

Sussex County Tax Map No. 1-35-19.07-39.00 - 76.00

Prepared By and Return To:
Sergovic & Ellis, PA
P.O. Box 875, Georgetown, DE 19947

AMENDMENT TO DECLARATION OF RESTRICTIONS FOR
SHEPHERD'S POINT TO SUPERSEDE AND REPLACE ALL PRIOR RESTRICTIONS

THIS AMENDMENT TO DECLARATION OF RESTRICTIONS is entered into and declared by Shepherd's Point, Inc. (hereinafter referred to as "Declarant"), which is the owner of the property identified in Exhibit "A" hereto and declares that the lands described in Exhibit "A" shall be subject and bound by the following Amendment to Declaration, which is designated Shepherd's Point.

WHEREAS, the Declarant submits this Amendment to Declaration to amend, supersede and replace all prior Declarations for Shepherd's Point. A plot of Shepherd's Point is of record in the Office of the Recorder of Deeds, in and for Sussex County, in Plot Book 81, Page 22 and to further amend by deleting the Declaration of Restrictions for Shepherd's Point recorded in the Office of the Recorder of Deeds, aforesaid, in Deed Book 2699 at Page 215, et seq., and in Deed Book 2842, Page 58, et seq.; as previously amended by the Amendment to Covenants at Shepherd's Point, recorded in the Office of the Recorder of Deeds, aforesaid, in Deed Book 3014, Page 323; as previously amended by Amendment to Restrictions at Shepherd's Point, recorded in the Office of the Recorder of Deeds, aforesaid, in Deed Book 3034, Page 98.

WHEREAS, the Declarant or others have caused certain restrictive covenants to be imposed for Shepherd's Point of record in the Office of the Recorder of Deeds, in and for

Sussex County, at Georgetown, Delaware in Deed Book 2699 at Page 215 &c.; Deed Book 2842 at Page 58 &c.; Delaware in Deed Book 3014 at Page 323 &c.; Deed Book 3034 at Page 98 &c. (hereinafter referred to as the "Restrictive Covenants"); and the Declarant is the owner of more than ____% of the lots created in Shepherd's Point and elects to delete the prior Restrictions and replace the deleted Restrictions with a comprehensive set of Restrictions herein set forth.

NOW THEREFORE, the Declarant pursuant to the rights reserved to the Declarant by virtue of Paragraph 19 of the Declaration of Restrictions for Shepherd's Point recorded in Deed Book 2842, Page 58, does by this Amendment to Declaration, the provisions of which shall be binding upon and be enforceable by and against, and inure to the benefit of the Declarant, its successors and assigns, and all present and future owners of any interest in the land covered by the Declaration and previous Amended Declarations applicable to Shepherd's Point, amend all Restrictions recorded and applicable to the lands designated on Exhibit "A" and shown on the record plot recorded in Plot Book 81, Page 22, by deleting in their entirety the Restrictions and Declarations found in Deed Book 2699 at Page 215 &c.; Deed Book 2842 at Page 58 &c.; Delaware in Deed Book 3014 at Page 323 &c.; Deed Book 3034 at Page 98 &c. and substitute in lieu thereof:

The Declarant has deemed it desirable for the efficient preservation of values and amenities in Shepherd's Point to create an agency to which will be delegated and assigned the powers of maintaining and administering the community facilities, common lands, and administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

The Declarant will cause a nonprofit corporation, Shepherd's Point Homeowners Association, Inc. (hereinafter the "Association"), to be incorporated under the laws of the State of Delaware, for the purpose of exercising the functions aforesaid.

The Declarant, intending to be legally bound, and to bind the property which is the subject matter of this Declaration, and intending that such restrictive covenants and remedial clauses shall be deemed to run with the land, and to bind the heirs, administrators, executors, assigns and successors of every lot owner acquiring the lands described in Exhibit "A" hereto, hereby declares as follows:

1. Definitions. The following words, when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

A. "Amendment to Declaration" shall mean the instrument recorded in the Office of the Recorder of Deeds in and for Sussex County.

B. "Association" shall mean and refer to Shepherd's Point Homeowners Association, Inc., or such other membership corporation as the Declarant shall form its successors and assigns.

C. "Declarant" shall mean and refer to Shepherd's Point, Inc., and any successor.

D. "Lot" shall mean and refer to any unimproved or improved plot of land intended and subdivided for a detached single family residence, shown upon the Record Plat as a numbered parcel, but shall not include the "common areas" as hereinafter designated.

E. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Paragraph 11 A of this Declaration.

F. "Mortgage" shall mean and refer to any mortgage, deed of trust, or similar instrument granted as security for the performance of any obligation.

G. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, holding a fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

H. "Property" shall mean the land described in Exhibit "A" attached hereto.

I. "Record Plat" shall mean the plat of record in the Office of the Recorder of Deeds, in and for Sussex County, recorded in Plot Book 81 at Page 22 depicting the property and all of the Lots, the common areas and the sidewalk easement.

2. The Property as described in Exhibit "A" hereto is made subject to this Declaration.

3. The stormwater management erosion and sediment control facilities, buffer area and the street lighting are hereby declared for the common benefit of the lot owners and are declared common areas (hereinafter "Common Areas") as shown and depicted and designated in Plot Book 81 at page 22, a plat titled, Shepherd's Point and serve the Property which is the subject of this Declaration. The street lighting installed is to benefit all Lots. Street lighting, stormwater management erosion and sediment control facilities, and buffer areas shown on the Record Plat are declared to be Common Areas, and each Owner who obtains a deed for a Lot as shown on the Record Plat are served by public roads, street lighting and Common Areas and by the acceptance of such conveyance, hereby agrees to be responsible for maintaining, repairing, replacing the Common Areas (including the street

lights), and providing electric service for street lighting and for the up keep of all improvements on the Common Areas, including the stormwater management erosion and sediment control facilities through the Association.

4. The responsibility for maintenance, repair and replacement of the Common Areas and the street lighting and electric service to street lighting shall be the responsibility of the Association and the assessment of such cost shall be prorata among all Lot Owners, except lots owned by Shepherd's Point, served with each Lot having an equal assessment to all other Lots served by such street lighting and Common Areas.

5. The Declarant further declares that all lots as shown on the record plot are the subject matter of this Declaration and shall be subject to the following remedial or restrictive covenants, excepted as otherwise provided hereinafter:

A. No fowl shall be raised or kept and no kennel for the breeding or boarding of animals shall be erected, maintained or used upon any Lot, and no horses, ponies or livestock shall be housed or maintained on any Lot. Only dogs or cats, not to exceed three (3) such pets on any Lot may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

B. All lots not previously receiving a certificate of occupancy for a residential house erected on such lot prior to the Amendment to Declaration shall only be improved by stick-built or custom-built residential structures, which have not previously been occupied or received a certificate of occupancy. Each main dwelling structure must have an under roof and heated living area of a minimum of 1,350 square feet for one-story dwellings, and 1,650 square feet for two-story dwellings, exclusive of decks and porches. Each main dwelling unit roof(s) shall have:

(1) A minimum roof pitch of 7/12';

(2) For a two-story main dwelling, the roof pitch may be modified to accommodate hip roofs, gambrel roofs and/or mansard roofs; provided however, that a gambrel, hip or mansard roof must have a minimum 4 7/12' pitch;

(3) Shed roofs and flat roofs shall not be allowed on a main dwelling or garage, unless approved by the Architectural Review Committee ("ARC") as being aesthetically appropriate, and all porch roofs shall have a minimum of 3 7/12' pitch.

C. Each main dwelling shall have an attached garage or detached garage, except as provided in Part F below.

D. No structure of any temporary character, shack, barn or other outbuildings, except as provided herein, shall be placed on any Lot within said subdivision at any time, except during periods of construction for storage of materials, and such temporary structures shall not in any event be used for living quarters or Sales Office.

E. All buildings or structures placed on the Lots are subject to the building setback requirements for front, side and rear property lines in effect under the Town of Georgetown Zoning Ordinance.

F. The Declarant acknowledges that Lots 7, 8, 24, 25, 32 and 38 were improved prior to this Amendment to Declaration and have installed or erected modular homes thereon and are exempt from the requirements of the homes being "stick-built" or custom-built, but any modifications or replacement to such originally placed model homes must be "stick-built". Such types of homes are allowed, but only on such numbered lots. All other provisions of the Amendment to Declaration are applicable to Lots 7, 8, 24, 25, 32 and 38. Except the owners of lots 7, 32 and 38, in lieu of building an attached garage as required

by Paragraph 5C, may build on each such lot one (1) detached accessory structure no larger than 8' x 10', but no less than 6' x 10', which detached accessory structure must have the same roof material and color as the main structure on such lots and the same siding and siding color. The pitch of roof of such structure must be a minimum of 3'/12'.

G. Operational, licensed and currently tagged travel trailers, motor homes, campers, wave runners, boats and/or boat trailers may be placed at the rear of the property, behind the home, provided the placement does not encroach on any side yard or rear yard setback requirements.

H. All grass is to be no greater than eight (8) inches in height. If grass is greater than eight (8) inches in height, the Declarant, the Association, or their successors have the right to cut said grass and to bill the Lot Owner. No statues, sculptures, painted trees, bird baths, replicas of animals or other like objects may be affixed to or placed on any Lot or building, where they would be visible from any street without prior written approval of the ARC.

I. Except as provided for lots 7, 32 and 38, the only detached accessory structure¹ on any other Lot permitted shall be one (1) garage type structure per Lot as an accessory to an existing or fully completed main dwelling. The siding and roof materials and color of any detached garage must match the main structure, and the roof of the garage must have a roof pitch of no less than 4/12. The size of the any detached garage shall be no greater than 24' x 24' or less than 12' x 12'.

J. All driveways must be covered with cement and fully completed within six (6) months of the commencement or construction of any dwelling.

¹ Detached meaning not sharing a wall which has been issued a certificate of occupancy with the main structure.

K. No drying lines for the drying or airing of fabrics or other material will be permitted on the Lots within view of the streets.

L. No stripped down, partially wrecked or junked motor vehicles are to be located on the Lots and exposed to view. No repairing or overhauling of automobiles will be permitted upon the Lots. In the event an automobile is not used for an extended period of time, it must be removed or stored within a garage.

M. No noxious, offensive or illegal activity shall be carried on any Lot. Lot Owners shall not perform any acts, nor carry on any practices which may be a nuisance or menace to other Lot Owners, including permitting their dogs to bark continually that would be annoying to their neighbors as to cause a nuisance or unreasonably disturb any resident of this subdivision.

N. No business activities shall be authorized on any Lot, except however, customary home occupations as allowed by the Town of Georgetown Zoning Ordinance.

O. No trash, ashes, garbage or other refuse shall be dumped, stored or accumulated on any Lot. Garbage and rubbish shall not be dumped or allowed to remain on any Lot, except in a closed receptacle which shall be placed in the rear of home and placed at the front of the dwelling only for collection on regular collection dates in accordance with the regulations of the collecting agency or applicable law. No garbage receptacle shall be left in the front of the dwelling more than 24-hours after pick-up.

P. No outside burning of wood, trash, garbage or household refuse shall be permitted.

Q. Once construction of any building, whether a main residential structure or permitted accessory structure limited to one detached garage per Lot as further specified in

5.I., above, shall have commenced, such construction shall proceed without delay until the same is completed, unless the delay is attributed to causes beyond the control of the Owner. Cessation of work, once started for a continuous period of sixty (60) days, shall be prima facie evidence of an attempt to abandon the same, and any abandonment of commenced construction shall be deemed a nuisance. All Lots must be graded, seeded and landscaped within twelve (12) months of a certificate of occupancy being issued, pursuant to a landscape plan submitted to Declarant, Association or Architectural Review Committee, which plan must be submitted within nine (9) months of a certificate of occupancy being issued. All Owners must start substantial construction of the main dwelling within six (6) months of the date of conveyance from Shepherd Point, Inc. to a third party.

R. No boundary fence shall be constructed to a height of more than four (4) feet. Any boundary fences must be manufactured vinyl with rail spacing meeting the spacing required by the Building Code adopted by the Town of Georgetown. No fence of any height shall be constructed upon any Lot until the height, design and approximate locations thereof have been approved in writing by the Declarant, the Association or by the Architectural Review Committee, if appointed. No boundary fence or wall shall be constructed any closer to any street adjoining any portion of the Lot closer than 40 feet distance from such street. Fences enclosing garbage receptacles may be constructed to a height of up to four and one-half (4½') feet. An example of the type of fence material which will be allowed and approved is manufactured by Maryland Lumber and may be purchased at, among other retail outlets, Home Depot, being Model No. F00303135, SKU No. 357518.

Boundary walls shall not be erected.

S. No above ground pools shall be allowed. The placement of the pools and the fencing around same must be approved by the Association. Fencing material except the height shall be subject to the same standards as boundary fences set for in 5(R), above.

6. By taking title to a deed for a Lot subject to these restrictive covenants, the Lot Owner recognizes that the Association will determine whether any street light and/or common area elements, such as the stormwater management erosion and sediment control facilities shown on the Record Plat, requires maintenance and/or repair. All assessments for maintenance expense of street lighting and/or drainage facilities shall be determined in a like manner.

7. The Declarant has the right to grant and reserve easements and rights-of-way through, under, over and across the Common Areas, and easements for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewage, drainage, gas, electricity, telephone, cable television and any other utility.

8. In order to insure the development and maintenance of Shepherd's Point as a residential development of high standards, no building, structure, wall or other erection shall be commenced, erected, maintained or used, nor shall any addition to or change or alterations therein, or in the use thereof, be made upon any Lot which is the subject matter of the restrictive covenants, no matter for what purpose or use, until complete and comprehensive plans and specifications showing the nature, kind, shape, height, materials, floor plans, exterior architectural scheme, location and placements on the Lot, structure or other erection, the grading and landscaping of the lot to be built upon or improved, and such other information as may be necessary to determine the type, nature or scope of the proposed improvement as is reasonably necessary, shall be submitted to and approved in writing by the

Declarant and/or the Association, or its successors. The plans shall be submitted to the Declarant and/or the Association as to the appointed Architectural Review Committee (hereinafter "ARC") for approval along with a payment in the amount as set forth from time to time by the Declarant and/or the Association to discharge its expenses, if any. If the Declarant and/or the Association or a duly appointed ARC does not reject a submitted plan within thirty (30) days of verified receipt, the plan shall be deemed approved, except that any approval obtained by the passage of time without action or otherwise, shall not authorize any construction which is in violation of any explicit prohibition hereinafter provided. Verified receipt shall be by certified mail, registered mail, or written receipt of hand delivery. Plans shall be delivered to the Declarant until the Association is organized by its first election of directors by the members, and, thereafter, to the registered agent of the Association. A copy all such plans and specifications, finally approved as aforesaid, shall be lodged permanently with the said Declarant, or its successors; PROVIDED, HOWEVER, that nothing herein shall require the aforesaid approval as to interior decorations, alterations or changes.

The Declarant and/or the Association, or its successors, by the designated ARC shall have the right to refuse to approve any such plans or specifications, grading or landscaping plans or changes, which are not suitable or desirable to the Declarant and/or the Association by its designated ARC, or its successors, based upon an application of the mandatory architectural considerations herein provided. In passing on such plans, the ARC shall take into consideration the suitability of the proposed building or other improvements or erections and/or the materials of which the building or other improvements or erections are to be built, and the site upon which it is proposed to be built, the harmony thereof with the surroundings, and the effect of such improvements, additions, alterations or changes, as

planned, on the adjacent or neighboring property, and any and all factors which in its opinion, would affect the desirability or suitability of such proposed improvements, erections, alterations or changes.

9. These restrictions and remedial provisions are binding on the Declarant, and on each Lot Owner who takes title to a Lot in Shepherd's Point and shall bind and run with title to the Lots.

10. Membership and Voting Rights.

A. Every Owner of a Lot, which is subject to assessment or shall be eligible for a later assessment shall be a Member of the Association; provided, however, that any such person or entity who holds such interest merely as security for performance of an obligation shall not be a Member, unless and until such person or entity has succeeded to such Owner's interest by enforcement of such security interest. Membership shall be appurtenant to and may not be separated from the ownership of any Lot, which is subject to assessment; provided, however, that the Declarant shall be considered an Owner of each Lot held by it, whether such Lot or Lots are or are not subject to assessment.

B. The Association shall have one class of voting membership; Class A: which shall be all Owners, including the Declarant. Class A members shall be entitled to one (1) vote for each Lot. When more than one person holds an interest in any Lot all such persons shall be Members. The vote of such Lot shall be exercised as the Owners themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

C. The Declarant shall establish the Association by the filing of a Certificate of Incorporation of the Association when the Declarant, at its sole discretion,

deems the creation of such Association appropriate, except that the Certificate of Incorporation shall be filed by the Declarant no later than January 1, 2009.

11. Property Subject to Declaration. The real property subject to this Declaration is all that property located in Georgetown Hundred, Sussex County, Delaware as shown on the Record Plat, and as described in Exhibit "A," and this Declaration and the lands subject to this Declaration shall also be subject to restrictions, easements or rights of way previously granted by the Declarant, or its predecessors in title as recorded in the Office of the Recorder of Deeds, in and for Sussex County.

12. Property Rights in the Common Areas.

A. Owners' Easement of Enjoyment. Every Owner shall have a right of easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot.

B. Title to Common Areas. The Declarant shall convey legal title in the Common Areas to the Association. The conveyance of title in the Common Areas may be retained by the Declarant until such time as the Declarant has completed improvements thereon, and until such a time as, in the opinion of the Declarant, the Association shall be able to maintain the same, but, notwithstanding any other provision herein, the Declarant hereby covenants for itself, its successors and assigns, that it shall convey all its right, title and interest in the Common Areas to the Association, free and clear of all liens, but subject to Restrictions of record and this Declaration no later than the 1st day of January, 2009.

C. Extent of Member's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(1) The right of the Association, in accordance with its Certificate of Incorporation and By-Laws to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage the Common Area, and the rights of such mortgagee in the Common Areas shall be subordinate to the rights of the Lot Owners hereunder, provided, however, that no such borrowing or mortgaging shall be made unless approved by the vote of two-thirds (2/3) of the eligible votes at a meeting duly called for such purpose.

(2) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure.

(3) The right of the Association as provided in its Certificate of Incorporation and By-Laws, to suspend the enjoyment rights of any Member in any easement or in any Common Areas, for a period during which any assessment against such Member remains unpaid for infractions of the Association's published rules and regulations.

(4) The right of the Association to dedicate or transfer all or any part of its interest in the Common Areas (subject to easements created hereunder, or previously created of record) to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer or determination as to purposes or as to the conditions thereof, shall be effective unless an instrument of consent signed by the Members entitled to cast two-thirds (2/3) of the votes has been recorded.

(5) The right of the Declarant prior to the conveyance of the Common Areas to the Association, and of the Association, to grant and reserve easements and rights-of-way through, under, over and across the Common Areas, for the installation, maintenance and

inspection of lines and appurtenances for public water, sewer, drainage, gas, electricity, telephone and other utilities.

(6) The right of the Association to adopt rules and regulations governing the use by the Owners of the Common Areas.

(7) The right of the Association, pursuant to adopted rules and regulations, to assess liquidated damages in an amount reasonably determined by the Association's directors to be imposed as a special assessment against any Lot Owner who violates or proposes to violate any of these Restrictive Covenants or the rules of use adopted by the Association, in an amount necessary to compensate the Association and the remaining Lot owners for the damages that would occur for a violation of the Restrictive Covenants. The reasonableness of the liquidated damages imposed by the Board of Directors of the Association for anticipatory or actual breaches of the restrictions or the rules of use shall be presumed reasonable and shall be enforced by a court of competent jurisdiction as a reasonable assessment of liquidated damages unless the affected Lot Owner can establish that there is an arbitrary relationship between the amount of the liquidated damages and the harm sought to be prevented by the established liquidated damages. All such liquidated damages shall be assessed as a special assessment of liquidated damages in accordance with paragraph 14.

D. Delegation of Use. Any Owner may delegate his rights of enjoyment to the Common Areas and facilities to the members of his family, tenants, guests, or contract purchasers (and members of the family of any tenant or contract purchaser) who resides on the Lot, or to such other persons as may be permitted by the Association.

E. Obligations of the Association. The Association shall:

- (1) Take title to, own, manage and maintain any portion of the Common Areas transferred to it, particularly the roads and any recreational areas.
- (2) Operate and maintain, for the use and benefit of all Members of the Association, all Common Areas and facilities and improvements developed thereon.
- (3) Operate and maintain all facilities on, mow the grass on, plant and replace landscaping on, all Common Areas.
- (4) Maintain and restrict the use or uses to be made on or to the Common Areas.

13. Covenant for Maintenance by the Declarant. Until the Common Areas are improved and transferred to the Association, title to the Common Areas shall be retained by the Declarant. The Declarant shall be entitled to utilize initial assessments and annual assessments paid by Lot Owners at a fixed rate per annum of One Hundred Dollars (\$100.00) per annum to defer maintenance expenses in the Common Areas until seventy-five percent (75%) of the Lots in the recorded subdivision are sold to third party purchasers for value. After seventy-five percent (75%) of the lots are sold, the Declarant shall be under no obligation to contribute to Common Area maintenance expenses. Any capital improvements to Common Areas shall be made by the Declarant at its expense until seventy-five percent (75%) of the lots are sold by the Declarant to a third party purchaser for value.

14. Turnover. Declarant, at its sole cost and expense, shall create the Association. After sale of at least seventy-five percent (75%) of the Lots, the Association is required to take ownership of and maintain the storm water management system and the electric service for street lighting for the property.

15. Construction Easement. Until 100% of all Lots are improved construction contractors may use the roads and may store construction equipment and materials on unsold Lots owned by Declarant pursuant to a revocable license.

16. Provision for Utilities. Declarant represents that: a) all necessary infrastructure (e.g., mains and laterals) are in place that will allow for individual Lots to tap into public sewer water and sewer, all as contemplated on the subdivision plat; all underground lines for telephone, cable and electric are in place and no further approvals are required from Delaware Electric Cooperative; and b) Shepherd's Point lots are to be supplied with propane gas pursuant to that certain agreement dated April 27, 2004 between Declarant and Tri Gas & Oil Company, Inc. (the "Propane Agreement"), a true and correct copy of which is attached hereto as Exhibit "B" and by this reference made a part hereof. Declarant represents that Tri Gas & Oil Company, Inc. has installed pipes necessary for a centralized community propane system ("system").

17. Covenant for Maintenance and to Accept and Discharge Assessments.

A. Creation of Lien and Personal Obligation of Assessments. The Declarant, for itself and its successors and assigns, and for each Lot within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed or other transfer document therefor, whether or not it shall be expressly established in such Deed or other transfer document, hereby covenants and agrees to pay the Association: (1) annual assessments or charges; (2) liquidated damage assessments, if imposed, pursuant to the provisions of Paragraph 12C(g); and (3) an initial assessment in the amount of Three Hundred Dollars (\$300.00), which includes the annual assessment not prorated for the year in which the Lot is conveyed from the Declarant and is due upon the conveyance of any Lot from the

Declarant to a third party purchaser for value (except to the Declarant), such assessments to be fixed, established and collected as hereinafter provided. The annual assessment, liquidated damage assessment and initial assessment, together with interest and costs and reasonable attorney's fees, shall be a charge on the Lot, and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees for the collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment was due. A personal obligation for delinquent assessment shall not pass to the Owner's successor in title (other than as a lien on the land), unless expressly assumed by them.

B. Purpose of Assessments. Assessments levied by the Association shall be for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property, or for the improvement and maintenance of the Common Areas of the Property, and for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, the payment of taxes and insurance thereon, repair, replacement and additions thereto, for the cost of labor, equipment, materials, management and supervision thereof, or for operating reserve funds and reserve funds for repair and replacement of the Common Areas and the facilities thereon, or for a purpose of discharging a duty or obligation of the Association, and/or for liquidated damages for the breach or anticipated breach of the restrictions or rules of the Association by a Lot Owner.

C. Basis and Maximum Annual Assessment. Each respective Lot to be sold by the Declarant, as conveyed by the Declarant after the final date of transfer to any Owner, shall thereafter be subject to assessments to be paid to the Association. The amount of such annual assessment shall be fixed annually at One Hundred Dollars (\$100.00) per year

until seventy-five percent (75%) of all Lots in Shepherd's Point are sold to third parties other than the Declarant, or a successor Declarant, and thereafter periodically as needs for annual assessments arise, as determined by the Association through its Board of Directors, and shall be charged or assessed in equal proportions against each Lot within the Property, except for assessments for liquidated damages. The first assessment year shall begin on January 1, 2005, and the assessment rate for the first assessment year is set at One Hundred Dollars (\$100.00), and thereafter each annual assessment shall be made for each subsequent calendar year commencing as of January 1 of each year. Each annual assessment shall be due and payable on or before thirty (30) days after it has been fixed and levied. It shall be the duty of the Association to notify all Owners, whose addresses are listed with the said Association, within thirty (30) days after said annual assessment has been fixed or levied, giving the amount of the charge of the assessment for said year, when due, and the amount due on each Lot or parcel of land owned by each such Owner. Failure of the Association to levy the assessment for any one year shall not affect the right of the Association to do so for any subsequent year.

D. Establishment of Annual Assessment Rate. The Board of Directors of the Association may, after seventy-five percent (75%) of all lots are transferred and sold to third parties other than the Declarant, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment in an amount deemed appropriate and may provide for the payment in monthly or quarterly installments; provided however, that if any periodic payment obligation is not paid on its due date, the full annual amount of the assessment shall be due. The Board, in establishing each annual assessment after the first annual assessment, may increase the annual assessment by twenty percent (20%) over the previous year's assessment. Any increase in the annual assessment in excess of twenty

percent (20%) over the previous year's assessment shall require approval by two-thirds (2/3) of the eligible votes of the Association.

E. Initial Assessment. In addition to the annual assessment or other assessments, the Declarant, for use of the Association, hereby establishes an initial assessment to be paid by the purchaser upon the conveyance of each Lot from the Declarant (except the Declarant) to a third party purchaser for value; and the amount of such initial assessment is set at Three Hundred Dollars (\$300.00) and includes the annual assessment not prorated for the year in which the Lot is conveyed by the Declarant. The Declarant may use that fund to pay the cost of any obligation to maintain the Common Areas pending transfer of the fund and the Common Areas to the Association.

F. Special Assessment for Liquidated Damages. The Association, through its Board of Directors, has the power and duty to impose liquidated damage assessments for violations of these Restrictions and/or By-Laws or Rules of the Association. Such assessment shall be imposed in the manner set forth in Paragraph 12C(g).

G. Date of Commencement Assessment; Due Date. The annual assessments as to any Lot shall commence on the conveyance of such Lot, prorated for the remaining portion of said year, providing such conveyance is after January 1, 2005. In the event a Lot is conveyed prior to January 1, 2005, the annual assessment will commence January 1, 2005. The due date of any liquidated damage assessment shall be established by the Board of Directors in establishing the liquidated damage assessment.

H. Effect of Nonpayment of Assessment. The Personal Obligation of the Owner; the Lien; Remedies of the Association. If any assessment is not paid on the date when stated to be due in the notice of assessment, then the assessment shall be deemed

delinquent, and if the delinquent payment is a periodic payment (i.e. monthly, quarterly, etc.), the entire assessment shall be delinquent, and shall, together with such interest thereon and cost of collection thereof, including reasonable attorney's fees, as hereinafter provided, continue as a lien on the Lot and any structure built thereon which shall bind such Lot in the hands of the Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien rights, the obligation of the assessment shall be a personal obligation of the then Owner to pay such assessment, however, the personal obligation shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the delinquency, the assessment shall bear interest from the date of delinquency at the rate of the legal interest rate authorized by 6 Del. C. § 2301 as amended, and the Association may bring legal action against the Owner personally obligated to pay the same or may enforce or foreclose the lien against the Lot; and in the event a judgment is obtained, such judgment shall include interest on the assessment from its due date and reasonable attorney's fees to be fixed by the Court, together with the costs of collection. No Owner of a Lot may waive or otherwise escape liability for an assessment provided for herein by non-use of the Common Areas or abandonment of his or its Lot. The Association reserves the right to suspend the enjoyment rights of any Member in any easement or Common Area for the period during which any assessment against such Member remains unpaid.

I. Subordination of the Lien to the First Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on the Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, sale or transfer of any Lot by foreclosure of any first mortgage or any proceedings in lieu thereof, shall

extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

J. Exempt Property. The following property subject to this Amendment to Declaration shall be exempted from the assessments, charges and liens created herein:

(a) All properties dedicated to and accepted by a government body, agency or authority and devoted to public use;

(b) All Common Areas;

(c) All Lots owned by the Declarant until sold to third persons, unless such Lots are improved by a permitted structure.

18. Amendment to Restrictions

The Owners of the Lots in Shepherd's Point have the right to annul, waive, change or modify these restrictions though the consent or vote of seventy-five percent (75%) of the Lot Owners at any time.

This Amendment to Declaration of Restrictions amends, supersedes and replaces all prior Declarations for Shepherd's Point and is binding upon all present and future Owners of the lands described in Exhibit "A."

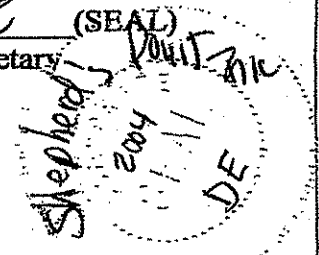
IN WITNESS WHEREOF, the Declarant executes this Amendment to Declaration of Restrictions this 28th day of November, 2005.

Shepherd's Point, Inc.

By [Signature] (SEAL)
, President

Attest [Signature] (SEAL)
, Secretary

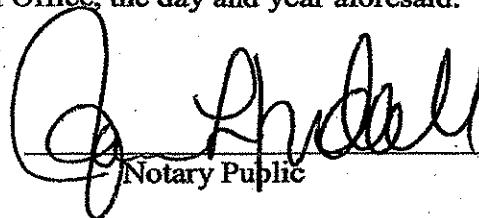
[CORPORATE SEAL]



STATE OF DELAWARE :
: ss.
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 28th day of November A.D. 2005, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, Wayne Shepherd, President of Shepherd's Point, Inc., a Delaware corporation, party to this Indenture, known to me personally to be such, and he acknowledge said Indenture to be his act and deed and the act and deed of the corporation; that the signature of the President is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said corporation duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by resolution of the Board of Directors of the said corporation.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.



Notary Public

JOAN L. TYNDALL
NOTARY PUBLIC
STATE OF DELAWARE
MY COMMISSION EXP. 2-9-2009

ERGOVIC & ELLIS, P.A.
NORTH FRONT STREET
P.O. BOX 875
DORGETOWN, DE 19947

EXHIBIT "A"

ALL those certain lots, pieces and parcels of land situate, lying and being in the Town of Georgetown, Georgetown Hundred, Sussex County, State of Delaware, being known and designated as LOT NUMBERS ONE (1), TWO (2), THREE (3), FOUR (4), FIVE (5), SIX (6), SEVEN (7), ELEVEN (11), TWELVE (12), THIRTEEN (13), FOURTEEN (14), FIFTEEN (15), EIGHTEEN (18), NINETEEN (19), TWENTY (20), TWENTY-ONE (21), TWENTY-TWO (22), TWENTY-THREE (23), TWENTY-FOUR (24), TWENTY-FIVE (25), TWENTY-SIX (26), TWENTY-SEVEN (27), TWENTY-EIGHT (28), TWENTY-NINE (29), THIRTY (30), THIRTY-ONE (31), THIRTY-TWO (32), THIRTY-THREE (33), THIRTY-FOUR (34), THIRTY-FIVE (35), THIRTY-SIX (36), THIRTY-SEVEN (37) AND THIRTY-EIGHT (38), as shown on a plot of SHEPHERD'S POINT prepared by McCann, Inc., Donald J. McCann, Professional Land Surveyor, August, 1992 and filed for record in the Office of the Recorder of Deeds in and for Sussex County at Georgetown, Delaware, in Plot Book 51, page 272, reference being thereto had will more fully and at large appear.