

# Figure “8” Beach Homeowners’ Association, Inc.



## **RULES AND REGULATIONS** **Revised October 31, 2017**

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**FIGURE "8" BEACH HOMEOWNERS' ASSOCIATION, INC.**  
**RULES AND REGULATIONS**  
Revised 10/31/2017

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**1. GENERAL**

**1.1 Governing Documents.** The governing documents for the Figure Eight Island subdivision and the Figure "8" Beach Homeowners' Association, Inc. consist of the Amended and Restated Declaration of Restrictive Covenants, Figure Eight Island recorded April 26, 2006 in Book 5012, Page 74 of the New Hanover County Register of Deeds; the Articles of Incorporation of Figure "8" Beach Homeowners' Association, Inc., as amended; the By-Laws of the Figure "8" Beach Homeowners' Association, Inc., as amended; and these Rules and Regulations authorized by N.C. General Statutes §47F-3-102. The Association is subject to the North Carolina Nonprofit Corporation Act and to certain provisions of the North Carolina Planned Community Act.

**1.2 Definitions.**

**1.2.1** "Administrator" or "Island Administrator" means the chief administrative officer of the Association.

**1.2.2** "Architectural Review Committee" or "ARC" means the committee appointed by the Board to approve or disapprove plans as required by the Covenants.

**1.2.3** "Association" means the Figure "8" Beach Homeowners' Association, Inc.

**1.2.4** "Board of Directors" or "Board" or "Executive Board" means the Board of Directors of the Association.

**1.2.5** "Covenants" or "Restrictive Covenants" means the Amended and Restated Declaration of Restrictive Covenants, Figure Eight Island and any amendments thereto.

**1.2.6** "Governing Documents" means the Articles of Incorporation of Figure "8" Beach Homeowners' Association, Inc.; the Covenants; the By-Laws of the Association; and these Rules and Regulations.

**1.2.7** "Immediate Family" means the Members, their spouses, and the Members' and spouses' lineal descendants and ancestors.

**1.2.8** "Member" means an Owner admitted to membership in accordance with the Covenants or an individual entitled to exercise membership rights for an Owner that is an entity.

**1.2.9** "Owner" means the record owner of a lot on Figure Eight Island.

**1.2.10** "Restrictive Covenants" - see "Covenants".

### **1.3 Delegation of Authority.**

**1.3.1 Approval of Plans.** The Board delegates to the Architectural Review Committee the authority to approve or disapprove plans for building or improvements on lots as set forth in the Covenants and By-Laws. The Board retains the authority to act upon variance requests and to adopt architectural review guidelines to guide the actions of the ARC.

**1.3.2** The Board delegates to the Administrator the authority to direct and control the day-to-day operations of the Association including but not limited to the enforcement of the Governing Documents.

## **2. MEMBERSHIP IN THE ASSOCIATION**

**2.1 General.** The guiding purpose shall be to maintain the character and nature of Figure Eight Island as a community of single family residences, to maintain and enhance the quality of life at Figure Eight Island, to promote the enjoyment of the natural and scenic beauty of Figure Eight Island, to maintain and enhance the privacy and enjoyment of property at Figure Eight Island, and to maintain the value of property at Figure Eight Island. In carrying out the foregoing purposes, the Board shall be guided by the following rules.

**2.1.1** No one shall be refused membership because of race, creed, age, sex, or national origin.

**2.1.2** In the case of a lot to be acquired by no more than three natural persons, all such persons may become members of the Association.

**2.1.3** In the case of a lot to be acquired by more than three natural persons, no more than three of such natural persons shall be entitled to exercise membership rights in the Association in connection with such lot.

**2.1.4** In the case of a lot to be acquired by one or more corporations, trusts, or legal entities which are not natural persons, no more than three natural persons shall be entitled to membership rights in the Association in connection with such lot. The entity or entities shall designate which persons are proposed to exercise membership rights in connection with such lot.

**2.1.5** In implementing the above guidelines, if a husband and wife are both owners, they shall be considered as one "natural person" as referred to above, and as one member.

**2.1.6** In the case of ownership by closely-held entities which are not natural persons as in section 2.1.4 above, the persons designated to exercise membership rights shall have an ownership interest in an entity which is the Owner. In the case of corporations, the person must be a shareholder. In the case of a trust, the person must be a trustee or beneficiary. In the case of a LLC, the person must be a member. In the case of a partnership, the person must be a partner. If ownership of an entity is not disclosed on public records, the entity must provide documentation showing that the person designated to exercise membership rights has an ownership interest in the entity.

**2.1.7** In the case of ownership by non-closely-held entities such as publicly traded corporations, an officer of the entity shall designate one officer of the entity who is authorized to exercise the membership rights in the Association in connection with such lot.

**2.1.8** In the case of ownership by an IRA or other valid investment vehicle capable of owning real property, the person designated to exercise membership rights shall be the investor, as opposed to the custodian, holder, beneficiary, or other party related to the investment or investment account. If the name of the investor is not disclosed on a Deed, documentation reasonably requested by the Association to confirm the identity of the investor must be provided by the owner, in order for the benefits of membership rights to be exercised in this context.

**2.1.9** To the extent any lot is owned by an entity, and the ownership interests in that entity (member of LLC, shareholder of corporation, beneficiary of trust, etc.) are bit held by natural persons, the membership-right designations for each type of entity identified in sections 2.1.6, 2.1.7, and 2.1.8 will apply with regard to each such entity holding an ownership interest, in order to reach a natural person capable of receiving the designation as the holder of the membership rights. This process and analysis will continue through as many layers of ownership interest or structure within the lot-owning entity as necessary until a natural person capable of receiving the designation as the holder of the membership rights is reached. For the benefits of membership rights to be exercised in this context, all documentation reasonably requested by the Association to confirm these designations must be provided by the owner or holders of these ownership interests.

**2.1.10** The Administrator may develop application forms to implement the membership application process.

### **3. RENTAL PROPERTY AND TENANTS**

**3.1.** Tenants are subject to the requirements of the Governing Documents including the Rules and Regulations. Owners who rent their property by means of a written rental agreement shall include a provision in the agreement that requires tenants to comply with the Governing Documents, including these Rules and Regulations. Owners are responsible for the actions of their tenants and are responsible for fines levied against their tenant but not paid by the tenant.

**3.2** Rental management agents may obtain access passes for vehicles of tenants of properties managed by the agent. Owners who rent their property directly to tenants are responsible for obtaining passes for tenants' vehicles.

**3.3** Tenants and their guests may not bring dogs onto the Island.

**3.4** Tenants and their guests may not bring personal watercraft such as jet skis or wave runners onto the Island, nor may tenants use personal watercraft provided by an Owner.

#### **4. ACCESS TO ISLAND**

**4.1** Only those vehicles with up-to-date Homeowners' Association decals or valid access passes will be admitted to the Island.

**4.2** Decals may be obtained only by a Member. A decal request form and a copy of the valid registration for each vehicle are required. Decals are authorized for use only on vehicles owned by Members and their Immediate Family. Decals must be permanently affixed to the vehicle. Decals remain the property of the Association and must be removed and returned upon the sale or transfer of the vehicle, or upon termination of membership of the person securing the decal. The Board will set any fees for decals.

**4.3** Guest passes shall specify the address of the host Member or host tenant. The vehicle to which the guest pass is issued (guest vehicle) shall park only at the address of the host Member or host tenant. Violation will subject the host Member or host tenant to a fine and/or withdrawal of the guest pass. A second violation by or warning to the same guest or guest vehicle within one (1) year may result in termination of guest pass privileges for the guest and/or guest vehicle for a period of one (1) year.

**4.4** A guest pass issued for an event at the Yacht Club entitles the vehicle to park only at the Yacht Club.

**4.5** Members or tenants expecting overnight guests or visitors must secure passes for each car by notifying the Association office in advance at (910) 686-0635 or the gate at (910) 686-7747.

**4.6** Members expecting day visitors must secure passes by calling the Association office at (910) 686-0635, or the gate at (910) 686-7747 with the guest's name and day of arrival.

**4.7** Clearance for guests to parties should be arranged by the Member through the Association office. An alphabetical list of guests' names is required. Members are responsible for guests' behavior and are expected to supervise parties held on their property. Guests with passes for the party may park vehicles near the host's lot along the roadside. (See rules related to common area parking.) Members shall not allow or authorize persons under the age of 21 to submit requests for guest passes for a party at the Member's property or elsewhere on the Island.

**4.8** Members may obtain access for service and construction personnel by calling the gatehouse. Passes issued to service and construction personnel shall contain the address or addresses where work is to be performed and the vehicle and personnel are restricted to the area where they are performing work. Service personnel and construction personnel may not be issued a guest pass or day visitor pass unless they are visiting the Member at the Member's house. Service personnel and construction personnel may not use Island amenities and are permitted to travel to and from the authorized work site only. Non-emergency service and construction activities are prohibited after hours on weekdays and on weekends and holidays in accordance with the annual schedule adopted by the Board. From the Friday before Memorial Day through the Friday before Labor Day, contractors, other than persons engaged in routine landscape maintenance or emergency repair work, must cease work by 12:00p.m. and leave the

Island by 12:30 p.m. This does not apply to Fridays on which work is prohibited in accordance with an annual holiday schedule established by the Board.

## **5. ROADS - VEHICLES**

**5.1** No person may operate a motor vehicle on the streets or common areas of Figure Eight Island unless they have in their possession a valid driver's license entitling the driver to legally drive on the public roads of the State of North Carolina.

**5.2** Except as otherwise provided below, only licensed motor vehicles with valid registration may be used on Island roads. Unlicensed motorized scooters, motorized bicycles, all-terrain vehicles, dune buggies, and similar vehicles are prohibited on Island beaches, roads, pedestrian/bike paths and other common areas. Non-motorized vehicles such as scooters and bicycles are subject to the provisions of Section 5.6 below.

**5.3** The bridge speed limit is 15 m.p.h. The speed limit on Island roads is 25 m.p.h. or as posted.

**5.4** Stopping vehicles on Island roads or otherwise blocking traffic on Island roads is prohibited, except in accordance with rules of the road, or in accordance with parking rules in section 6.

**5.5** Cyclists and pedestrians using roads must travel in single file. Bicycles used at night on the roads must be equipped with lights or reflectors. On Island roads, pedestrians must travel on the left and cyclists must travel on the right.

**5.6** Low speed vehicles whose top speed is greater than 20 m.p.h., but not greater than 25 m.p.h., that are not currently licensed or registered by the North Carolina Division of Motor Vehicles may operate on Island roads, but not on any bicycle path or sidewalk, provided they meet the following conditions:

**5.6.1** Every low speed vehicle must have a current annual permit issued by the Association. A permit shall be issued only in the name of a Member of the Association and shall be affixed to the vehicle. The fee for an annual permit is set by the Board of Directors. The Member to whom the permit is issued will be required to sign a permit application whereby the Member certifies that the vehicle meets and will continue to meet the standards in these rules and regulations. The application also requires the applicant to assume responsibility for ensuring that the operation of the vehicle is in accordance with these rules. The applicant will be required to release, indemnify and hold harmless the Association from any liability arising out of the registration or permitting of the vehicle by the Association.

**5.6.2** The low speed vehicle must have been previously licensed by the North Carolina Division of Motor Vehicles, or advertised by the manufacturer as meeting the standards for licensing for a "low speed vehicle" by the National Highway Traffic Safety Administration. Documentation satisfactory to the Administrator that the low speed vehicle meets one of these standards must be provided with the application.

**5.6.3** The low speed vehicle must have head lamps, tail lamps, stop lamps, turn signal lamps, reflex reflectors, a parking brake, a rear view mirror, a windshield, and a seat belt for each passenger seat. All lamps and equipment must be in working order. Head lamps and tail lamps must be on between sunset and sunrise.

**5.6.4** The low speed vehicle may only be operated by a person sixteen (16) years or older with a valid driver's license. Any driver must produce such license at the request of Figure Eight security or management personnel.

**5.6.5** The low speed vehicle must be operated in accordance with North Carolina Motor Vehicle laws and any rules and regulations of the Association.

**5.6.6** The low speed vehicle must be designed not to exceed a speed of 25 miles per hour.

**5.6.7** All persons in the low speed vehicle must be seated in a place designed as a passenger seat while the vehicle is underway.

**5.6.8** The Association may fine permit holders or operators for violations of these rules. A low speed vehicle permit may be revoked by the Island Administrator for a violation of these rules and regulations.

## **6. USE OF COMMON AREAS**

**6.1 Beaches.** Access to the ocean beach by persons other than residents of oceanfront lots and their guests is permitted only at designated beach paths and access areas. Trespassing on private property, including undeveloped lots, is not permitted. Driving any motorized or wind-powered vehicle on the beach is prohibited except by Association employees or contractors while engaged in Association business.

**6.2 Parking.** Parallel parking of small vehicles is permitted on the road right-of-way with tires completely off the pavement. Guest vehicles may be parked only near the host's house. Parking boat trailers and large vehicles on the right-of-way or other common property is not permitted, except short-term parking at the boat ramp in accordance with Section 6.4 below. Large vehicles are vehicles exceeding 25 feet in length or exceeding 7 feet in width or having a gross weight of 2.5 tons or more. Parked vehicles shall not be parked in areas where the view of oncoming traffic is obscured. Parking is not permitted on the pedestrian and bicycle path.

**6.3 Bicycle/Pedestrian Path.** On any bicycle/pedestrian path, the traffic on the path must come to a complete stop at any intersection with Association streets and yield to vehicles using the streets. Path traffic must yield to vehicles using driveways. Slower travelers on the path should move aside to allow faster travelers to pass. No motorized vehicles, etc. are allowed on the path except motorized wheelchairs. No parking is allowed on the path.

**6.4 Boat ramp and temporary dock.** A boat ramp and temporary dock are located on Beach Road South. Trailers and vehicles used for launching or loading boats must be removed from the parking area within 10 minutes after launching or loading activities. Overnight vehicle parking and mooring of boats at the ramp are prohibited.

**6.5 Tennis courts.** Tennis courts are located on Beach Road South. Tennis rules and sign up sheets are posted at the courts. Tennis courts are to be used only for playing tennis. Skateboards, skates, roller blades, bicycles and other devices are prohibited. Basketball and other games are prohibited. Only tennis shoes are allowed. Shoes with heels, spikes, knobs or other designs that will dent the asphalt are prohibited.

**6.6 Road Right-of-Way.** Landscaping use of the road right-of-way by an adjacent lot owner is addressed in the ARC Guidelines. Landscaping or other use of the road right-of-way except for road use or parking as permitted by these Rules is prohibited unless specifically authorized by the Association.

## **7. DOGS AND OTHER PETS**

**7.1** Dogs are not permitted at rental homes while the rental home is being rented. Dogs may not be brought on the Island by service or construction personnel. Dogs and other animals are subject to the New Hanover County ordinances regarding animals. Under New Hanover County ordinances, dogs and cats are not allowed to run at large off the premises of their owner. Dogs and cats off the premises of their owner must be under the restraint of a competent person. Restraint means the state of the animal if it is controlled by means of an attended leash, or is on or within a vehicle being driven or parked, or is within a secure enclosure. Stray or unrestrained animals should be reported to the Animal Control Division of New Hanover County. Dog and cat owners must pick up and properly dispose of any feces deposited by their dog or cat on any property other than the Owner's property.

## **8. SAFETY**

**8.1** All open fires outside of the heated area of a residence are prohibited except in fireplaces integrated into the structure of the house and gas or charcoal grills designed for cooking. Use extreme caution with charcoal grills. Cigarettes and other smoking materials shall not be discarded on any common areas or other outdoor areas, except in a fire proof receptacle.

**8.2** Discharge of fire arms of any kind is strictly prohibited on the Island. Hunting is not permitted on the Island.

**8.3** Fireworks are prohibited on the Island except professional fireworks displays with a valid N.C. license may be allowed with prior written permission by the Island Administrator.

**8.4** There are no lifeguards on duty at Figure Eight Island.

## **9. SEA TURTLES**

**9.1** Figure Eight Island has an active turtle monitoring program to protect and maintain nesting activity on the beach. Nesting activity should be reported to Island security at (910) 686-7747 immediately so that the nest can be confirmed and protected by the Island's turtle

monitor. Disturbing a turtle or a turtle nest in any fashion is prohibited. Harming or harassing sea turtles is also prohibited by State and Federal law.

**9.2** Outdoor lights visible from the ocean side of oceanfront houses may not be turned on from June 1 through October 31 to protect hatchling turtles. Exterior light fixtures must conform to ARC guidelines. Residents are encouraged to close curtains, shades and blinds on windows and doors on the ocean side of a residence from one-half hour after sunset to one-half hour before sunrise from June 1 through October 31.

## **10. NOISE**

**10.1** The Island is subject to the New Hanover County noise ordinance.

**10.2** At all times noise levels from any lot or pier, other than the normal operation of customary construction, maintenance and landscaping equipment must not exceed the level that unreasonably interferes with normal conversation on the open areas of adjacent lots.

**10.3** Notwithstanding the provisions of 10.2, the Association may approve the use of amplified speech, music or other noise under such conditions as the Association determines will not unreasonably disturb other lot owners. The Association may require notification of other owners within a certain distance of the proposed noise producing activity prior to granting or denying approval herein. The Association may delegate authority to grant or deny approvals hereunder to the Island Administrator under standards and policies established by the Board of Directors of the Association.

## **11. MISCELLANEOUS**

**11.1 Trash.** Trash pickup is on Tuesday and Friday. Household trash must be bagged and in the trash receptacle area by 7:00 a.m. for pickup. Only normal household trash may be placed in the trash receptacle. Items not considered to be normal household trash are landscaping and yard waste; hazardous materials such as paint, solvents, gasoline, kerosene, motor oil, lubricating oil and agricultural chemicals; construction debris and building materials; and styrofoam packing materials. Large trash items such as appliances will not be removed by the Island trash removal contractor and disposal of such items must be arranged by the owner. Large trash items and landscaping waste may not be left in a yard or on common areas. All construction debris must be removed in accordance with ARC guidelines.

**11.2 Littering.** Disposal of any waste (littering) on private property or on common areas, including roadways and beaches, is prohibited. Cigarettes or other smoking material must be disposed of in safe containers and must never be thrown from vehicles or left on beaches.

**11.3 Signs.** In accordance with paragraph 12 of the Covenants, no sign of any character shall be displayed except signs required by governmental authority and a property identification sign that complies with the architectural guidelines.

**11.4 Solicitation.** Distribution of advertisements and door-to-door solicitation is prohibited.

**11.5 Beach Vitex.** Beach vitex (*vitexrotundifolia*) is a non-native species of vegetation that competes with and eventually displaces desirable native vegetation. Beach vitex does not provide the beneficial effects of stabilizing the beach and assisting in erosion control which is provided by native vegetation. Once established, beach vitex spreads throughout various means to other locations. Beach vitex is considered a nuisance plant and is not allowed to be planted or to remain on any lots on the Island. Any existing beach vitex shall be removed by the owner of the property on which it is located. If the owner has not removed all beach vitex within thirty (30) days after written notice from the Association, the Association may levy a fine of up to \$100.00 per day until the beach vitex is effectively removed or killed, or until such other activities to control beach vitex are undertaken as directed by the Association.

**11.6 Irrigation.**

**11.6.1** Moisture sensors are required on all automated irrigation systems to prevent irrigation during times of rain or recent rain.

**11.6.2** Irrigation is prohibited during hours of peak demand from 6:00 a.m. to 9:00 a.m. and 6:00 p.m. to 9:00 p.m. seven days a week.

**11.6.3** Lots are restricted to irrigation only three days a week in accordance with the following schedule:

- a. Lots with even number addresses may irrigate only on Monday, Wednesday and Friday.
- b. Lots with odd number addresses may irrigate only on Tuesday, Thursday and Saturday.
- c. Irrigation is prohibited on Sunday.

**12. ARCHITECTURAL REVIEW GUIDELINES AND PROCEDURES**

Architectural guidelines and procedures are published separately and are available at the Association office.

**13. ASSESSMENTS**

Assessments can be levied in accordance with the Covenants and the By-Laws. Annual assessments become due as designated in the By-Laws. Additional or special assessments become due on the date designated by the Board of Directors. Unless otherwise designated by the Board, an assessment shall be past due thirty (30) days after the assessment is due. Once an assessment is past due, any unpaid balance of the assessment will bear interest in accordance

**14.7 Suspension of Privileges and Services.** The Association may suspend privileges and/or services to a Member or lot Owner for a violation of the Governing Documents including failing to pay assessments or fines. Notice of a proposed suspension of privileges or services for violation of the Governing Documents shall be given to the Owner or Member by first class mail. The notice shall generally specify the alleged violation and shall indicate the date at which a hearing will be provided before the Board of Directors or an adjudicatory panel to give the alleged violator the opportunity to present evidence. Within a week after the conclusion of the hearing, the Board or adjudicatory panel shall either deliver or mail by first class mail a written decision of the Board or panel.

**14.8 Appeal to Board from Decision of Adjudicatory Panel.** Any person wishing to appeal a decision by an adjudicatory panel shall give notice of appeal to the Administrator within ten (10) days after the decision of the adjudicatory panel is delivered or mailed. The Administrator shall attempt to schedule a hearing before the Board at a date that is convenient to the appellant and the Board, and will give notice of the date, time and location of the hearing at least two (2) weeks prior to the hearing. The Board may uphold, reverse, or modify the decision of the adjudicatory panel.

