Association shall be filled by a vote of the remaining directors at a special meeting of the Board of Directors held for that purpose, promptly after the occurrence of any such vacancy, even though the Directors present constitute less than a majority, and each person so elected shall be a

member of the Board of Directors until the expiration of the term of the member whose vacancy the new member fills.

Section 3.7. Organization Meeting. The date of the first meeting of the members of the Board of Directors elected at the Annual Meeting of the Unit Owners Association shall be determined by the Board immediately following the Unit Owners Association meeting and no further notice shall be necessary to the newly elected members of the Board of Directors. Such meeting shall occur within thirty (30) days.

Section 3.8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the directors. Such meetings shall be held at least twice during the fiscal year on a date set by the Board of Directors after notice of said meeting has been given to the members pursuant to Article II, Section 2.5 of these By-Laws. Notice of regular meetings of the Board of Directors shall be given to each director personally, by mail, telephone, facsimile transmission or email, at least ten (10) business days prior to the day set for such meeting. Meetings of the Board may be held by means of a telephone conference or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

3.9. Special Meetings. Special meetings of the Board of Directors may be called by the President or two (2) members of the Board of Directors on three (3) business days notice to each director, given personally, by mail, telephone, facsimile transmission or email, which notice shall state the time, place, and purpose of the meeting.

Section 3.10. Waiver of Notice. Any director may, at any time, in writing, waive notice of any meeting of the Board of Directors, and this waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time and place of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 3.11. Compensation. No director shall receive any compensation from the Condominium for exercising his duties and obligations as a director.

Section 3.12. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a Minute Book of the Board of Directors recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. Questions of conduct and procedure shall be determined by 1) The Condominium Act, 2) The Declaration, 3) These By-Laws and 4) the then current edition of Roberts Rules of Order.

Section 3.13. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

Section 3.14. Quorum. The presence of a majority of the Board shall constitute a quorum and the vote of a majority of the directors present at a meeting at which a quorum is present shall constitute a decision of the Board of Directors. If at any meeting of the Board there shall be less than a quorum present a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present any business which may have been transacted at the meeting originally called may be transacted without further notice.

Section 3.15. Board of Directors as Attorney-in-Fact. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for the Unit Owners of all of the Condominium Units and for each of them, to manage, control and deal with the interests of such Unit Owners in the Common Elements of the Condominium to permit the Board of Directors to fulfill all of its powers, rights, functions and duties. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to adjust and settle all claims arising under insurance policies purchased by the Board of Directors and to execute and deliver releases upon the payment of claims. The Board of Directors may grant and accept easements and licenses pursuant to Section 55-79.80(b) of the Condominium Act. The Board of Directors shall have full powers to assert, defend, compromise, adjust and settle claims or actions related to Common Elements pursuant to Section 55- 79.80(b1) of the Condominium Act.

Section 3.16. Covenants Committee.

a) Purpose. The Board of Directors shall establish a Covenants Committee, consisting of three members appointed by the Board of Directors, each to serve for a term of one year, in order to assure that the Condominium shall always be maintained in a manner: (1) providing for visual harmony and soundness of repair; (2) avoiding activities deleterious to the aesthetic or property values of the Condominium and the Urbanna Harbour Subdivision; (3) furthering the comfort of the Unit Owners, their guests and tenants; and (4) promoting the general welfare and safety of the Condominium community. Two (2) members of the Covenants Committee shall also be members of the Urbanna Harbour **Homeowners** Association.

(b) Powers. The Covenants Committee shall regulate the external design, appearance, use and maintenance of the Common Elements. The Covenants

Committee shall have the power to impose reasonable charges upon and issue a cease and desist request to a Unit Owner, his guests, invitees, or lessees whose actions are inconsistent with the provisions of the Condominium Act, the Condominium Instruments, the Rules and Regulations or resolutions of the Board of Directors (upon petition of any Unit owner or upon its own motion). The Covenants Committee shall from time to time, as required, provide interpretations of the Condominium Instruments, Rules and Regulations and resolutions pursuant to the intents, provisions and qualifications thereof when requested to do so by a Unit Owner or the Board of Directors. Any action, ruling or decision of the Covenants Committee may be appealed to the Board of Directors by any party deemed by the Board of Directors to have standing as an aggrieved party and the Board of Directors may modify or reverse any such action, ruling or decision.

(c) Authority. The Covenants Committee shall have such additional duties, power and authority as the Board of Directors may from time to time provide by resolution. The Board of Directors may relieve the Covenants Committee of any of its duties, powers and authority either generally or on a case by case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by resolution of the Board of Directors. **The Covenants Committee members shall serve at the pleasure of the Board of Directors.**

ARTICLE IV **OFFICERS**

Section 4.1. Designation. The principal officers of the Condominium shall be the President, Vice-President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint other officers as in its judgment may be necessary. The President and Vice President, but no other officers, shall be required to be members of the Board of Directors. Except for the offices of President and Vice President, the same person may hold more than one office.

Section 4.2. Election of Officers. The officers of the organization will be elected by the Board of Directors at the first meeting of each new Board and shall continue to serve for two (2) years unless reappointed.

Section 4.3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board of Directors, or at a special meeting of the Board of Directors.

Section 4.4. President. The President shall be the chief executive officer of the Condominium. He shall preside at all meetings of the Units Owners Association and of the Board of Directors. He shall have all of the general

powers and duties which are incidental to the office of president of a corporation organized under the Virginia Nonstock Corporation Act, including, but not limited to, the power to appoint committees from among the Unit Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Condominium.

Section 4.5. Vice-President. The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

Section 4.6. Secretary. The Secretary shall be responsible for keeping minutes of all meetings of the Unit Owners Association and of the Board of Directors; and will have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all the duties incident to the office of the secretary of a corporation organized under the Virginia Nonstock Corporation Act.

Section 4.7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data; and shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, the Unit Owners Association or the Managing Agent, in such depositories as may from time to time be designated by the Board of Directors and in general perform the duties incident to the office of treasurer of a corporation organized under the Virginia Nonstock Corporation Act.

Section 4.8. Agreements. Contracts. Deeds. Checks, etc. All agreements, contracts, deeds, leases, checks and other instruments of the Condominium for expenditures greater than Two Thousand Dollars (\$2,000.00) shall be executed by two (2) officers of the Condominium, or by such other persons as may be designated by the Board of Directors. Instruments for obligations of less than One Thousand Dollars shall be executed by one person designated by the Board of Directors.

ARTICLE V

LIABILITY AND INDEMNIFICATION OF OFFICERS, DIRECTORS, UNIT OWNERS AND THE UNIT OWNERS ASSOCIATION

Section 5.1. Liability of the Unit Owners Association. The Unit Owners Association shall not be liable for any failure of water supply or other services

furnished by the Unit Owners Association or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by the Unit Owner of any Condominium Unit, or any other Person, or resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment. The Unit Owners Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of articles which may be stored in or upon any of the Common Elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Unit Owners Association to comply with any law, ordinance or with the order or directive of any municipal or other governmental authority.

Section 5.2. Liability and Indemnification of Officers and Directors. If an Officer or Director is the subject of any law suit arising out of their duties as Officer or Director, the Association shall indemnify the Officer or Director for any legal expenses defending said suit and for any judgment that might arise out of their duties as Officer or Director of the Condominium.

Section 5.3. Common or Interested Directors. The Directors shall exercise their powers and duties in good faith and with a view to the interests of the Condominium. Contracts between the Association and an officer or director, or a company owned by an officer or director, if the contract has been approved by the board and the Association is informed of any pending decision with ample time to comment thereon shall be valid.

ARTICLE VI **OPERATION OF THE PROPERTY**

Section 6.1. Determination of Common Expenses and Assessments against Unit Owners.

(a) **Budget Year.** The **budget** year of the Condominium **is** the twelve (12) month period **which begins on August 1 and ends July 31 of the following year.**

(b) Preparation and Approval of Budget. Each year on or before sixty (60) days prior to the end of the fiscal year, the Board of Directors shall adopt a budget for the Condominium containing an estimate of the total amount which it considers necessary to pay for the cost of utility services, maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Board of Directors to maintain, repair, and replace, the cost of materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Condominium Act, these By-Laws or a Resolution of the Unit Owners Association, and which will

be required during the ensuing fiscal year for the administration, operation, maintenance and repair for the Condominium and the rendering to the Unit Owners of all related services. The Budget may also include:

(i) The cost of the maintenance or repair of any Unit in the event that maintenance or repair is reasonably necessary in the discretion of the Board of Directors to protect the Common Elements or to preserve the appearance or value of the Condominium project or is otherwise in the interest of the general welfare of all owners of the Condominium Units; provided, however, that no such maintenance or repair shall be undertaken without a resolution by the Board of Directors and not without reasonable written notice to the owner of the Unit proposed to be maintained; and provided further that the cost thereof shall be assessed against the Condominium Unit on which such maintenance or repair is performed and, when so assessed, a statement for the amount thereof shall be rendered promptly to the then owner of said Condominium Unit at which time the assessment shall become due and payable and a continuing lien and obligation of said owner in all respects as provided in Article XI of these By-Laws.

(ii) Any amount necessary to discharge any lien or encumbrance levied against the Condominium, or any portion thereof, which may, in the opinion of the Board of Directors, constitute a lien against the Common Elements rather than the individual interest of the owner or owners of any individual Condominium Unit or Units.

(iii) This budget shall also include reasonable amounts which the Board of Directors considers necessary to provide working funds for the Condominium, a general operating reserve and reserves for contingencies and replacements.

(c) Notice to Unit Owners and Review. The Board of Directors shall send to each Unit Owner a copy of the budget, in a reasonably itemized form, which sets forth the amount of the Common Expenses payable by each Unit Owner, at least forty-five (45) days prior to the beginning of the fiscal year to which the budget applies. This budget shall constitute the basis for determining each Unit Owner's contribution for the Common Expenses of the Condominium. Notwithstanding the provisions of Paragraph 6.1(b) above, if the proposed budget is in excess of one-hundred fifteen percent (115%) of the budget for the preceding year (projected to 12 months if the preceding budget was for a period less than 12 months), then the proposed budget shall be subject to disapproval by a majority of the Units Owners at a special meeting held for that purpose. Upon such disapproval, assessments shall be collected as provided in Section 6.1(j) below until a new budget can be adopted.

(d) Assessment and Payment of Common Expenses. Except for those common expenses which are specially assessed against the Condominium

Unit or Units involved pursuant to the provisions of sub-paragraph (b)(i) and paragraph (e) of this Section 6.1 of Article VI, the total amount of the estimated funds required for the operation of the Property set forth in the budget for the fiscal year adopted by the Board of Directors shall be assessed against each Unit Owner in proportion to the undivided interests appertaining to the Units to which said owner has legal title and shall be a lien against each Unit Owner's Condominium Unit as provided in Section 55-79.84 of the Condominium Act. On or before the first day of each fiscal year and the first day of each of the succeeding months in that fiscal year, such Unit Owner shall be obligated to pay to the Board of Directors or the Managing Agent (as determined by the Board of Directors), one-twelfth (1/12) of the assessment for such fiscal year made pursuant to the foregoing provisions. Within ninety (90) days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners an audited accounting of the Common Expenses for the fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for that fiscal year and showing the net amount collected pursuant to the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves may, if the Board of Directors deems it advisable, be credited to each Unit Owner, in proportion to the undivided interests appertaining to the Units to which such Unit Owner has legal title, for the installments due in the succeeding months of that fiscal year. Any net shortage shall be assessed promptly in accordance with the provisions of this section provided that the Board of Directors may require payment either (i) in full with the payment of the next monthly assessment due, or (ii) in twelve (12) or fewer monthly installments.

In the event a Unit Owner is delinquent on two or more installments in any fiscal year and any legal action is required to collect assessments, then and at the discretion of the Board of Directors, the entire balance of assessments due on account of said Condominium Unit for the remainder of the fiscal year shall be due in full.

(e) Common Expenses Benefiting Less Than All Units. Pursuant to Section 55-79.83(b) of the Condominium Act, any common expenses benefiting less than all of the Condominium Units or caused by the conduct of less than all those entitled to occupy the same or by their licenses or invitees may be specially assessed against the Condominium Unit or Units involved, in accordance with such reasonable provisions as may be made by the Board of Directors for such cases.

(f) Payment and Collection. The payment and collection of the assessment made pursuant to the foregoing provisions shall be in accordance with the terms providing for the payment and collection of assessments in these By-Laws and the Condominium Act, including without limitation the right reserved to the Board to accelerate payment of assessments and the right to recover attorney's fees and costs and the right to impose a late charge. If attorney or legal fees are incurred in an effort to collect delinquent payments

from owners, those fees can be charged to the owner involved and will become a lien on the slip along with any unpaid assessments.

(g) Reserves and Additional Assessments. **The Board of Directors shall accumulate and maintain reasonable reserves for working capital, operations, contingencies and replacements. This reserve fund can be used for extraordinary expenditures not accounted for in the annual budget. If such expenditure lowers the reserve below an acceptable level, the board can levy an assessment on each owner in proportion to which each owner has legal title, and that assessment can be paid in monthly installments or in a lump sum as determined by the board.**

(h) Repair and Replacement Reserve. The Board of Directors shall obtain from members contributions to capital on a regular basis, which contributions will be used to establish a maintenance, replacement and repair reserve. Such contributions shall be paid monthly and be in an amount to be designated from time to time by the Board of Directors. Such funds shall be conclusively deemed to be a common expense and contributions to capital* Such funds shall be deposited in a special account with a lending institution, the accounts of which are insured by an agency of the United States of America, or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The replacement reserve may be expended only for the purpose of the maintenance, replacement and repair of the Common Elements and equipment of the Condominium as designated by the Board of Directors of the Association utilizing prescribed accounting procedures. The amounts required to be allocated to the replacement reserve may be reduced by appropriate resolution of the Board of Directors, upon the accumulation in such replacement reserve of a sum equal to the full replacement value of the items for which the reserve is established or the maximum expenditure anticipated for a major repair. Full replacement value shall be regularly reviewed by the Board of Directors for casualty insurance purposes. The proportionate interest of any member in any replacement reserve shall be considered an appurtenance of his Condominium Unit and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Condominium Unit to which it appertains and shall be deemed to be transferred with such Condominium Unit. The payment and collection of the assessment made pursuant to the foregoing provisions shall be in accordance with the terms providing for payment and collection of assessments in these By-Laws and the Condominium Act, including without limitation, the right reserved to the Board of Directors to accelerate payment of assessments and the right to recovery of attorney's fees and costs.

(i) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt the annual budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expense as herein

provided, whenever the same shall be determined, and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay the monthly charge at the then existing monthly rate established for the previous fiscal period until the new annual or adjusted budget shall have been mailed or delivered.

(j) Accounts. **All monies collected from assessments can be placed in a single fund, however, the monies need to be identified as to the line item for they are to be used.**

Section 6.2. Payment of Common Expenses. **The purchaser of a unit (slip) is liable, along with the selling unit owner, for all unpaid dues or assessments involved with the purchase of the unit in question. If a unit has to be sold to satisfy a lien for unpaid dues or assessments, all owed monies to the Condominium Association will be paid from funds resulting from that sale of slip owner's unit, and any remaining funds will be paid to the original owner (if he holds a clear title to the unit). Otherwise, the remaining funds will be paid to satisfy any additional liens.**

Section 6.3. Collection of Assessments. The Board of Directors shall take prompt action to collect any assessments for Common Expenses due from any Unit Owner which remains unpaid for more than **thirty (30)** days from the date due for payment thereof.

Section 6.4. Additions, Alterations, or Improvements by Board of Directors. Except during the Declarant Control Period, whenever in the judgment of the Board of Directors separate portions of the Common Elements shall require additions, alterations, or improvements costing TEN THOUSAND DOLLARS (\$10,000.00) or more in any twelve month period, the making of such additions, alterations or improvements shall be approved by a Majority of the Unit Owners, and the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for cost thereof as a Common Expense. Any additions, alterations or improvements costing less than TEN THOUSAND DOLLARS (\$10,000.00) may be made by the Board of Directors without approval of the Unit Owners and the cost thereof shall constitute part of the Common Expenses. Notwithstanding the foregoing, if in the unanimous opinion of the Board of Directors, such additions, alterations, or improvements are exclusively or substantially exclusively for the benefit of the Unit Owner or Unit Owners requesting the same, such proportion as they jointly approve, or if they are unable to agree thereon, in such proportions as may be determined by the Board of Directors. Notwithstanding the foregoing, so long as the Declarant, its successors or assigns owns any Unit in the Urbanna Harbour Yacht Club, a Condominium, for sale in the ordinary course of business, the Declarant, its successors and assigns, shall have the right to veto any alteration, improvement or addition costing more than ONE THOUSAND DOLLARS

(\$1,000.00) authorized either by an affirmative vote of more than fifty per cent (50%) of the Unit owners or by the Board of Directors.

Section 6.5 Additions, Alterations or Improvements by Unit Owners. No Unit Owner shall make any structural alteration or addition in or to his Unit without the written approval of the Board of the Directors, the Covenants Committee **and any State Regulating Agency for Condominiums**, as appropriate. No Unit Owner shall do anything which would change the exterior appearance of his Unit without the written consent of the Board of Directors or Covenants Committee as appropriate. The failure of the Board of Directors or the Covenants Committee to answer a Unit Owner's written request for such approval within forty-five days of receipt of said request will be deemed to be sufficient consent. The provisions of this section shall not apply to Units owned by the Declarant until recordation of deeds of conveyance for each Unit. The Declarant shall be deemed to have the continuing consent of the Board of Directors to alter Units, subdivide Units, relocate boundaries and alter, improve, modify and add to the exterior of the Condominium. The Board of Directors shall execute applications to governmental authorities for alterations, additions and improvements which require execution on behalf of the Unit Owners Association when such applications are proposed by the Declarant or have been approved by the Board of Directors. No such execution shall incur any liability on the part of the Board of Directors to any contractor, subcontractor, materialman, or person having a claim for injury or property damage arising from any work carried out pursuant to such application.

Section 6.6. Duty to Maintain.

(a) By the Association. Except to the extent provided below, the Unit Owners Association shall be responsible for the maintenance, repair and replacement of Common Elements.

(b) By each Unit Owner. Each unit owner of any Condominium Unit is responsible to keep his or her unit clean and in good order. Any approved additions to a unit owner's slip (serving only that slip), are the responsibility of the owner. It is the responsibility of the owner to advise the Association of any problem related to the condition of the dock, or problems with electrical or water utilities.

(c) Easements for Access. In order to maintain the docks, the association and contractors working on their behalf shall have access to the area to be repaired or modified over and through any Unit Owner's slip.

(d) Expenses Caused by Unit Owners. The Board of Directors may charge each Unit Owner for the expense of all maintenance, repair or replacement to the Common Elements rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of any member of his family

or employees, agents, licensees or lessees. The payment and collection of any charge made pursuant to the foregoing provisions shall be in accordance with the terms providing for payment and collection of assessments in these By-Laws and the Condominium Act, including without limitation, the right reserved to the Board to accelerate payment of assessment and the right to recovery of attorney's fees and costs. Each Unit Owner shall be responsible for all damage to other Units or to the Common Elements resulting from his failure to make, or negligence in making, any repairs required by the Declaration, these By- Laws or the Condominium Act.

(e) Work by Homeowners Association. The **Urbanna Harbour Yacht Club Condominium Association** may contract with the Urbanna Harbour Homeowners Association, Inc. for the maintenance and repair of common areas such as the front entrance and for trash removal and certain signage.

Section 6.7. Electric Charges and Usage. Each unit owner is responsible for any electrical service used by his or her unit and the charges are to be paid directly to the providing utility. The Association is responsible for the payment of electricity charges for the common elements. Owners have the responsibility not to exceed the capacity of the electrical service provided at their unit. The cost of repairs to any electrical service resulting from an owner overloading the system, shall be the responsibility of the unit owner.

Section 6.8. Water Charges. Sewer Rents and Usage. The Association is responsible for payment of all water and sewer bills. The water and sewer services offered at UHYC are for reasonable use and each owner has the responsibility not to overuse the system.

Section 6.9. Annual Audit. The books and records of the Condo Association must be kept in accordance with acceptable accounting procedures and must be audited once a year by an independent auditor who is a CPA. Audited financial statements must be made available to all unit owners after the completion of the audit.

Section 6.10. Storage Areas; Disclaimer of Bailee Liability. The Board of Directors, the Unit Owners Association, any Unit Owner and the Declarant shall not be considered a bailee of any personal property stored in or on the Common Elements or Limited Common Elements (including vehicles parked on the Condominium property) whether or not exclusive use or possession of the particular area is given to a Unit Owner for storage or parking purposes and shall not be responsible for the security of such personal property or for any loss, or damage thereto, except to the extent covered by insurance in excess of any applicable deductible.

ARTICLE VII **INSURANCE**

Section 7.1. Insurance Requirements. The Unit Owners Association shall obtain and maintain at all times insurance, as set forth herein, with endorsement for extended coverage for the full insurable replacement value, as required by Section 55-79.81, of the Condominium Act, as amended. This insurance will inure to the benefit of the Unit Owners Association, the respective Unit Owners and their respective mortgagees, as their interests may appear and shall be governed by the following provisions. The Board of Directors, the Managing Agent and the Declarant shall not be liable for failure to obtain any coverages required by this Article or for loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies or if such coverage is available only at a demonstrably unreasonable cost.

(a) Each policy, if appropriate, will provide that:

(i) the insurer waives its rights of subrogation to any claims against the Declarant, the Unit Owners Association, the Board of Directors, the Unit Owners and their respective agents, employees, guests, tenants and the members of their households;

(ii) the master policy on the Property can not be canceled, invalidated or suspended on account of the conduct of any Unit Owner (including invitees, agents and employees) any member of the Board, officer or employee of the Board of Directors without a prior demand in writing that the Board of Directors or the Managing Agent cure the defect and a failure to cure such defect within sixty days;

(iii) any "no other Insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation;

(iv) the policy may not be canceled or substantially modified without at least sixty (60) days prior written notice to the Board of Directors and, in the case of hazard insurance, first mortgages of Units.

(v) the net proceeds of such policies, if less than TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) shall be payable to the Board of Directors and if more than TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) shall be payable, in trust, to the Insurance Trustee designated in Section 7.4 of this Article;

(vi) the name of the insured must be stated in form and substance similar to -Association of the owners of Urbanna Harbour Yacht Club, A Condominium for the use and benefit of the individual owners".

(b) All policies of insurance shall be written with a reputable company licensed to do business in the State of Virginia **and approved by the Board of Directors.**

(c) The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a Common Expense, provided, however, the amount of the deductible may be assessed against a Unit pursuant to Section 6.1(e) when the claim is occasioned by the negligence, misuse or neglect of that Unit's owner to the extent the claim is for that Unit's components.

(d) Any Unit Owner who obtains individual insurance policies covering any portion of the Property, other than personal property belonging to such Unit Owner, shall be required to file a copy of such individual policy or policies with the Board of Directors with thirty (30) days after the purchase of such insurance. Such Unit Owner shall also promptly notify, in writing, the Board of Directors in the event such policy is canceled.

Section 7.2. Insurance Coverage. The Board of Directors shall be required to the extent available to obtain and maintain the following insurance:

(a) Physical Damage. A blanket, "all-risk" form of fire insurance with extended coverage, with vandalism, malicious mischief, windstorm, debris removal, cost of demolition and water damage endorsements, insuring the entire Property (including all of the Units and fixtures installed therein at the time the Declaration was recorded or initially installed therein by the Declarant and all replacements thereof but not including improvements and betterments or other personal property supplied or installed by Unit Owners), together with utility and service fixtures and equipment contained therein and covering the interests of the Board of Directors and all Unit Owners and their mortgagees, as their interests may appear, in the amount equal to at least one hundred percent (100%) of replacement value of the Property subject to deductibles. Such policy shall also provide:

(i) That the master policy shall contain a standard mortgagee clause in favor of each mortgagee of a Unit to the extent of the portion of the coverage of the master policy allocated to the Unit which shall provide that the loss, if any, thereunder shall be payable to such mortgagee and the Unit Owner as their interests may appear, subject, however, to the loss payment and adjustment provisions in favor of the Board of Directors and the Insurance Trustee contained in Sections 7.4 and 7.5 of this Article.

(ii) In no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder be brought into contribution with insurance purchased by individual Unit Owners or their mortgagees.

(iii) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these By-Laws not to do so;

(iv) The following endorsements (or equivalent): (1) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents when such act or neglect is not within the control of the insured, or the Unit Owners collectively; nor by failure of the insured, or the Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control); (2) "contingent liability from operation of building laws or codes"; (3) "increased cost of construction" or "condominium replacement cost"; and (4) "agreed amount" or elimination of co- insurance clause; and

(v) A duplicate original of the master policy of physical damage insurance, all renewals thereof and all sub- policies or certificates issued thereunder, together with proof of payment of premiums, shall be delivered to all mortgagees of Units upon request at least thirty (30) days prior to expiration of the then current policies. The Board of Directors shall periodically obtain an appraisal from an insurance company, or such other source as the Board of Directors may determine, of the full replacement value of the property without deduction for depreciation for the purpose of determining the amount of physical damage insurance to be effected pursuant to this Section.

(b) Liability. The Board of Directors shall also be required to obtain and maintain, to the extent obtainable, comprehensive general public liability and property damage insurance in such limits as the Board of Directors may from time to time determine, insuring the Declarant, each member of the Board of Directors, the Managing Agent and each Unit Owner against any liability to the public or to the Unit Owners (and their invitees, agents and employees arising out of, or incident to, the ownership and/or use of the Common Elements). Said insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Unit Owners Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Unit Owners Association; and (v) a -severability of interest" endorsement which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts of the Unit Owners Association or of another Unit Owner. The Board of Directors shall

review such limits once a year, but in no event shall such insurance be less than ONE MILLION DOLLARS (\$1,000,000.00) with respect to any one accident or occurrence for personal injury and for property damage. Reasonable amounts of umbrella liability insurance in excess of the primary limits may also be obtained. It shall be the responsibility of each Unit Owner to obtain, at his own expense, liability insurance with respect to his ownership and/or use of his Unit and the Board of Directors shall not be responsible for obtaining such insurance.

(c) Other Insurance.

(i) workmen's compensation, if and to the extent necessary to meet the requirements of law.

(ii) adequate fidelity coverage to protect against dishonest acts on the part of Officers, Directors, Trustees and Employees of the Unit Owners Association and all others who handle, or are responsible for handling, funds of the Unit Owners Association, including the Managing Agent. Such fidelity bonds shall: (1) name the Unit Owners Association as an obligee; (2) be written in an amount not less than one hundred fifty (150%) of the annual Condominium operating expenses and reserves for the year or such amount as may be required by mortgagees, the secondary mortgage market or mortgage insurers, whichever is greatest; and (3) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" of similar expression;

(iii) broad form machinery as appropriate;

(iv) Directors and *Officers'* liability insurance;

(v) flood insurance as appropriate and at the discretion of the Board of Directors,

(vi) such other insurance as the Board of Directors may determine or as may be requested by a Majority of the Unit Owners.

Section 7.3. Separate Insurance.

Each Slip Owner may purchase, at his own expense, additional insurance for his own benefit, to cover personal property or insure against additional liability.

Any Slip Owner who purchases insurance to cover any portion of the property, other than the owner's personal property, is required to file a

copy of the declaration that policy with the Board of Directors within 30 days of the effective date of the policy.

Section 7.4. Insurance Trustee.

(a) All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Association and Unit Owners and all proceeds from such policies shall be paid in trust to the Board of Directors, acting as trustee(s). The sole duty of the board, as the insurance Trustee, is to use these proceeds for purposes stated in the by laws for the benefit of those insured and their beneficiaries.

Section 7.5. Board of Directors as Agent. The Board of Directors is appointed as the agent for each unit owner to settle and adjust all claims concerning insurance policies purchased by the Board of Directors.

Section 7.6. Premiums. Premiums upon all insurance policies purchased by the Board of Directors shall be deemed to be a Common Expense **and shall be paid for by the Association.**

Section 7.7. Hazard Insurance Proceeds. Unless 80% of the Unit owners vote to the contrary, the proceeds from any hazard insurance policy purchased by the board cannot be used for any purpose other than the repair, replacement, or reconstruction of condominium property.

ARTICLE VIII
REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

Section 8.1. When Repair and Reconstruction are Required. When repair and reconstruction are required due to the destruction of all or part of the Condominium, the Board of Directors shall arrange for and supervise the prompt repair and restoration of the Condominium, not to include equipment or personal property installed by an individual Unit Owner in any Unit.

Section 8.2. Procedure for Reconstruction and Repair.

- (a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Condominium, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the Condominium (including any damaged Unit or Units as required above) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determine to be necessary.

- (b) Assessments. If the proceeds of insurance are not sufficient to defray the said estimated costs of reconstruction and repair (not including the improvements and betterments which are the responsibility of the Unit owner) as determined by the Board of Directors or, if at any time during reconstruction and repair or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, special assessments shall be made against all the Unit Owners in proportion to the Unit Owners' respective Undivided Interests in the Common Elements.
- (c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Property was originally constructed, subject to modifications required by applicable governmental regulations or made desirable by contemporary building materials and technology.
- (d) Encroachments. Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Unit Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Property was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed Condominium shall stand.

Section 8.3. Disbursements of Construction Funds.

- (a) Construction Fund. Any insurance proceeds and special assessment fees (if any), shall constitute a Construction fund, which shall be disbursed in payment of the cost of construction and repair in the manner set forth in this Section.
- (b) If the cost of reconstruction or repair exceeds (\$25,000.00) TWENTY FIVE THOUSAND DOLLARS, the construction fund shall be disbursed upon approval of an Architect qualified to practice in Virginia, or other contractor authorized by the Board of Directors and upon the contractor furnishing appropriate mechanics lien waivers in accordance with said statutes and after approval of said waivers by UHYC's attorney.
- (c) Surplus. If there are funds remaining after all payments are completed for and repair for reconstruction projects, the Board of Directors can direct that the funds be applied to the Association general operating fund, the capital reserve fund, or can be divided among the unit owners in proportion to their ownership.
- (d) Common Elements. When the damage is to both Common Elements and Units, the insurance proceeds shall be applied first to the cost of repairing

the Common Elements and the balance to the cost of repairing the Units in the shares set forth above.

(e) Certificate. The Insurance Trustee shall be entitled to rely upon a certificate executed by the President or Vice-President and the Secretary of the Unit Owners Association certifying: (i) Whether or not the damaged property is required to be reconstructed and repaired; (ii) The name of the payee and the amount to be amount to be paid with respect to disbursements from any construction fund held by it or whether surplus funds to be distributed are less than the assessments paid by the Unit .Owners; (iii) All other matters* concerning the holding and disbursing of any construction fund held by it. Any such certificate shall be delivered to the Insurance Trustee promptly after request.

Section 8.4. When Reconstruction is Not Required. In the case of substantial damage, reconstruction and repair shall not be required if Unit Owners of Units to which eighty per cent (80%) of -the votes in the Unit Owners Association appertain, with the approval of at least two-thirds (2/3) of the institutional holders of first trusts (based on one (1) vote for each first Deed of Trust owned) vote not to proceed with repair or restoration. In the event of insubstantial damage to the Common Elements the Board of Directors may elect not to repair in which case the damaged area shall be cleaned and restored to a condition compatible with the Condominium and the balance of the insurance proceeds distributed as provided in Section 8.3(c).

ARTICLE IX **TERMINATION**

Except as provided in the Bylaws for the revocation, rescission or termination of the Marina permits, the Condominium shall be terminated only by the written agreement of Unit Owners of Units to which eighty percent (80%) of the votes in the Unit Owners Association appertain and by the prior written approval of at least two-thirds (2/3) of the institutional holders of first Deed of Trust liens on Units in the Condominium. Such termination shall be effective only upon the recordation of such agreement and, if required, such approval pursuant to the Condominium Act of Virginia section 55-79.72, as amended. Termination will be further governed by Section 55-79.72 (f) of the Condominium Act of Virginia, as amended. The Net Assets of the Condominium after termination shall be disbursed to the Unit Owners in proportion to their undivided interest (one unit equals one percent of the 129%).

ARTICLE X **MORTGAGES**

Section 10.1. Notice of Board of Directors. A Unit Owner who mortgages his Unit shall notify the Board of Directors of the name and address of his mortgagee.

Section 10.2. Notice of Unpaid Assessments for Common Expenses or Default. Pursuant to Paragraph 13.3(1) of the Declaration, the Board of Directors shall provide the holder of a first Deed of Trust lien on any Unit, upon a request, with a copy Of the notification of any unpaid assessments for Common Expenses or other default by the Owner of that Unit in the performance of any obligation under these By-Laws, the Declaration or the Condominium Act sent to the Unit Owner.

Section 10.3. Right to Examine Books and Records. Holders and insurers of notes secured by first Deeds of Trust encumbering any Unit in this Condominium shall have the right to examine the Condominium Instruments, Rules and Regulations and the books and records of the Condominium Unit Owners Association or the Condominium project during regular and normal business hours after reasonable notice.

Section 10.4. Amendment to the Declaration or to the By-Laws of the Unit Owners Association. All amendments to the Declaration or these By-Laws will be in accordance with Article VIII, Mortgagee Rights and Protection, of the Declaration.

Section 10.5. Annual Audited Financial Statements and Notice of all Meetings. Holders and insurers of notes secured by first Deeds of Trust encumbering any Unit in this Condominium shall be entitled, upon request, to receive an annual audited financial statement of the Condominium and to receive written notice of all meetings of the Unit Owners Association and, further, shall be permitted to designate a representative to attend and speak at all such meetings. Financial statements shall be audited by an independent certified public accountant, whose fees shall be common expense, and shall be provided within ninety (90) days following the end of each fiscal year.

Section 10.6. Other Rights. Mortgagees shall have such other rights and be entitled to notices upon request as provided in Article VIII of the Declaration.

ARTICLE XI **COMPLIANCE AND DEFAULT**

Section 11.1. Relief. Relief refers to the Condominium Act Section 55-79.53. Each Unit Owner shall be governed by and comply with all the terms of the Declaration, Bylaws, and Rules and Regulations, as agreed on by the Owners

when purchasing the units. If default occurs, the Board of Directors has the following rights:

(a) Legal Proceedings. Failure to comply with any of the terms of the Declaration, these By-Laws and the Rules and Regulations shall be grounds for relief which may include, without limiting the same, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these By-Laws or by statute or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Unit Owners Association, the Board of Directors, the Managing Agent or, if appropriate, by an aggrieved Unit Owner and shall not constitute an election of remedies.

(b) Additional Liability. Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of any member of his family or employees, agents, licensees or lessees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver of any insurance company of its rights of subrogation.

(c) Cost and Attorneys' Fees. In any proceeding arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys fees, not exceeding thirty-three and one-third percent (33-1/31) .

(d) No Waiver of Rights. The failure of the Unit Owners Association, the Board of Directors or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these By-Laws or the Rules and Regulations shall not constitute a waiver of the right of the Unit Owners Association, the Board of Directors or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Unit Owners Association, the Board of Directors or any Unit Owner pursuant to any term, provision, covenant or condition of the Declaration, these By-Laws or the Rules and Regulations shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by the Declaration, these By-Laws or the Rules and Regulations or at law or in equity.

(e) Interest. In the event of a default by any Unit Owner in paying any Common Expense or other sum assessed against him which continues for a

period in excess of thirty (30) days, such Unit Owner may, at the option of the Board of Directors, be obligated to pay interest on the amounts due at the rate currently charged by junior mortgagees from the due date until complete payment is made.

(f) Abatement and Enjoinment of Violations by Unit Owners. The violation of any rule or regulation adopted by the Board of Directors or the breach of any By-Laws contained herein or the breach of any provision of the Declaration shall give the Board of Directors the right, in addition to any other rights set forth in these By-Laws: (i) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof and the Board of Directors shall not be deemed guilty in any manner of trespass; or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

(g) Other Sanctions. Failure by any Unit Owner to comply with any of the terms of the Declaration, these By- Laws and the Rules and Regulations, shall subject such Unit Owner to other sanctions that may be established by resolution of the Board of Directors, including but not limited to, the imposition of charges pursuant to Section 55-79.80(b2) of the Condominium Act.

Section 11.2. Assessments.

(a) Lien for Contributions. Any sum assessed pursuant to the Condominium Instruments by the Unit Owners Association for the share of the Common Expenses chargeable to any Unit shall constitute a lien on that Unit as of the first day of the fiscal year with respect to annual assessments and the date due and payable with respect to all other assessments and shall be enforceable pursuant to the provisions of Section 55-79.84, of the Condominium Act, as amended.

(b) Late Charges and Acceleration. Any assessment levied pursuant to the Declaration or these By-Laws, or any installment thereof, which is not paid within ten (10) days after it is due, shall be subject to a late charge of not less than TEN DOLLARS (\$10.00) per month for each monthly assessment in arrears or such other amounts as the Board of Directors may fix. As provided in Paragraph 6.1(d), the Board of Directors may declare the installments which would otherwise be due during the remaining fiscal year immediately due and payable and may take those actions to collect such accelerated amounts as are provided in these By- Laws for the collection of assessments.

ARTICLE XII
USE RESTRICTIONS

Section 12.1. Restrictions on Use. All Units are subject to the rules, regulations and restrictions of the Condominium and the Leasing Restrictions attached hereto as Schedule -B", provided that: these rules, regulations and restrictions shall not apply to the Declarant so long as it owns any Units and is engaged in marketing the Units or in the construction process including post construction activities such as warranty work.

ARTICLE XIII
CONDEMNATION

Section 13.1. Condemnation. In the event of a taking a Unit in condemnation or by eminent domain, the provisions of Article XII of the Declaration and Section 55-79.44. of the Condominium Act, as amended, shall prevail and govern.

Section 13.2. Board of Directors as Attorney-in- Fact. Pursuant to Section 3.15 and Section 55-79.80(b1) of the Condominium Act, the Board of Directors is hereby appointed agent and attorney-in-fact for all Unit Owners. Mortgagees and others having interests in the Units to claim, adjust, settle, compromise and prosecute all claims arising from a taking of any Common Elements in condemnation or eminent domain.

ARTICLE XIV
MISCELLANEOUS

Section 14.1. Notices. All notices, demands, bills, statements or communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, postage prepaid (pursuant to Section 55-79.75 of the Condominium Act). Notification of a default or a lien shall be sent Certified Mail, Return Receipt Requested, Postage Prepaid.

- (i) If to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner; or
- (ii) If to the Unit Owners Association or the Board of Directors, then to such address designated by the Board of Directors for such notice, or if no address is designated, then to the President of the Association.

Section 14.2. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 14.3. Resale by Unit Owner.

Resale Certificate Checklist: Condominium Unit

Per Code of Virginia Section 55-79.97 a "Resale Certificate" is to be provided by the association to the Seller, who then must provide it to the purchaser.

The items to be contained in the certificate are as follows:

- (i) An appropriate statement detailing unpaid assessments, currently levied against the unit;
- (ii) A statement of any expenditure of funds approved by the Unit Owners Association or the executive organ which shall require an assessment in addition to the regular assessment during the current or the immediately succeeding fiscal year;
- (iii) A statement, including the amount, of all assessments and any other fees or charges currently imposed by the Unit Owners Association and associated with the purchase, disposition and maintenance of the condominium unit and the use of the common elements, and the status of the account;
- (iv) A statement whether there is any other entity or facility to which the unit owner may be liable for fees or other charges;
- (v) The current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the executive organ;
- (vi) A copy of the unit owners' association current budget or a summary thereof prepared by the unit owners' association and a copy of the statement of its financial condition for the last fiscal year for which statement is available;
- (vii) A statement of the nature and status of any pending suits or unpaid judgments to which the unit owners' association is a party which either could or would have a material impact on the association or the unit owners or which relates to the unit being purchased;
- (viii) A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association, including any fidelity bond coverage would normally be secured by each individual unit owner;
- (ix) A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, by the prior unit owner are not in violation of the condominium instruments;
- (x) A copy of the current bylaws, rules and regulations and architectural guidelines adopted by the unit owners' association and the amendments thereto;

- (xi) A statement of whether the condominium or any portion thereof is located within a development subject to the Property Owners' Association Act, Section 55-508 et seq. of Chapter 26 of this title;
- (xii) A copy of the notice given to the unit owner by the unit owners' association of any current or pending architectural violation;
- (xiii) Certification, if applicable, the association has filed with the Real Estate Board, the annual report required by Section 55-516.1 of the Property Owners' Association Act; which certification shall indicate the filing number assigned by the Real Estate Board and the expiration date of such filing; and
- (xiv) A statement of any limitation on the number of persons who may occupy a unit as a dwelling.

Section 14.4. Interchangeable Terms. As used in these By-Laws and in the Declaration, the terms mortgage and deed of trust are interchangeable with each other and terms mortgagee and holder of a first deed of trust lien are interchangeable with each other. The use of the masculine gender in these By-Laws shall be deemed to include the feminine and neuter genders and vice versa whenever the context so requires. The use of the singular shall be deemed to include the plural and vice versa whenever the context so requires. The term "Declarant" shall be deemed to include the successors and assigns as provided for in Section 55-79.41 (k) of the Condominium Act.

Section 14.5. Construction. These Condominium Instruments are intended to comply with all applicable provisions of the Virginia Condominium Act, as amended, and shall be so interpreted and applied.

Section 14.6. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws or the intent of any provision thereof.

Section 14.7. Severability. If any provisions of these By-Laws or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of the remainder of these By-Laws shall not be affected and to this end, the provisions hereof are declared to be severable.

Section 14.8. Waiver. No restriction, condition, obligation or provision of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 14.9. Escalator Clause Based on Price Index. The ceiling amount for expenditures, over which the Board of Directors, pursuant to Section 6.4 hereof, must obtain the prior approval of a majority of all Unit Owners, ("Minimum Expenditures Ceiling"), and the insurance proceeds ceiling, over

which the Board of Directors, pursuant to Section 7.1(a)(v), shall pay in trust to the Insurance Trustee, ("Insurance Proceeds Ceiling"), are based upon the cost of living for the month and year in which these By-Laws were originally recorded, (the "base") as reflected in the Consumer's Price Index for all items for moderate-income families in large cities, as determined by the United States Department of Labor, Bureau of Labor Statistics, based on all items for the year 1967, equaling 100. The Minimum Expenditure Ceiling and the Insurance Proceeds Ceiling shall be adjusted in the following manner, on the basis of the said Consumer Price Index, or, if there shall be no such Consumer Price Index, then by the successor of the most nearly comparable successor index thereto (appropriately adjusted to the base):

(a) The basic index figure for the current purpose shall be the aforesaid index figure for the month and year in which these By-laws were originally recorded, (the "base"). If the index figure in the first month of any succeeding year ("base I") shall exceed by five points or more the index figure for the first month of the current year ("base 2") then the minimum expenditure ceiling and insurance proceeds ceiling shall each be increased to an amount arrived at by multiplying the said minimum expenditure ceiling and insurance proceeds ceiling then payable, by a fraction, the numerator of which shall be base 2 and the denominator shall be base 1.

(b) Notwithstanding any possible provision to the contrary contained herein, the minimum expenditure ceiling and insurance proceeds ceiling shall not be less than \$10,000.00 and \$25,000.00 respectively.

ARTICLE XV **AMENDMENTS TO BY-LAWS**

Section 15.1. According to Article IX, Section 9.1 of the Declaration, the Urbanna Harbour Yacht Club has ownership of the property, but the slip owners may amend the Bylaws with a 51% majority vote of the membership. Any amendments must be recorded in the Land Records of Middlesex County, Virginia to be in effect.