

shall be Five Hundred Dollars (\$500.00), the application fee for approval of boat dock plans shall be One Hundred Fifty Dollars (\$150.00), and the application fee for renovations, addition or changes to the exterior shall be Three Hundred (\$300.00). The application fee for any other approval shall be One Hundred Dollars (\$100.00).

Section 10. Previously Constructed Homes. As of the date of this Declaration, homes have been constructed on Lots 6R, 16 and 17. These homes, as currently built, are hereby deemed to be in compliance with the construction standards or other restrictions contained within this Declaration and shall be deemed approved by the ARC.

**ARTICLE III**  
**USES OF LOT WITHIN THE COMMUNITY**

The permitted uses, easements and restrictions for all lots within South Harbour, shall be as follows:

Section 1. Vehicles and Trash. No Lot shall be used or maintained as a dumping ground for trash or waste of any type and all trash shall be maintained in sanitary containers, hidden from view. No automobile or vehicle shall be kept on any Lot or on any street adjoining any Lot unless the same carries a current license plat and any necessary current state inspection certificate. All recreational vehicles, boats, boat trailers and accessories to same (other than those stored in approved boat

docks) shall be stored in the area within the development designated for boat storage.

Section 2. Nuisances. No animals other than household pets may be kept on any Lot without the prior written approval of the Declarant or the Association, as the case may be, and no noxious or offensive trade shall be carried on upon any Lot, nor shall anything be done thereon which may be or become a nuisance to the neighborhood. No more than three (3) household pets shall be kept on any Lot for any period of time longer than eight (8) weeks. Household pets shall not be kept for any commercial purposes. All animals must be secured by a leash or lead, or under the control of a person and obedient to that person's command at any time any pet is permitted off the Owner's Lot.

Section 3. Utilities. Declarant will furnish underground utilities to each Lot line at the street and all Lot Owners will supply underground utilities from the streets to the respective residential or other approved structures.

Section 4. Water/Septic. All Lots are served by public water provided by the Western Virginia Water Authority and each residence shall be served by the public water and shall pay such reasonable connection fee and usage charges as established by the Authority, or its assigns. Each Lot is approved by the Franklin County Health Department for individual septic system to serve each lot.

Section 5. Use to be Solely Residential. No more than one single family dwelling shall be erected on any one Lot. Notwithstanding this Section, due to its size and unique character, Lot 12 shall be permitted to construct a guest cottage in addition to the primary residence.

Section 6. Signs. No commercial signs, billboards or advertising of any nature shall be erected, placed or maintained on any residential Lot, nor upon any improvement erected on any Lot; provided, however, directional and informational signs erected by the Declarant shall be permitted; the Declarant and/or the Homeowners Association may place signs in the common areas for such purposes as deemed to benefit the Community and/or the use of such common areas; and Realtors' "For Sale" signs (not to exceed 2 feet x 2 feet) may be placed upon, erected or maintained on any lot offered for sale provided the Owner of such Lot first obtains permission of the ARC. The ARC reserves the right to restrict the size, color and content of any permitted sign. Any sign or notice required by any legal proceeding shall be permitted as provided by the Court.

Section 7. Removal of Trees/Landscaping Along the 800' Contour. Except in necessary construction areas and septic fields, no trees four (4) inches or larger in diameter, measured six (6) feet from the ground, shall be removed from the property without the approval of the ARC. There shall be no burning of

trees, stumps, or debris on any Lot. The landscaping along the 800' contour shall prohibit any plant which grows in height which may impede the view of the lake by other Lot Owners.

Section 8. Storage Areas. Each Lot Owner shall be responsible for keeping all boats that are docked in the Owner's boat dock in a neat and orderly fashion. Storage of any boats or boat trailers shall not be permitted above the 800' contour line of any Lot except for a temporary period not to exceed 48 hours, per time period, as may be required for minor maintenance or cleaning of the boat or trailer or necessary temporary storage.

**ARTICLE IV**  
**CONSTRUCTION STANDARDS**

The following construction standards shall apply to all homes within South Harbour subject to the final approval of the ARC. Whether a particular design feature is in conformance with these constructions standards is in the sole discretion of the ARC and these constructions standards are provided as general specifications and architectural features that will be expected in the design and construction of a home in South Harbour:

1. All roof lines shall have a minimum pitch of 6:12 on the main body of the house excluding porches. Porches and wings may be attached lower upon approval by the ARC.
2. Exterior siding shall be constructed of brick,

wood, dryvit, masonite, hardie plank, natural stone and approved man-made stone.

3. No statues or sculptures shall be located in the front yard (street side) of any Lot unless approved by the ARC.

4. All lawns shall be established within fort-five (45) days from issuance of certificate or occupancy or occupancy of the premises, whichever occurs first. All landscaping shall commence within ninety (90) days of the same date.

5. CMU retaining walls shall be faced material approved by the ARC.

6. Driveways shall be located and constructed as approved by the ARC. Before construction begins on any Lot, a driveway and culvert shall be installed. Each driveway shall be installed from the edge of the subdivision street/road to the construction site and consist of six (6) inches of crushed stone. Every Lot Owner shall be responsible for keeping mud off of all the private roads within the community and, also, off the public highways during construction, and at all other times; failing such, the Declarant or the Home Owners Association, as the case may be, may remove such mud or other debris, and charge the Lot Owner for all expenses incurred in doing so. Corrugated metal culvert pipe shall be installed in accordance with the standards of the Virginia Department of Highways and Transportation to connect to the private road upon which the same fronts.

Driveways shall be surfaced with asphalt black top or concrete, approved decorative stone, and be completed within ninety (90) days of completion of construction of the residence.

7. For the waterfront lots, all shoreline stabilization shall be the responsibility of individual Lot Owners. All shoreline stabilization shall use stone with the same color and size as the existing rip rap within South Harbour.

8. Landscaping shall be approved by the ARC.

9. Each residence shall provide off-street parking for four (4) or more vehicles in a driveway or other appropriate (paved) area.

10. The Owner of any Lot shall provide for any dwelling constructed on such Lot a septic disposal system constructed in accordance with the specifications set forth by the applicable state and county public health officials. For lots that require "off site" septic drainfields served by individual force mains, the Declarant will install such force mains for all Lots.

11. All fuel storage tanks, trash and garbage receptacles shall be buried under ground or set at such places as not to be visible from any viewpoint deemed by ARC to negatively impact any other Lot Owner. Air-conditioning compressors, heat pump equipment and all other mechanical equipment shall be screened by landscaping.

12. No satellite dish antenna or other transmission or

receiving antennas shall be installed or placed on any Lot, provided, however, that the ARC in the exercise of its authority may permit Lot Owners to install individual satellite dish or other television antennae. The ARC may refuse to approve any antenna or satellite dish based upon purely aesthetic considerations such as the size or location of the antenna.

13. No home or boat dock design that is substantially similar to an existing home or boat dock previously constructed in the subdivision shall be approved.

**ARTICLE V**  
**SPECIFIC RESTRICTIONS**

Section 1. Enforcement. Enforcement of these Restrictions shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain the violation and/or recover damages. The Declarant, the ARC and/or Home Owners Association, as the case may be, reserves the right to perform any act set forth anywhere in this Declaration on behalf of a Lot Owner who has failed to abide by any affirmative obligation set forth herein or who has violated any prohibition herein. Such act shall include but not be limited to any act of maintenance, lawn care, construction or a required Lot improvement or removal or correction of a prohibited or faulty Lot improvement. All costs of such acts on behalf of

the Lot Owner, including interest, attorney fees and recording taxes shall be charged to the subject Lot Owner, and a lien setting forth such costs may be recorded against the subject Lot Owner and Lot among the Franklin County land records. In addition, the Declarant, the ARC, the Association or any Owner may bring any appropriate legal action against a Lot Owner to enforce or to cure any breach of these Restrictions or amendments thereto. In such event, the Lot Owner shall pay for all of Plaintiff's court costs, expense of litigation and attorney's fees if Plaintiff is the prevailing party in such litigation.

Section 2. Future Roads. No street or road connecting the Property to adjoining lands may be constructed on any Lot unless such street or road is constructed by Declarant or Declarant gives its express written permission for such connection and construction.

Section 3. Restrictions on Further Subdivision. No Lot within the Property shall be further subdivided or separated into smaller lots or parcels by any Owner and no portion less than all of any such Lot shall be conveyed or transferred by any Owner except between Lot Owners to adjust boundary lines provided that no additional Lot is created.

Section 4. 800-Foot Contour Line. When the Declarant herein recites restrictions, covenants, conditions or rights as to such Lot, the same shall also apply to the land adjoining said



Lot, situate, below the 800-foot contour line. Furthermore, all boat docks shall be located and constructed in accordance with the plans and specifications approved by the ARC. In determining the appropriate location of any boat dock to be constructed within South Harbour, the ARC shall 1) ensure that the location complied with the Shoreline Management Plan enforced by Appalachian Power and 2) direct that the boat dock be located so as to minimize the degree to which the boat dock may obstruct the view of other lot owners and to ensure proper spacing between boat docks. The final approval of a boat dock's design or location shall be at the sole discretion of the ARC.

It is intended that each waterfront lot shall be permitted to erect one boat dock unless otherwise approved by the ARC. In most instances, the boat dock appurtenant to a Lot shall be located within the extension of the side lot lines of the Lot served by the boat dock, however, in some instances, it may be necessary or desirable to locate the dock over and across the extension of the side lot lines. The ARC may approve the location of a boat dock appurtenant to a particular lot which is located over and across any extended lot line. To this end, the Declarant hereby reserves an easement over and across all of the land below the 800' contour line such that the ARC may exercise its rights to locate boat docks according to this Section. Furthermore, the Declarant hereby reserves the right to locate boat docks within

any buffer zones required by any governmental entity or by the Shoreline Management Plan of Smith Mountain Lake and each Lot Owners specifically waives the right to object to the location of any other Lot Owner's boat dock.

Notwithstanding the previous paragraph, waterfront lots 1, 5R, 6R, 7, 14, 16 and 17 have been sold prior to execution of this Declaration and the Declarant has agree that these lots shall be exempt from the provision which permits the Declarant to locate boat docks over and across the extended lot lines. Therefore, the Developer shall not have the right to locate any boat docks, other than those boat docks appurtenant to each of these lots, over or across the extended lot line for the lots numerated above. However, the parties hereby agree that the 15' setback requirement under the Shoreline Management Plan of Smith Mountain Lake shall not apply and that each party hereby waives the setback requirement so as to permit a boat dock to be located within the said 15' setback.

Section 5. Road Maintenance.

A. The Declarant or Homeowner's Association shall be solely responsible for maintaining and repairing the private roads within the community to the minimum standards to which the same were originally constructed. However, in the event any Lot Owner or Owner's agent or invitee causes damage to any said road, other than ordinary wear and tear, such Lot Owner shall be

required to repair such damage and bear the costs thereof exclusively.

B. Maintenance, at minimum, shall include but not be limited to the following:

- (1) Removing snow and ice;
- (2) Maintaining the ditches and slopes along the private roadway in order to avoid erosion;
- (3) Maintaining the road surface; and
- (4) Maintenance of the road shall include maintenance of the walk/cart path as travels within the same.

C. The Home Owners Association formed by the Declarant and composed of the Lot Owners shall be responsible to collect annual assessments and contract for all road maintenance, repairs, snow removal, aforesaid.

**ARTICLE VI**  
**ASSESSMENTS AND HOME OWNERS ASSOCIATION**

Section 1. Agreement. Each Lot Owner shall by the acceptance of the Deed of Conveyance to the lot become a member of a Home Owners Association formed by the Declarant and, shall be subject to the dues and assessments as may be established by the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

Section 2. Assessments. Every Lot Owner and member of the Association is deemed to covenant and agree to pay to the

Association: (i) annual assessments or, and (ii) special assessments for capital improvements. All assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien superior to any Deed of Trust or Mortgage on the Lot. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Lot Owner's successors in title unless expressly assumed by them, but shall be a lien on the land.

Each owner covenants for himself, his heirs, successors and assigns, to pay each assessment levied by the association on the lot described in such conveyance to him within ten (10) days after receipt of an invoice for the same, and further covenants that if said charge shall not be paid within thirty (30) days from the date that said invoice is deposited, postage paid in the United States mail, in an envelope addressed to such Owner at the address of the lot or to such other address as maintained on the current land records for Franklin County, Virginia. The amount of such charge shall become a lien upon said Owner's lot and shall continue to be such lien until fully paid.

At closing of the initial sale and upon the resale of each Lot, each Purchaser shall pay a transfer fee to the Declarant or

the Homeowners Association, as the case maybe, to be held and used for the maintenance of the road and other common areas and improvements. The initial amount of the transfer fee shall be Five Hundred Dollars (\$500.00) and may be adjusted from time to time by the Declarant or the Homeowners Association as necessary. The Declarant at such time as the duties are transferred to the Homeowners Association shall pay any monies held by it to the Homeowners Association to provide for its initial capital funds.

Until such time as the duties for maintenance of the common areas are assigned to the Homeowners Association, the annual and any special assessment shall be determined by the Declarant. At such time as maintenance duties are assigned to the Homeowners Association, the Board of Directors shall determine the annual assessment and any special assessment. Annual assessments may be charged and paid monthly, quarterly or annually as the Declarant or Board of Directors may determine. The initial annual assessment will be FIVE HUNDRED (\$500.00) DOLLARS.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only. The Declarant or the Board of Directors for Association, as the case may be, shall determine the purpose for which the assessments will be made and allocated.

The annual assessments provided for herein shall commence as

to all Lots on the first day of the month following the conveyance of that Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Declarant or the Board of Directors, as the case may be, shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Declarant or the Board of Directors, as the case may be.

Unless, Declarant has previously done so, at such time as the Declarant has sold at least seventy-five percent (75%) of the Lots, the Declarant shall transfer the common area to the Homeowners Association to perform all duties and responsibilities herein provided.

Without limitation the specific duties and obligations of the Association shall be: (1) the upkeep and maintenance of all common areas and all improvements made to the same (including, without limitation, boat storage area, signage, the landscaping and irrigation, day dock, and other structures located in the common area); (2) the upkeep and maintenance of all the street lights in common areas; (3) the upkeep and maintenance of the private roads, minimally, to the standards provided by the Declarant; (4) to provide architectural review as herein

provided; (5) to perform any other lawful act approved by/for the community; and (6) to provide a Committee to establish rules and regulations for the operation and upkeep of the "off site" drainfields.

Section 3. Amenities to be Constructed. The Declarant has agreed to construct certain amenities within the subdivision at its costs. These amenities shall include but are not limited to, a community day dock, community walking trail, street lights and signs, the planting of trees, and a front entrance with subdivision signage. Upon completion of these amenities, these shall be conveyed to the Homeowners Association to be maintained according to this Declaration.

**ARTICLE VII**  
**SEPTIC SYSTEMS**

Section 1. Agreement. Owners of Lots in South Harbour shall be responsible for the maintenance of their individual septic system serving their Lot including the lines, the septic field, the storage tank and drainfield; provided, however, that no work may be performed except by contractors approved by the ARC or the Committee appointed by the Homeowners Association.

Section 2. Off-Site Septic Systems. Subject to the provisions hereof, Lots served by "off-site" septic fields with individual force mains, the initial location and area being defined and designated on plat of Subdivision for South Harbour