

Prepared by: John A. McLendon, Jr., Attorney  
Schell Bray Aycock Abel & Livingston P.L.L.C.

NORTH CAROLINA - BRUNSWICK COUNTY

DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS  
FOR ST. JAMES PLANTATION  
MARINA VILLAGE PUD-M PARCEL C  
SHIPWATCH VILLAS CONDOMINIUM SITE

THIS DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS (the "Restrictive Covenants") is made as of the 27<sup>th</sup> day of JUNE, 2000, by St. James Properties, LLC, a North Carolina limited liability company ("St. James Properties").

WITNESSETH:

WHEREAS, St. James Properties is the owner of certain tracts of land located in Brunswick County, North Carolina, and more particularly described as follows:

Being all of Phases 1, 2, 3, 4 and 5 of Marina Village at Brunswick Harbor, PUD-M Parcel C, as shown on a plat recorded in Map Cabinet 21, Page 319, Brunswick County Registry (said Phases are hereinafter referred to collectively as the "Condominium Site" and said recorded plat is referred to as the "Plat").

WHEREAS, St. James Properties is developing a residential condominium project on the site to be known as Shipwatch Villas at St. James Plantation, a Condominium (the "Condominium");

WHEREAS, pursuant to an Amendment to Master Declaration executed by St. James Properties, Brunswick Harbor, Inc. ("Brunswick Harbor") and First St. James, Inc. ("First St. James"), and to be recorded in the Brunswick County Registry, the Condominium Site has been subjected to that Master Declaration of Covenants, Conditions and Restrictions recorded in Book 839, Page 453, Brunswick County Registry, as amended (the "Master Declaration"); and St. James Properties desires to subject the Condominium Site to certain additional covenants, conditions, restrictions and easements for the purpose of protecting the value and desirability of the Condominium Site and other adjacent properties.

NOW, THEREFORE, St. James Properties hereby declares and covenants that the Condominium Site shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which shall run with the land and be binding upon all parties having any right, title or interest in the Condominium Site or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

NET JRP  
TOTAL 22- REV. \_\_\_\_\_ TO# 17  
REC# \_\_\_\_\_ CK AMT 308- CK# 24034  
CASH \_\_\_\_\_ REF 21- BY JS

1. **LAND USE:** The Condominium Site shall be used for residential condominium purposes only. The operation of any business or commercial enterprise upon the Condominium Site is expressly prohibited; provided, however, that the Condominium Site and any dwelling unit located thereon may be used as a temporary sales office and/or model with the prior written consent of Brunswick Harbor.

2. **RESUBDIVISION AND COMBINATION:** The Condominium Site shall not be resubdivided, or its boundary lines changed without the prior written consent of Brunswick Harbor.

3. **NUISANCES:** No noxious, offensive or illegal activities shall be conducted upon the Condominium Site nor shall anything be done that shall be or become an unreasonable annoyance or nuisance to any person whomsoever.

4. **ARCHITECTURAL CONTROL:** The Condominium buildings are currently under construction on the Condominium Site in the approximate locations shown on the Plat. All future improvements, alterations or additions on the Condominium Site must be reviewed and approved by the Architectural Control Committee of St. James Plantation Property Owners' Association, Inc. (the "Master Association"), prior to commencement of any construction. Once construction of improvements has been commenced, they must be complete and ready for occupancy within twelve (12) months. Weather permitting, all landscaping shall be finished upon completion of the improvements, but in no event later than ninety (90) days after the date the improvements are occupied. Upon written request of the owner and for good cause shown, the Architectural Control Committee may, in its sole and absolute discretion, extend the time for construction.

5. **BUILDING SETBACK AND PLACEMENT:** The Condominium buildings are currently under construction on the Condominium Site in the approximate locations shown on the Plat. The location of any future improvements, alterations or additions on the Condominium Site must be reviewed and approved by the Architectural Control Committee.

6. **EASEMENTS:**

St. James Properties hereby reserves for itself, its successors and assigns, and hereby grants to Brunswick Harbor, its successors and assigns (the rights of St. James Properties, Brunswick Harbor, and their respective successors and assigns to be coextensive and non-exclusive): (i) easements for ingress, egress and regress, and for the installation and maintenance of drainage facilities and utilities, over, upon and under all common areas and common elements (including parking areas, but excluding buildings) within the Condominium Site, as may be necessary to develop and utilize adjoining lands currently owned by St. James Properties or Brunswick Harbor, which non-exclusive right of way and easement may be assigned in whole or in part; and (ii) other easements as shown on the Plat.

St. James Properties hereby grants to the Master Association, its successors and assigns, easements for pathways on the Condominium Site along all property lines abutting a

street, measured fifteen (15) feet from the property lines of the abutting streets (but excluding the area within the Infiltration Pond, as shown on the Plat), for pedestrians, bicycles and such other uses as may be permitted by the Master Association, all subject to rules and regulations of the Master Association.

St. James Properties hereby grants to Marina at St. James Plantation Owners Association, Inc., its successors and assigns, an easement for marina basin maintenance (including maintenance of the marina bulkhead, tie-backs and anchors), drainage facilities and utilities on the Condominium Site, measured twenty (20) feet from the southern property line abutting the marina basin tract. St. James Properties, Brunswick Harbor and/or the Master Association may, but shall not be required to, install and maintain a fence within such easement along the rear line of the Condominium Site abutting the marina basin tract.

Such easements shall be for the purposes hereinabove described and/or for other purposes as specified on the Plat, together with the right of ingress and egress over and upon such easements for such purposes. Easements for drainage facilities and utilities must be used so as to interfere as little as possible with the use of the Condominium Site by the owners of Condominium units. Easements for drainage facilities, utilities and/or pathways along a property line of any street abutting the Condominium Site shall not be deemed to prohibit a driveway crossing.

**7. NO TEMPORARY STRUCTURES, OUTBUILDINGS OR PLAYGROUND EQUIPMENT; NO RIPARIAN RIGHTS ALONG MARINA BASIN:** Except during construction, and subject to approval by the Architectural Control Committee, no structure of a temporary character shall be erected, placed or allowed to remain on the Condominium Site, nor shall any building materials be stored on the Condominium Site. No outbuilding, shed, separate garage or other accessory building shall be erected, placed or allowed to remain on the Condominium Site. No playground equipment shall be erected, placed or allowed to remain on the Condominium Site. The Condominium Site located adjacent to the marina basin tract is separated from the water by a strip of land and does not have riparian rights in or to the marina basin.

**8. STREETS, FENCES, WALLS AND SIGNS:** No street shall be laid out or opened across or through the Condominium Site. No fence shall be erected or allowed to remain on the Condominium Site (except for a fence constructed and maintained by St. James Properties, Brunswick Harbor and/or the Master Association as described in paragraph 6 above) without the prior written consent of the Architectural Control Committee, which approval may be denied or conditioned in the sole discretion of the Architectural Control Committee. No retaining wall shall be erected or allowed to remain on the Condominium Site without the prior written approval of the Architectural Control Committee, which approval may be denied or conditioned in the sole discretion of the Architectural Control Committee. Except as required by law, no billboards, posters or signs of any kind (specifically including "for sale" or "for rent" signs or posters) shall be erected or allowed to remain in any window, on the exterior of any improvement, or elsewhere on the Condominium Site, except (i) signs containing the name of the Condominium or the numbers of buildings and/or units in the

Condominium, (ii) signs installed and maintained by the Condominium Association that are necessary for safety or informational purposes, and (ii) temporary signs reflecting construction on the Condominium Site by a licensed contractor. Except for signs required by law, the design, colors and materials of all signs are subject to review and approval by the Architectural Control Committee.

9. **ANIMALS:** No animals, livestock or poultry of any kind shall be kept or maintained on the Condominium Site except that dogs, cats or other household pets may be kept or maintained, provided that they are not kept or maintained for commercial purposes and further provided that they are kept and maintained in compliance with all applicable laws and ordinances.

10. **OUTSIDE ANTENNAS AND SATELLITE DISHES:** No outside radio or television antennas, satellite dishes, satellite earth stations or similar devices shall be erected or allowed to remain on the Condominium Site, except as permitted by the Design Guidelines adopted by the Architectural Control Committee, as amended from time to time.

11. **BOATS, TRAILERS AND CERTAIN MOTOR VEHICLES:**

(a) No boat, trailer, bus, commercial vehicle, camper, motor home, recreational vehicle, or truck larger than a half-ton pickup truck shall be parked for longer than twenty-four (24) hours on the Condominium Site in such a manner as to be visible from the street; provided, however, such boat or vehicle may be parked in a garage on the Condominium Site if it can be fully covered with the garage door closed. Violators may have their boats or vehicles towed by the Master Association at the owner's expense.

(b) No inoperative or unlicensed vehicles shall be parked for longer than twenty-four (24) hours on the Condominium Site; provided, however, such vehicle may be parked in a garage on the Condominium Site if it can be fully covered with the garage door closed. Violators may have their vehicles towed by the Master Association at the vehicle owner's expense.

(c) The Board of Directors of the Master Association, in its sole and absolute discretion, may provide a limited waiver of the requirements contained in subparagraphs (a) and (b) above, for good cause shown.

12. **OPERATION OF MOTOR VEHICLES:** Motor vehicles shall be operated within St. James Plantation in accordance with all laws of the State of North Carolina and any rules and regulations which may be imposed by the Master Association. No "off the road" vehicles of any type, including but not limited to, go carts, dirt bikes, and all terrain vehicles, shall be operated within St. James Plantation except those vehicles used in the course of permitted construction and development within St. James Plantation, or used for golf course or related purposes.

13. **STORAGE RECEPTACLES:** The placement and maintenance of fuel storage tanks and outdoor receptacles for ashes, trash, or garbage shall subject to review and approval by the Architectural Control Committee.

14. **OUTDOOR CLOTHES DRYING STRUCTURES:** No outdoor clothes poles, clothes lines or similar structures shall be erected, placed or allowed to remain on the Condominium Site.

15. **MAINTENANCE OF CONDOMINIUM SITE:** The Condominium Site shall be maintained in a sightly condition, free of debris, rubbish, weeds, and high grass. The improvements on the Condominium Site shall be maintained in a reasonable and prudent manner harmonious with that of other property within St. James Plantation as determined by the Board of Directors of the Master Association and as set forth in the Master Declaration.

16. **REPAIR OR REMOVAL OF IMPROVEMENTS:** Any improvement damaged in whole or in part by casualty, fire, windstorm or from any other cause, must be promptly restored or all debris removed and the Condominium Site restored to a sightly condition. Such rebuilding or removal of debris shall be completed within three (3) months from the date of the casualty unless the Architectural Control Committee grants a written extension.

17. **REMOVAL OF TREES:** No living tree four (4) inches or over in caliper at four (4) feet high from ground elevation, nor any dogwood, flowering shrub or bush, shall be cut without the prior written consent of the Architectural Control Committee unless it is in the area of the Condominium Site approved for construction of a structure.

18. **LAKES AND PONDS:** The use by any unit owner of a lake or pond is subject to rules and regulations of the Master Association, which may include prohibition of use.

19. **WELLS:** All ground waters beneath the Condominium Site are understood to be part of the available system for disposal of wastewater by the Master Association or another entity operating a wastewater treatment facility serving St. James Plantation. No potable water supply well shall be constructed on the Condominium Site. St. James Properties hereby reserves, for itself, its successors and assigns, and hereby grants to the Master Association and the State of North Carolina, the right to enter upon the Condominium Site for the purpose of groundwater monitoring, including the installation of monitoring wells and pumping of water therefrom, and for remediation purposes. This paragraph is intended to ensure continued compliance with groundwater rules adopted by the State of North Carolina and therefore may be enforced by the State of North Carolina.

20. **WAIVER OF AND CONSENT TO VIOLATIONS:** Where approval, consent or waiver rights are specifically granted herein to the Architectural Control Committee or the Board of Directors of the Association, the Architectural Control Committee or Board of Directors, as applicable, may waive a violation of the covenant, condition or restriction by appropriate instrument in writing. Otherwise, Brunswick Harbor may waive any violation of the covenants, conditions and restrictions set forth herein by appropriate instrument in writing;

provided that any waiver of paragraph 19 shall require the written consent of the State of North Carolina.

21. **TERM:** These Restrictive Covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date this instrument is recorded, after which time said Restrictive Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Master Association and by two-thirds (2/3) of the then owners of dwelling units in the Condominium, agreeing to terminate these Restrictive Covenants in whole or in part, has been duly recorded in the Brunswick County Registry. Any termination of paragraph 19 shall require the written consent of the State of North Carolina.

22. **AMENDMENT:** These covenants may be amended at any time by an instrument signed by the Master Association and by two-thirds (2/3) of the then owners of dwelling units in the Condominium; provided that any such amendment during the initial, thirty year term of these covenants shall require the written consent of Brunswick Harbor. Any amendment must be properly recorded. Any amendment of paragraph 19 shall require the written consent of the State of North Carolina.

23. **ENFORCEMENT:** Except to the extent that a waiver has been duly granted as provided herein, St. James Properties, Brunswick Harbor, First St. James, the Master Association, and any owner of a dwelling unit in the Condominium shall have the right to enforce, by a proceeding at law or in equity, all restrictions and conditions herein imposed, against any person or persons violating or attempting to violate the same, either to restrain the violation or to recover damages. Failure by any such party to enforce any of these Restrictive Covenants shall in no event be deemed a waiver of the right to do so thereafter. The State of North Carolina shall have the right to enforce paragraph 19 hereof.

24. **SUCCESSORS AND ASSIGNS:** The rights of St. James Properties and Brunswick Harbor hereunder shall inure to the benefit of their respective successors and assigns if so specified in a recorded instrument; provided, however, that this requirement of designation in a recorded instrument shall not apply to a mortgagee who acquires title by foreclosure, deed in lieu of foreclosure or similar means, to any portion of the Condominium Site owned by St. James Properties.

25. **SEVERABILITY:** Invalidation of any provision of these Restrictive Covenants by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

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IN WITNESS WHEREOF, St. James Properties has caused this instrument to be duly executed, as of the day and year first above written.

ST. JAMES PROPERTIES, LLC

By: *J.L. [Signature]*  
Manager

NORTH CAROLINA

BRUNSWICK COUNTY

I, *Dawn Boling*, a Notary Public of the County and State aforesaid, certify that *John Atkinson* personally appeared before me this day and acknowledged that he/she is a Manager of ST. JAMES PROPERTIES, LLC, a North Carolina limited liability company, and further acknowledged the due execution of the foregoing instrument on behalf of the company.

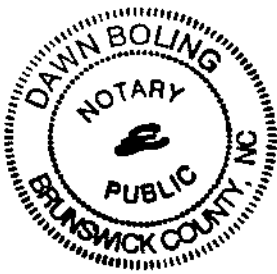
WITNESS my hand and official stamp or seal, this 23 day of June, 2000.

(Seal-Stamp)

*Dawn Boling*  
Notary Public

My Commission Expires:

6/22/04



BRUNSWICK HARBOR, INC., as beneficiary under certain deeds of trust encumbering the property described in this Declaration of Restrictive Covenants, said deeds of trust being recorded in Book 1338, Page 1171, Book 1368, Page 397, Book 1368, Page 404, Book 1376, Page 257, and Book 1376, Page 260, Brunswick County Registry, and JAMES R. PREVATTE, JR., as Trustee under said deeds of trust, join in the execution hereof for the purpose of subordinating and subjecting the aforesaid deeds of trust to the terms and provisions of this Declaration of Restrictive Covenants.

BRUNSWICK HARBOR, INC.

By: *J.M.C.*  
Vice President

NORTH CAROLINA

BRUNSWICK COUNTY

I, *Dawn Boling*, a Notary Public of said County and State, certify that *John Atkinson* personally came before me this day and acknowledged that he is Vice President of BRUNSWICK HARBOR, INC., a corporation, and that he as Vice President, being authorized to do so, executed the foregoing on behalf of the corporation.

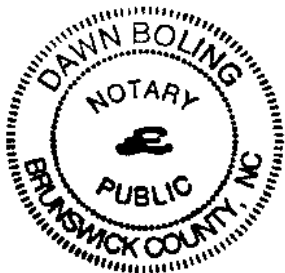
Witness my hand and official seal, this the 23 day of June, 2000.

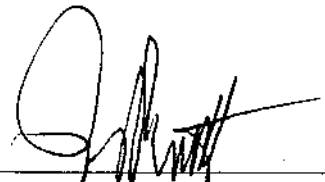
(Notary Seal)

*Dawn Boling*  
Notary Public

My Commission Expires:

6/22/04





James R. Prevatte, Jr., Trustee  
Under Deeds of Trust for  
Brunswick Harbor, Inc., Beneficiary

NORTH CAROLINA

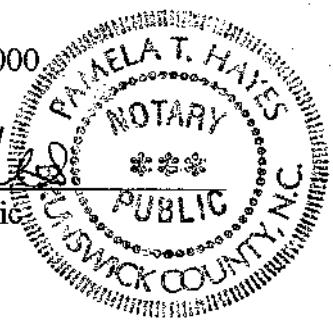
BRUNSWICK COUNTY

I, Pamela T. Hayes, a Notary Public of said County and State, certify that JAMES R. PREVATTE, JR., Trustee, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal, this 27 day of June 2000

(Notary Seal)

Pamela T. Hayes  
Notary Public



My Commission Expires: 6/26/04

BRANCH BANKING AND TRUST COMPANY, as holder of certain promissory notes secured by deeds of trust encumbering the property described in this Amendment to Master Declaration, said deeds of trust being recorded in Book 1338, Page 1167, Book 1368, Page 393, and Book 1368, Page 400, Brunswick County Registry, and A. BAXTER STIRLING, as Trustee or substitute Trustee under said deeds of trust, join in the execution hereof for the purpose of subordinating and subjecting the aforesaid deeds of trust to the terms and provisions of this Amendment to Master Declaration.

BRANCH BANKING AND TRUST COMPANY

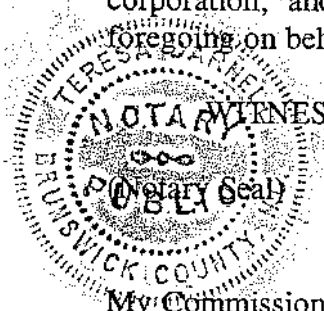
By: *Jim Shaver*  
Vice President

NORTH CAROLINA

BRUNSWICK COUNTY

I, *Teresa Darnell*, a Notary Public of said County and State, certify that *Bill Shaver* personally came before me this day and acknowledged that he/she is a Vice President of BRANCH BANKING AND TRUST COMPANY, a corporation, and that he/she as Vice President, being authorized to do so, executed the foregoing on behalf of the corporation.

IN WITNESS my hand and official seal, this *23* day of *JUNE*, 2000.



*Teresa Darnell*  
Notary Public

My Commission Expires: *3/08/04*

*A. Baxter Stirling*

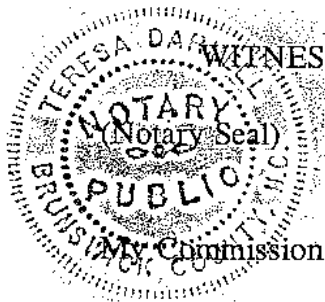
A. Baxter Stirling, Trustee  
Under Deeds of Trust for  
Branch Banking and Trust Company,  
Beneficiary

NORTH CAROLINA

BRUNSWICK COUNTY

I, Teresa Darnell, a Notary Public of said County and State, certify that A. BAXTER STIRLING, Trustee, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal, this 23 day of June, 2000.



*Teresa Darnell*  
Notary Public

My Commission Expires: 3/08/04

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

The Foregoing (or annexed) Certificate(s) of DAWN BOLING, PAMELA T HAYES, TERESA DARNELL

Notary(ies) Public is (are) Certified to be Correct.  
This Instrument was filed for Registration on this 28th Day of June, 2000  
in the Book and Page shown on the First Page hereof.

*Robert J. Robinson*  
ROBERT J. ROBINSON, Register of Deeds