

**FIFTH AMENDMENT TO RESTRICTIVE COVENANTS AND  
RESERVATIONS FOR "SCHOONER BAY"**

THIS FIFTH AMENDMENT to the Covenants and Restrictions for Schooner Bay is dated this 9th day of October, 2014, and states as follows:

**RECITALS:**

**R-1.** Schooner Bay is a residential subdivision situate near Onancock, Lee Magisterial District, Accomack County, Virginia, the lots therein being shown of a certain plat of subdivision recorded in the Clerk's Office of the Circuit Court of Accomack County, Virginia in Plat Book 17, at Pages 69A and 69B, and in Plat Book 23, at Pages 17, 18, 19, 20, 21 and 22.

**R-2.** All lots within the Schooner Bay subdivision are subject to and bound by Covenants and Restrictions pursuant to and as set forth in that certain Corrected Fourth Amendment to Restrictive Covenants and Reservations for "Schooner Bay", which Amendment is recorded in the aforesaid Clerk's Office in Deed Book 2007, at Page 04351.

**R-3.** The Schooner Bay Association, Inc. (hereinafter "SBA") is a Virginia corporation that has succeeded to the rights of the developer of the Schooner Bay subdivision for the purposes of enforcement of the Restrictive Covenants and Reservations for "Schooner Bay" pursuant to assignment recorded in the aforesaid Clerk's Office in Deed Book 637, at Page 486.

The Fifth Amendment to the Restrictive Covenants and Reservations for Schooner Bay was prepared by Robert M. Newbert, Secretary of the Schooner Bay Association.

**R-4.** The aforesaid Corrected Fourth Amendment to Restrictive Covenants and Reservations for "Schooner Bay" provides in part: "SCHOONER BAY ASSOCIATION" will have the right to modify, delete, or add to these covenants and restrictions, should such action be deemed to be in the best interests of the community and approved by a majority of the lot owners in the subdivision.

**R-5.** The SBA through its Board of Directors has deemed it to be in the best interests of the Schooner Bay community that the Covenants and Restrictions contained in the Amendment to Restrictive Covenants and Reservations for "Schooner Bay" be amended as set forth herein below.

**R-6.** All of the owners of lots within the subdivision were notified of the proposed amendments and provided with written ballots and/or proxies for their votes on same, which notifications, ballots and/or proxies were sent via First Class U.S. mail.

**R-7.** A majority of the owners of lots within the Schooner Bay subdivision have approved the amended covenants and restrictions set forth herein below as announced at the Board of Directors monthly meeting held on October 9, 2014, the actual ballots and/or proxies approving same being on file with the SBA or its agent.

NOW, THEREFORE, in consideration of the affirmative votes of a majority of the owners of lots within the Schooner Bay Subdivision, the Amended Restrictive Covenants and Reservations for "Schooner Bay" are hereby further amended to read as follows, which amendments shall become effective and binding on all lots within the Schooner Bay Subdivision upon recordation of this document in the aforesaid Clerk's Office.

**1. LAND USE AND BUILDING TYPE:** No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed thirty-eight (38) feet in overall height with a roof pitch of not less than 4-12. A private garage for not more than three cars may be erected on a lot provided it conforms to the aforementioned height and pitch limitations and is attached to and made a part of the main building by a common wall and or roofline. Manufactured or mobile homes built under the Virginia Manufactured Homes Safety Regulations may not be placed on any lot. Industrialized (modular) homes certified by the Virginia Industrialized Building Safety Regulations, including, but not limited to, "Nanticoke Homes", may be placed in a lot as an alternative to conventional "stick built homes". Buildings and their additions must be permanent in nature, and constructed in accordance with the Virginia Statewide Building Code. There shall be no sheds, barns, or outbuildings of any type placed on any lot. A building contractor, with the express written consent of the Schooner Bay Association, may be allowed the use of a storage unit during and limited to the construction period, which shall not be used for habitation. No lot shall be subdivided. No portion of any lot shall be leased, licensed or loaned, for consideration, for use by another. Any rental of a home shall be conducted on a long term basis only. Leases for a period of time less than six (6) months must be approved by the Association, and will be approved only after a finding of compelling hardship. Owners are responsible for assuring that tenants receive a copy of the Covenants.



**2. DEVELOPMENT CONTROL:** In keeping with a general development plan which would be in the best interest of the majority of the lot owners within the subdivision, all site plans, specifications, drawings, artists' conceptions, etc. of any structure, additions, docks, piers or pilings to be constructed or erected upon a lot or within the subdivision shall first be submitted to SCHOONER BAY ASSOCIATION which shall have the complete authority to approve, reject, or to suggest modifications which would result in acceptance thereof provided however, that such decisions by SCHOONER BAY ASSOCIATION shall be governed by the covenants and restrictions set forth herein.

**3. BUILDING LOCATION AND SIZE:** The construction of all buildings on each lot or combination of lots shall be in compliance with the following: Structures shall be located thirty-five (35) feet or more from any street right of way which is forty (40) feet or greater in width. The minimum side yard for each main structure shall be ten (10) feet from adjacent property lines. Other structures, such as walkways, piers, etc. shall not be extended from any lot without first obtaining approval from SCHOONER BAY ASSOCIATION. No building shall be erected which has a living area of less than 1,200 square feet. No dock, mooring pilings, width of boat or any combination thereof, shall protrude into the canal more than 25% (twenty-five percent) of the width of the canal. These requirements may only be waived with the express written consent of SCHOONER BAY ASSOCIATION.



4. **NUISANCE**: No noxious or offensive activity or noise shall be carried on upon any lot nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood.

5. **TEMPORARY STRUCTURES**: No temporary structures of any kind shall be placed on any lot for any purpose.

6. **LOT USE**:

a. **STORAGE**: No lot shall be used or maintained as a dumping ground for rubbish or the storage of construction materials or other business related materials, nor shall any boats, boat trailers, junk vehicles or vehicles without current registration and/or state inspection be allowed to remain on any lot. The storage on any lot (with or without a house thereon) of a motor home, camper, slide-in camper, camping trailer, enclosed storage trailer, or any vehicle or portable device that provides temporary living accommodations shall be prohibited. Exempted from this provision are boats and their trailers, and open utility trailers used for non-commercial personal use of the lot owner. No commercial or industrial vehicles such as, but not limited to, moving vans, trucks (except pick-up trucks or small vans without advertising), road tractors, semi-trailers, wreckers, ambulances, compressors, concrete mixers, or buses shall be parked in front of any lot nor upon any lot except during construction.

**b. ADVERTISING:** No advertising, signs or billboards of any kind will be erected, except that one properly maintained FOR SALE sign may be placed on a lot which shall not exceed six (6) square feet in size and not to exceed four (4) feet in height.

**c. CLOTHESLINES:** The only approved method of hanging clothes shall be from an "umbrella tree" whose support pole is no more than ten (10) feet from the owner's house.

**d. STORAGE TANKS:** All tanks for fuel shall not exceed a capacity of seven hundred fifty (750) gallons and above-ground tanks shall be screened by a privacy wall according to the same conditions outlined for garbage below. No lot shall have located thereon more than a single tank for each class of fuel.

**e. COMMUNICATION TOWERS AND ANTENNAS:** Communication towers, amateur radio (ham) antennas, and windmills, also known as wind turbines and wind generators, are expressly prohibited.

**7. REFUSE:** No trash, ashes, garbage, or any other refuse shall be dumped or stored or accumulated on any lot or be thrown into any waterway, neither shall any garbage, trash or refuse be burned upon any lot. Trash, garbage, or other waste shall not be kept except in covered sanitary containers; all equipment for the storage or disposal of such materials shall be kept in a clean and sanitary container. All receptacles for garbage, trash and ashes, etc. shall be screened by such alternative means as may be approved by the SCHOONER BAY ASSOCIATION.

8. **ANIMALS**: No animals or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Animals may not be permitted to run at large at any time and must be kept on a leash when off the owner's premises.

9. **CONSTRUCTION TIME**: After construction has begun, the exterior of the building must be completed within a period of one (1) year and no structure shall be occupied until it has been completed and a Certificate of Occupancy has been obtained from Accomack County. A permanent and stable driveway constructed of a minimum thickness of four (4) inches of stone, gravel, concrete, or shells must be established within two (2) years of commencement of construction.

10. **MAINTENANCE**:

a. **PROPERTY**: Buildings shall not be allowed to fall into and remain in disrepair. This shall be inclusive of but not limited to damaged roofs causing shingles and other material to blow off onto surrounding property; broken doors or windows either left uncovered or covered with plywood or other temporary means; loose siding or trim; exterior stairs with missing or damaged steps, or porches with missing or damaged decking. Nothing in the previous two sentences should be construed as referring to a building which has suffered storm or other damage and is in the process of an owner arranging repairs.



Property shall be maintained whether occupied or unoccupied in such a manner as to prevent its becoming unsightly. Each property owner is responsible for properly maintaining their lot and shall keep their lot, ditch and road shoulder adjacent thereto, free of tall grass, undergrowth, and rubbish so as to present a pleasing appearance. It is specifically provided that should any such condition exist for a period in excess of thirty (30) days after the date of mailing of written notice to the owner, the SCHOONER BAY ASSOCIATION shall cause such condition to be remedied and bill the property owner for expenses incurred in correction of the situation. This expense shall be paid within thirty (30) days. In the event of non-payment by the property owner, said expenses shall constitute a lien on the lot which shall then be effected by the filing of an appropriate notice in the Clerk's Office of the Circuit Court of Accomack County under the then owner's name/names which said bill, if not paid after a period of thirty (30) days shall become a lien upon the lot involved, together with the costs and legal fees.

**b. DOCKS, PIERS, BULKHEADS:** Docks and piers shall be maintained in a condition which does not cause decking, poles, stringers, cross-ties or other parts of the construction to become separated from the whole and wash away, becoming a hazard to navigation. Bulkheads shall be kept in a condition which prevents sand or other fill to erode into canals, and prevents such erosion to cause damage to adjacent property. Acts of God are excluded so long as repairs are commenced within a reasonable time thereafter.

**c. NON-BULKHEADED LOTS:** Lots which have not been protected with bulkheading shall not be allowed to become eroded to the degree that neighboring lots are endangered by such erosion. Trees which are in danger of falling into and blocking a canal must be removed within a reasonable time after either discovery by an owner or notice from the Association.

**11. FENCES:** Fences, including animal enclosures, are expressly prohibited. In-ground pool fences are required and shall not extend more than ten (10) feet from the pool walls.

**12: EASEMENTS:** SCHOONER BAY ASSOCIATION, its successors or assigns, shall have the power to enforce these covenants and restrictions, by equitable or legal actions, and the failure of SCHOONER BAY ASSOCIATION to enforce any restrictions, covenants, conditions or reservations contained therein shall not be deemed a waiver of the right to do so thereafter as to a default occurring prior or subsequent thereto. In the event SCHOONER BAY ASSOCIATION brings any court action to enforce any of the covenants and reservations contained herein and prevails in such action, the owner or owners of the property shall be responsible for all court costs and actual attorneys' fees and other costs of litigation incurred by SCHOONER BAY ASSOCIATION. Individuals who own property in the Schooner Bay Subdivision shall also have the right to enforce these covenants through equitable or legal actions at their own expense.

14. **SEVERABILITY**: Each of the above restrictions and covenants is declared to be independent from the rest and if any one or more be declared to be invalid or unenforceable, the remainder shall continue in full force and effect.

15. **AMENDMENT**: SCHOONER BAY ASSOCIATION will have the right to modify, delete or add to these covenants and restrictions, should such action be deemed to be in the best interest of the community and be approved by a majority of the lot owners in the subdivision.

IN WITNESS WHEREOF, the Schooner Bay Association, Inc., by its Chairman and duly authorized agent, has executed this Fifth Amendment as of this 25<sup>th</sup> day of FEBRUARY, 2015.

SCHOONER BAY ASSOCIATION, INC.  
A Virginia non-stock corporation

By: *Richard J. Ocenaszek*  
Its: Chairman

COMMONWEALTH OF VIRGINIA,  
COUNTY OF ACCOMACK, to wit:

The foregoing instrument was subscribed to and acknowledged before me this 25 day of February, 2015, by Richard J. Ocenaszek, Chairman of the Schooner Bay Association, Inc., a Virginia non-stock corporation.

*Jessica G Mears*  
Notary Public

My Commission expires: June 30, 2017





VIRGINIA LAND RECORD COVER SHEET  
FORM A - COVER SHEET CONTENT

Instrument Date: 10/9/2014  
Instrument Type: DRC  
Number of Parcels: 0 Number of Pages: 11  
☐ City ☒ County

ACCOMACK

TAX EXEMPT? VIRGINIA/FEDERAL LAW

☐ Grantor:

☐ Grantee:

Consideration: \$0.00

Existing Debt: \$0.00

Actual Value/Assumed: \$0.00

Prior Recording At: ☐ City ☒ County

ACCOMACK

Percentage In This Jurisdiction: 100.00000%

BUSINESS / NAME

1 ☒ Grantor: SCHOONER BAY ASSOCIATION

☐ Grantor:

1 ☒ Grantee: SCHOONER BAY ASSOCIATION

☐ Grantee:

GRANTEE ADDRESS

Name: SCHOONER BAY ASSOCIATION

Address: P. O. BOX 483

City: ONANCOCK

State: VA Zip Code: 23417

Book Number: Page Number:

Instrument Number: 200704351

Parcel Identification Number (PIN):

Tax Map Number:

Short Property Description: SCHOONER BAY

Current Property Address P. O. BOX 483

City: ONANCOCK

State: VA Zip Code: 23417

Instrument Prepared By: ROBERT M. NEWBERT

Recording Paid By: ROBERT M. NEWBERT

Recording Returned To: ROBERT M. NEWBERT

Address: 20390 BALDPATE LANE

City: ONANCOCK

State: VA Zip Code: 23417

INSTRUMENT #100000480  
RECORDED IN THE CLERK'S OFFICE OF  
ACCOMACK COUNTY ON  
MARCH 4 2015 AT 09:25AM  
SAMUEL H. COOPER, CLERK  
RECORDED BY: TDH

(Area Above Reserved For Deed Stamp Only)

