

THIS DECLARATION, OR PROVISIONS HEREOF, ARE SUBJECT TO BINDING ARBITRATION  
PURSUANT TO  
S.C. CODE ANN. §15-48-10, ET. SEQ.

DECLARATION  
OF  
COVENANTS, CONDITIONS, EASEMENTS AND  
RESTRICTIONS  
FOR RIVERWALK RESIDENTIAL, PROPERTY ONE

**Prepared by and Return to:**

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**Post Office Box 707**  
**Rock Hill, South Carolina 29731**

**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND  
RESTRICTIONS FOR THE \_\_\_\_\_ AT RIVERWALK**

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR RIVERWALK RESIDENTIAL, PROPERTY ONE (as amended and supplemented from time to time, this “Declaration) is made and declared as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by **THE GREENS OF ROCK HILL, LLC**, a South Carolina limited liability company (“Declarant”), whose post office address is 2850 Cherry Road, Rock Hill, SC, 29730.

**STATEMENT OF PURPOSE**

A. Declarant is the developer of the master planned, mixed-use project in Rock Hill, South Carolina, known as “Riverwalk”, and is the declarant under that certain Master Covenants, Conditions, Easements, and Restrictions for Riverwalk (the “Project”), recorded in Book \_\_\_\_\_, at Pages \_\_\_\_\_, *et seq.* in the York County, South Carolina, real estate records (as amended, modified, or supplemented from time to time, the “Master Declaration”). Capitalized terms used in this Declaration and not defined herein shall have the meanings given such terms by the Master Declaration.

B. As a part of its development of the Project, and in furtherance of the General Plan of Development, Declarant now wishes to develop certain portions of the Development Property into a residential neighborhood or neighborhoods (with such portions being described upon Exhibit A to this Declaration, attached and incorporated by this reference, and hereafter referred to as the “Property”).

C. Declarant intends that the Property, and the Overall Property, shall be a Component Parcel, subject to the jurisdiction of an Additional Association, as more particularly provided for herein, with the jurisdiction of such Additional Association over the Property to be non-exclusive in nature, and subject to the terms and provisions of the Master Declaration. Declarant confirms the application of the Declaration of the Master Declaration to the Property, and, to the extent expressly inconsistent herewith, the Master Declaration shall govern and control.

D. Declarant intends to develop the Property as a residential (subject to the exceptions contained herein) development (“Development”) known as “Riverwalk Residential,” together with streets, open spaces, green belts, recreational areas and facilities, stormwater drainage and retention areas, and other common areas and improvements for the benefit of the Owners of Lots and Dwellings, as hereafter defined.

E. In conjunction with its development of the Project, Declarant owns or may later acquire certain real property (the “Additional Property”) located adjacent to or near the Property, which is more particularly described in the attached Exhibit B and incorporated herein by this reference. By this reference, Declarant is not subjecting any part of the Additional Property to this Declaration, but Declarant may, in its sole discretion and without obligation, subject all or part of the Additional Property to the terms of this Declaration (annexing it to the Development) and to any additional or different terms, covenants, conditions and restrictions which Declarant

deems appropriate, necessary or desirable, by means of a Supplemental Declaration, as hereinafter more particularly provided for.

F. Declarant may, but is not obligated to, divide the Development into phases, some of which may be appropriate for single family dwellings, and some of which may be appropriate for patio homes, zero-lot dwellings, townhomes, condominiums, or multi-family buildings.

G. As a part of its development of the Project and the General Plan of Development, Declarant intends to develop the Property under a common scheme and general plan of development, which to the extent determined by Declarant, from time to time, in its sole discretion, may include all or any portion of the Additional Property.

H. Declarant desires to provide for the preservation and enhancement of the property values and the quality of life in the Development, the general health, safety and welfare of the Owners of Lots and Dwellings, and for the maintenance of streets, street lights, stormwater drainage and retention areas and improvements located in the Development, to the extent that the same are not subject to maintenance pursuant to the Master Declaration, and to subject the Property and Additional Property, when and if the Additional Property is acquired and/or subjected to this Declaration by subsequent Supplemental Declaration, to the following covenants, conditions, restrictions, easements, charges and liens, which shall touch, concern and run with the title to the real property subjected to this Declaration, and which shall be binding upon and inure to the benefit of all parties having any right, title or interest in the described real property or any portion thereof, and their respective heirs, successors and assigns.

I. Further, Declarant desires to organize and incorporate Riverwalk Residential Homeowners Association, Inc., a nonprofit mutual benefit corporation organized under the laws of the State of South Carolina, to act as a homeowners association which will maintain the Common Property, administer and enforce these covenants and restrictions, collect and disburse the Assessments and charges hereinafter created, and exercise such other powers as may be authorized by this Declaration, its Articles of Incorporation and Bylaws.

**NOW, THEREFORE,** Declarant hereby declares that the Property and any or all of the Additional Property (when and if acquired and subjected to this Declaration by subsequent Supplemental Declaration), shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following covenants, conditions, restrictions, easements, charges and liens, which shall touch, concern and run with the title to the real property subjected to this Declaration, and which shall be binding upon and inure to the benefit of all parties having any right, title or interest in the described real property or any portion thereof; and their respective heirs, successors and assigns.

**ARTICLE I**

**DEFINITIONS**

When used in this Declaration, the following words shall have the following meanings:

**Section 1.1** “Additional Property” shall mean and refer to the additional real estate, if any, described in Exhibit B, all or any portion of which may be made subject to the terms of this Declaration in accordance with the provisions of Article II, Section 2.2.

**Section 1.2** “Amenities” shall mean and refer to that certain real property contained within the boundaries of the Property shown on the Development Plan which is intended to be developed as a recreational area, such as a tennis and racquet club, swim club or other recreational amenities. The Amenities may be designated as private, semi-private or public facilities, at Declarant’s sole option, but are not part of the Common Property. None of the terms and conditions of this Declaration or any Supplemental Declaration shall apply to the use and/or operation of the Amenities, and the Association shall have no vested or implied regulatory authority or control over the Amenities, unless Declarant hereafter elects, in its discretion, to include the Amenities are any part thereof as a part of the Common Property by amendment to this Declaration.

**Section 1.3** “Architectural Review Board” or “ARB” shall mean and refer to the entity that is charged with the responsibility of administering the architectural standards and Guidelines (as hereafter defined), which are attached as Exhibit D and incorporated herein by this reference, in accordance with the provisions of Article VII.

**Section 1.4** “Articles of Incorporation” shall mean and refer to the Articles of Incorporation of Riverwalk Residential Homeowners Association, Inc.

**Section 1.5** “Assessments” shall mean and refer to an Owner’s share of the Common Expenses (based on the Owner’s Lot or Dwelling), or other charges which may, from time to time, be assessed against an Owner by the Association in accordance with the provisions of Article VI.

**Section 1.6** “Association” shall mean and refer to Riverwalk Residential Homeowners Association, Inc., a nonprofit mutual benefit corporation to be organized by Declarant under the laws of the State of South Carolina, its successors and assigns. Until organized by Declarant as a nonprofit mutual corporation, the Association shall exist and operate as an unincorporated association.

**Section 1.7** “Board of Directors” shall mean and refer to the Board of Directors of the Association, who shall be elected and shall serve pursuant to the Bylaws of the Association.

**Section 1.8** “Common Expenses” shall mean and refer to the actual and estimated costs and expenses of operating the Association and performing its duties, including without limitation, the costs incurred for operation, maintenance and improvement of any Common Property, such assessments as are levied against the Association under and pursuant to the Master Declaration, and any reserves established by the Association.

**Section 1.9** “Common Property” shall mean and refer to all real property, improvements, and personal property, now or hereafter designated in writing by Declarant as Common Property and conveyed to the Association or held by Declarant for the benefit of the

Association and maintained by the Association as part of the Common Expenses. All areas designated as being for the benefit of the Association or for the benefit of the Property as a Component Parcel upon any plat recorded by Declarant shall be considered Common Property. Unless otherwise indicated, any areas designated as Open Space or bearing a similar designation on a recorded plat of any part of the Property shall be considered to be part of the Common Property. The Amenities shall not be considered part of the Common Property except as otherwise herein provided. Notwithstanding anything to the contrary contained elsewhere herein, it is Declarant's intent that the Common Property not include any of the "Common Properties" as defined by the Master Declaration.

**Section 1.10 "Declarant"** shall mean and refer to The Greens of Rock Hill, LLC, a South Carolina limited liability company, and its successors and assigns. No successor or assignee of Declarant shall have any rights or obligations of Declarant, unless such rights and obligations are specifically set forth in the instrument of succession or assignment, or unless such rights pass by operation of law.

**Section 1.11 "Development"** shall mean and refer to that certain residential subdivision located in Rock Hill, York County, South Carolina, commonly known as Riverwalk Residential.

**Section 1.12 "Development Plan"** shall mean and refer to the general development plan for the Property which is more particularly shown on that certain plat prepared by \_\_\_\_\_ for \_\_\_\_\_ and entitled "\_\_\_\_\_", dated \_\_\_\_\_ and recorded in the York County, South Carolina, Clerk of Court's Office in Plat Book \_\_\_\_\_, at Page \_\_\_\_\_ on \_\_\_\_\_.

7. ONE ASSOCIATION FOR AN

**Section 1.13 "Dwelling"** shall mean and refer to any improved property intended for use as a single-family residence or as a townhouse, condominium unit, patio or cluster dwelling, whether detached or attached, which is located within the Development.

**Section 1.14 "Lot"** shall mean and refer to any unimproved portion of the Property upon which it is intended that a single Dwelling shall be constructed. A Lot shall be deemed to be unimproved and thus a Lot, rather than a Dwelling, until the improvements constructed thereon have been completed so that a certificate of occupancy can be issued.

**Section 1.15 "Member"** shall mean and refer to each Owner who has a membership in the Association as provided in Article III, Section 3.2.

**Section 1.16 "Mortgage"** shall mean and refer to a mortgage, deed of trust or other similar security agreement or instrument which grants, creates or conveys a first lien upon or a security interest in a Lot or Dwelling.

**Section 1.17 "Mortgagee"** shall mean and refer to the holder of a Mortgage.

**Section 1.18 "Owner"** shall mean and refer to the record holder, whether one or more

persons or entities, of fee simple title to any Lot or Dwelling with the Development, including Declarant, but not including the Association or any Mortgagee, unless and until such Mortgagee has acquired title to the Lot or Dwelling pursuant to a foreclosure proceeding, a deed in lieu of foreclosure, or otherwise.

**Section 1.19** “**Person**” shall mean and refer to a natural person, corporation, partnership, limited liability company, association, trust, or other legal entity or any combination thereof.

**Section 1.20** “**Property**” shall mean and refer to the real property described on Exhibit A attached to this Declaration.

**Section 1.21** “**Privacy Wall**” shall mean and refer to the entire wall, from front to rear, all or a portion of which is used for support, located on the boundary line between adjoining, but separately owned Dwellings or Lots.

**Section 1.22** “**Overall Property**” shall mean and refer to the Property, together with any of the Additional Property which is annexed by recordation of a Supplemental Declaration.

**Section 1.23** “**Rules and Regulations**” shall mean and refer to the rules and regulations governing the use and enjoyment of the Development which are promulgated, from time to time, by the Board of Directors.

**Section 1.24** “**Supplemental Declaration**” shall mean and refer to any declaration of covenants, conditions and restrictions executed by Declarant, which extends or supplements the provisions of this Declaration with respect to all or any part of the Additional Property and has the effect of annexing such Additional Property into the Property. A Supplemental Declaration may contain terms materially different with respect to the portion of the Additional Property annexed thereto than the terms and provisions set forth with respect to the Property as initially subjected hereto.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONAL PROPERTY**

**Section 2.1 Property Subject to Declaration.** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is the Property, as it may be expanded from time to time by subsequent Supplemental Declaration.

**Section 2.2 Additional Property.** Declarant hereby reserves the option to submit, from time to time, all or any portion or portions of the Additional Property to the general scheme of this Declaration by filing one or more Supplemental Declarations in the Office of the Clerk of Court for York County, South Carolina. A Supplemental Declaration shall contain the following: (a) a description of the Additional Property to be annexed; (b) a statement by Declarant of its intent to subject the Additional Property to the general scheme of this

Declaration; (c) any changes or additions to the terms of this Declaration as they are applied to such Additional Property; and (d) any additional terms or conditions applicable only to the Additional Property to take into account the different context, character or circumstances of the portion of the Development containing the Additional Property. Declarant's option to record a Supplemental Declaration as to Additional Property may be exercised in Declarant's sole discretion in accordance with the following rights, conditions and limitations, which are the only conditions and limitations on the exercise of such option:

(i) The option may be exercised, from time to time, during a period of twenty (20) years from the date of this Declaration; provided, however, that Declarant reserves the right to terminate such option at any time prior to the expiration of such twenty (20) year period by executing and recording a supplement to this Declaration evidencing such termination in the Office of the Clerk of Court for York County, South Carolina. Except for Declarant's voluntary termination of such right, no other circumstances shall terminate the option prior to the expiration of the twenty (20) year period.

(ii) Declarant may add Additional Property at any time and in any sequence. The exercise of the option to submit a portion of the Additional Property to the Declaration shall not bar the further exercise of this option as to other portions of the Additional Property.

(iii) In the event that Declarant exercises the option to add Additional Property to the Declaration, Declarant reserves the right to designate the boundaries of the Lots and Common Property, and to promulgate amendments to the terms and conditions of this Declaration to take into account the different context, character or circumstances of the portion of the Development containing the Additional Property.

(iv) The option reserved by Declarant to subject all or any portion of the Additional Property to the terms of this Declaration by Supplemental Declaration shall not be construed to impose upon Declarant any obligation to add Additional Property to the Development, or to construct any improvements thereon of any nature whatsoever.

(v) In the event that Declarant fails to exercise the option to add Additional Property prior to the expiration of the twenty (20) year period, such option shall expire and shall be of no further force and effect.

(vi) At Declarant's election, and if, but only if, required in connection with any financing obtained by Declarant, annexation of Additional Property shall require HUD and/or VA prior approval, so long as a Class "B" membership remains outstanding.

**Section 2.3 Method of Annexation.** The legal description of the Additional Property, if any, is set forth in the attached Exhibit B. Portions of the Additional Property may be added to the Development at different times, and there are no limitations or restrictions on the order, sequence or location in which any of such portions of the Additional Property may be added to the Property and Overall Property. The exercise of the option to submit a portion of the Additional Property to the Declaration shall not bar or limit the further exercise of this option as

to other portions or the balance of the Additional Property. A Supplemental Declaration shall describe the portion(s) of the Additional Property to be annexed for the purpose of submitting such property to the scheme of this Declaration and extending the jurisdiction of the Association to the Additional Property. The Supplemental Declaration may contain such terms and provisions not inconsistent with this Declaration as may be desirable to reflect the different character, if any, of the real property being annexed or the various housing or community style characteristics and development approaches being implemented, all of which may be significantly at variance with that of the Property. The Supplemental Declaration may also create a separate "Neighborhood Association" for the purpose of owning, operating, governing, maintaining or improving certain Common Property which may be designated as "Neighborhood Common Property." In the event a Neighborhood Association is created with respect to any Additional Property, the Owners in the Additional Property affected by the Supplemental Declaration shall be Members of both the Association and the Neighborhood Association.

#### **Section 2.4 General Plan of Development.**

a. **Purpose.** The Development Plan for the Property, referenced in Section 1.12 above, is the dynamic design for the development of the Property of as a part of the Riverwalk Residential, a mixed-use planned residential development. It is anticipated that the Development Plan will be modified and amended by Declarant, from time to time, during the period required to fully complete the Development. The Development Plan shall not bind Declarant to make any additions or improvements to the Development which are not shown on the Development Plan. Nothing herein shall be interpreted as requiring annexation of any of the Additional Property, or if annexed, that the Additional Property be annexed in any particular sequence or configuration or that the Additional Property be annexed in whole tracts. Nothing in this Declaration or in any Supplemental Declaration shall be construed to affect or encumber any portion of the lands in the Development Plan prior to annexation.

b. **Amendments.** Declarant reserves the right to amend the Development Plan, in its sole discretion, in response to changes in technological, economic, environmental, social, legal, governmental or other conditions affecting the development or marketing of the Development.

c. **Interpretation.** Nothing contained in this Declaration, any Supplemental Declaration or the Development Plan shall be interpreted to:

(i) Require Declarant or any other person or entity to annex all or any portion of the Additional Property to the scheme of this Declaration; or

(ii) Prevent any portion of the Additional Property which has not then been annexed by the recordation of a Supplemental Declaration, from being subject to another, independent declaration of covenants or scheme of development.

**Section 2.5 Declarant Consent to Amendment of Article II.** This Article II may not be amended without the prior written consent of Declarant, and the owner(s) of the lands being submitted as Additional Property, if other than Declarant.



### ARTICLE III

#### STRUCTURE, POWERS AND DUTIES OF, AND MEMBERSHIP AND VOTING RIGHTS IN, THE ASSOCIATION

**Section 3.1 Association.** The Association is a non-profit mutual benefit corporation organized under the laws of the State of South Carolina. The Association is and shall be charged with the duties and vested with the powers prescribed by law and set forth in the Articles of Incorporation, the Bylaws and this Declaration. The Association is intended to and shall be an Additional Association and Corporate Member of the Master Association as contemplated by the Master Declaration. In the event of any inconsistency between this Declaration, the Articles of Incorporation or the Bylaws, the provisions of this Declaration shall prevail. The officers and directors of the Association shall be required to be either (a) Members of the Association, or (b) officers, directors, representatives or employees of Declarant. The Board of Directors of the Association, and such officers as the Board may elect or appoint, shall conduct the affairs of the Association in accordance with this Declaration, the Articles of Incorporation and the Bylaws.

**Section 3.2 Membership.** Every Owner of a Lot shall be a Member of the Association by virtue of such ownership. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws.

**Section 3.3 Voting Rights.** The voting rights of each Member shall be appurtenant to the ownership of the Member's Lot, whether or not such Lot is improved by a Dwelling. For purposes of this Article III, the term "Lot" shall also include an improved Lot on which a Dwelling exists. There shall be two classes of Lots with respect to voting rights:

a. **Class "A" Lots.** Class "A" Lots shall be all Lots, except for Class "B" Lots, as defined below. Each Class "A" Lot shall entitle its Owner to one (1) vote for each Class "A" Lot owned. In the event that more than one person or entity holds title to a Class "A" Lot, all such persons shall be Members, and the voting rights appurtenant to such Class "A" Lot shall be exercised as the Owners, among themselves, may determine; provided, however, in no event shall more than one (1) vote be cast with respect to any Class "A" Lot.

b. **Class "B" Lots.** Class "B" Lots shall be all Lots owned by Declarant which have not been conveyed to third party purchasers who are not affiliated with Declarant. On the date hereof, Declarant shall be entitled to five (5) votes for each Class "B" Lot owned by Declarant. No portion of the Additional Property shall be entitled to any type of voting rights until it is annexed by Supplemental Declaration, at which time it shall be entitled to Class "B" votes in the same manner as provided herein. The Class "B" membership shall terminate and convert to a Class "A" membership upon the first to occur of the following:

(i) When the total number of votes among the Members owning Class "A" Lots equals the total number of votes held by Declarant in the Class "B" Lots, so long as no part of the Additional Property has been annexed within the five (5) years immediately subsequent thereto; or

(ii) Twenty (20) years from the date this Declaration is recorded in the Office of the Clerk of Court for York County, South Carolina; or

(iii) Five (5) years from the annexation of the last of the Additional Property, if made; or

(iv) When Declarant, in its sole discretion, elects to voluntarily terminate its Class "B" membership, as evidenced by a written instrument recorded in the Office of the Clerk of Court for York County, South Carolina.

Following the first of these events to occur, Declarant shall call a special meeting of the Association as provided in the Bylaws, to advise the Members of the Association of the termination of the Class "B" membership.

**Section 3.4 Duties, Powers and Authority of the Association.** The Association shall have all the powers of a non-profit mutual benefit corporation organized under the laws of the State of South Carolina, subject only to such limitations upon the exercise of such powers which are expressly set forth in the Articles of Incorporation, the Bylaws, or this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, assigned, required or permitted to be done by this Declaration, any Supplemental Declaration, the Articles of Incorporation and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the maintenance, administration, and improvement of the Common Property.

**Section 3.5 Management Contracts.** The Association is authorized and empowered to engage the services of any person, firm, corporation or other entity to act as managing agent of the Association at a compensation level to be established by the Board or Directors and to perform all of the powers and duties of the Association. Provided, however, any such management contract shall provide that (a) the term of the management contract shall not exceed one (1) year, (b) the management contract may be renewed by mutual agreement of the parties for an unlimited number of successive one (1) year terms; and (c) the management contract may be terminated by the Association, with or without cause, upon ninety (90) days prior written notice, without payment of any type of termination fee.

**Section 3.6 Availability of Documents.** The Association shall maintain the following for inspection by all Members, Owners and Mortgagees: current copies of this Declaration, any Supplemental Declarations, the Riverwalk Residential Pattern Book, the Articles of Incorporation and Bylaws of the Association and other pertinent documents, books and records of the Association which concern the Development. All such documents shall be available upon reasonable notice, during normal business hours at the office of the Association.

## ARTICLE IV

### PROPERTY RIGHTS IN THE COMMON PROPERTY

**Section 4.1 Owner's Easements in the Common Property.** Each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Property and of access to and from his Lot over any streets which comprise a portion of the Common Property (if any), which rights and easements shall be appurtenant to and shall pass with the title to each Owner's Lot, subject to the following rights and restrictions:

a. Non-exclusive rights-of-way for access, ingress and egress by vehicles or pedestrians, in, through, over and across the streets, roads and walks in the Common Property;

b. Drainage easements across stormwater drainage and retention structures and areas, and the right to connect with, maintain and make use of utility lines, wires, pipes, conduits and cable television lines which may, from time to time, be located in or along the streets and roads of the Development or in other areas of the Common Property;

c. The right of Declarant (or the Association, as to any Common Property owned by it) to grant easements and to dedicate or otherwise convey all or any part of the Common Property, as provided for in this Declaration;

d. The right of the Association to borrow money to improve, repair, restore and reconstruct the Common Property and to otherwise encumber the Common Property for such purposes, subject to any required approvals as provided in this Declaration;

e. The right of the Association to adopt Rules and Regulations governing the use and enjoyment of the Common Property, including, without limitation, the right to impose reasonable restrictions upon the number of guests of an Owner; and

f. The right of the Association, Declarant, and other Owners and Members to use and enjoy the Common Property for any purpose not inconsistent with this Declaration, any applicable Supplemental Declaration, the Articles of Incorporation, the Bylaws, the Rules and Regulations of the Association, and applicable governmental regulations.

**Section 4.2 Title to Common Property.** Declarant may retain the legal title to all or any part of the Common Property until it has completed improvements thereon and until, in the opinion of Declarant, the Association is able to maintain the same. Declarant may convey or turn over to the Association certain portions of the Common Property and retain other portions of the Common Property. Declarant covenants for itself, and its successors and assigns, that it shall convey to the Association (and the Association shall accept) all then-existing and completed Common Property located within the Development at the time that Declarant's Class "B" membership terminates, pursuant to Section 3.3(b), of this Declaration, and that such conveyance shall be free and clear of any Mortgage or other liens. Any conveyance of Common Property to the Association shall be deemed to contain the following covenant which shall run with the land, whether or not specifically set forth in the deed or other instrument of conveyance, and which

covenant shall be binding upon the Association, its successors and assigns, for so long as such Common Property shall remain subject to this Declaration:

“In order to preserve and enhance the property values and amenities of the Development, the Common Property and any landscaping, drainage and other improvements now or hereafter built or installed thereon shall at all times be maintained in good repair and condition and shall be operated in accordance with standards consistent with a high quality residential development.”

**Section 4.3 Extent of Members’ Easements.** The rights and non-exclusive easements of use and enjoyment of the Members shall be subject to the following:

a. The Association, subject to the rights of Declarant and the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Property and all improvements thereon.

b. Declarant shall have the right to grant easements in, on, over, through and across the Common Property to any governmental agencies and/or utility companies, for the installation, maintenance and inspection of lines, facilities and appurtenances for public or private water, sewer, drainage, cable television, telephone, electricity, and other utilities, and for the completion of the Development. No structure, improvement, planting or material may be placed upon any such easement area so as to damage or interfere with the installation, maintenance and operation of utilities or that may change the direction, or affect the flow, of drainage.

c. The easements and rights of Declarant reserved by this Declaration, including without limitation, those reserved in Article IV, Section 4.5.

d. Upon the termination of Declarant’s Class “B” membership, all such rights reserved by Declarant shall automatically pass to the Association.

**Section 4.4 Phase of Development in Which Common Property Located Not Controlling as to Use.** If Declarant designates certain property as Common Property, it may be used by all Members of the Association, regardless of the tract or phase of the Development in which such Common Property is located.

**Section 4.5 Easements Reserved to Declarant Over Common Property.** Declarant hereby reserves unto itself and its successors and assigns, such licenses, rights, privileges and easements in, through, over, upon and under all Common Property, as are necessary and incidental to Declarant’s completion of the Development, including, but not being limited to, the following:

a. the right to use the Common Property for rights-of-way and easements to erect, install, maintain, inspect and use electric and telephone poles, wires, cables, conduits, sewers, water mains, pipes, telephone, and electrical equipment, gas, cable television, drainage

facilities, ditches or lines, or other utilities or services and for any other materials or services necessary or convenient for the completion, marketing, use and enjoyment of the Development;

b. the right to cut any trees, bushes or shrubbery, make any grading of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, convenience, safety and appearance in the Development;

c. the right to locate on the Common Property any wells, pumping stations and irrigation systems and lines;

d. the right to use the Common Property and a non-exclusive easement of ingress and egress for purposes of development, construction and marketing of the Development;

e. the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers and drainage and other utility lines which may, from time to time, be in or along the streets and roads, or within the Common Property, easements or green belts, or to grant such rights to others;

f. the right to use any Class "B" Lots or Dwellings thereon as models, sales offices, contractors' offices, and the right to construct and display promotional, informational and directional signs and other sales aids on or about any portion of the Development;

g. such other rights as may be reasonably necessary to complete in an orderly and economic manner the development of all present and future phases of the Development; provided, however, that the reservation of such rights shall not be considered an obligation of Declarant to provide or maintain any such utility, development, or service, or to complete any improvements, other than those shown on the Development Plan; and,

h. the right to grant unto any designee(s) of Declarant all or any of the above rights, to be exercised jointly with Declarant.

Declarant shall continue to hold the easements and rights-of-way reserved in this Section 4.5 after conveyance of any Common Property to the Association, until such time as Declarant's Class "B" membership has terminated.

**Section 4.6 Beneficiaries of Easements, Rights and Privileges.** The easements, licenses, rights and privileges established, created and granted by this Declaration shall be for the benefit of the Association, Declarant, Owners and the Members, all as more specifically set forth in this Declaration. Subject to the Rules and Regulations promulgated by the Association, any Owner may delegate his rights of use and enjoyment to tenants and guests for the duration of their tenancies or visits, provided that this shall not be construed to create any rights in or for the benefit of the general public. Any Owner who rents or leases his Lot or Dwelling to a tenant shall not be entitled to use any facilities on the Common Property or any Amenities during the period in which the Lot or Dwelling is occupied by the tenant.

## ARTICLE V

### INSURANCE AND CASUALTY LOSSES

**Section 5.1 Insurance.** The Board of Directors shall have the authority, but not the duty, to obtain insurance for insurable improvements on the Common Property to protect against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, and to obtain comprehensive public liability policies covering the Association, Members, Declarant and/or its designee, against damage or injury caused by the negligent acts or willful misconduct of the Association, Members, Declarant and/or its designee, or the managing agent of the Association. The Board of Directors may also obtain directors' and officers' liability coverage (if reasonably obtainable), as well as any other types of insurance coverage with respect to such risks or persons as shall be deemed necessary or appropriate by the Board of Directors, in its sole discretion. The Board of Directors shall determine coverage amounts and limits, deductible provisions, and shall have the reasonable discretion to self-insure against any risk. Premiums for such insurance coverage shall be part of the Common Expenses.

## ARTICLE VI

### COVENANT FOR MAINTENANCE ASSESSMENTS

For purposes of this Article VI, the term "Lot" shall include an improved Lot upon which a Dwelling has been constructed.

**Section 6.1 Creation of the Lien and Personal Obligation to Pay Assessments.** Each Owner, by acceptance of a deed to any Lot in the Development, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) Annual Assessments, (ii) Special Assessments, and (iii) Individual Assessments (each of which is hereafter defined and collectively referred to as Assessments" or "Assessment"). The Assessments shall be fixed, established and assessed to the Owners by the Association, as hereinafter provided. Any such Assessment, together with interest, late charges, costs and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which such Assessment is imposed from the date on which each such Assessment is due. Each such Assessment, together with interest, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them. → why ?

**Section 6.2 Exempt Property.** The following property now or hereafter subject to this Declaration shall be exempt from the Assessments, charges and liens created herein:

- a. All Common Property; and
- b. All Amenities.

Except as expressly set forth in this Section 6 2, no land or improvements in the Development shall be exempt from Assessments, charges or liens. No Owner may avoid the

obligation to pay Assessments by virtue of non-use or abandonment of his Lot or non-use of the Common Property.

**Section 6.3 Purpose of Annual Assessments.** The Assessments to be levied annually by the Association against each Class "A" Lot ("Annual Assessment") shall be used for the following purposes (except to the extent that any of the same are the responsibility and obligation of the Master Association under the Master Declaration as a part of maintaining the Common Properties (as defined by the Master Declaration)):

a. to pay for the operating expenses of the Association, including for the payment of such assessments as are levied against the Association under and pursuant to the Master Deed;

b. to pay all costs associated with lighting, improvement and beautification of access ways and easement areas (whether dedicated to the public or private), and the acquisition, maintenance, repair and replacement of Development identification signs, directional markers and traffic control devices, entry features, and the costs of controlling and regulating traffic on the roads and access ways throughout the Development, until accepted by a governmental entity for maintenance;

c. to repair, maintain, reconstruct, keep clean and free from debris, the Common Property and any improvements located thereon;

d. to pay all real and personal property taxes and governmental assessments (if any) separately levied upon or assessed against the Common Property, which taxes and assessments may be contested or compromised by the Board of Directors of the Association, in its sole discretion;

e. to manage, maintain, preserve, and improve the landscaping and stormwater drainage and retention features on Common Property;

f. to repay any deficits previously incurred by the Association, if any, in making capital improvements to or upon the Common Property, and in furnishing services to or for the Members of the Association;

g. to maintain and repair of all streets, roadways, sidewalks, paths, and parking areas situated upon the Common Property until dedicated to and accepted by the appropriate governmental authority;

h. to establish, fund and maintain appropriate reserves for future repair and replacement of the Common Property and any improvements located thereon;

i. to erect, construct, maintain, demolish or remove structures and other improvements on the Common Property, as deemed necessary, desirable or convenient for the completion and improvement of the Development as a residential community; and

j. to perform any other acts which are necessary or desirable in the reasonable

judgment of the Association to keep the Development and the Common Property neat, clean and attractive, to preserve or enhance the value thereof; or to eliminate fire, health or safety hazards.

**Section 6.4 Annual Assessments for Class "B" Lots.** Declarant shall not be obligated to pay Annual Assessments upon the Class "B" Lots.

**Section 6.5 Establishing Budget and Annual Assessments.**

a. **Operating Budget.** No less than forty-five (45) days prior to the end of the Association's fiscal year, the Board of Directors shall prepare and approve a budget to cover the estimated costs of operating the Association during the coming year. The budget shall include, but shall not be limited to, operational items such as overhead and indirect costs, insurance, utilities, taxes, repairs, reserves, maintenance and other operating expenses, assessments payable by the Association under and pursuant to the Master Declaration, as well as charges to cover any deficits from prior years, and such capital budget items as approved by the Board pursuant to subsection (b) of this Section 6.5.

b. **Capital Budget.** The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected useful life of each asset, and the expected repair or replacement cost. The Board of Directors shall establish the required annual capital contribution, if any, in an amount sufficient to meet the projected capital needs of the Association, as shown on the capital budget. A copy of the capital budget shall be distributed to each Member as an Appendix to the operating budget.

c. **Annual Assessments.** The initial Annual Assessment for each Class "A" Lot shall be Four Hundred and No/100 Dollars (\$400.00). The initial Annual Assessment shall be due and payable in advance no later than January 31 of the year in which such initial Annual Assessment is due and shall be pro-rated on a calendar year basis and collected at the closing of the sale of each Class "A" Lot. The Annual Assessment for each calendar year thereafter shall be in an amount set by the Board of Directors and shall be due and payable no later than January 31 of each such year. The Board of Directors shall set the amount of the Annual Assessment and shall send written notice of the amount of the Annual Assessment to each Owner on or before January 1 of each calendar year. The failure of the Board of Directors to send, or of an Owner to receive, such notice shall not relieve an Owner of its obligation to pay the Annual Assessment. Notwithstanding the foregoing, the Board of Directors may alter the dates of the Association's fiscal year for setting the Annual Assessment and may allow and require the Annual Assessment to be collected in monthly or other installments.

d. **Initial Capital Contribution.** Upon acquiring any Lot within the Development, the purchaser thereof shall pay to the Association at closing an initial capital contribution of Three Hundred Fifty and No/100 Dollars (\$350.00), which sum shall be used by the Association for such purposes as the Board of Directors may elect pursuant to this Declaration, the Bylaws, and the Bylaws. The obligation to pay the initial capital contribution shall be a lien and continuing charge upon the Lot purchased until received by the Association.

*NEEDS TO BE OUSIDING  
TO SUBSEQUENT OWNERS*



**Section 6.6 Special Assessments and Individual Assessments.**

a. **Special Assessments.** In addition to the Annual Assessments, the Board of Directors may levy, in any Assessment year, a special assessment (“Special Assessment”) applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) any construction of any improvements on the Common Property which are not originally constructed by Declarant; (ii) the reconstruction, repair or replacement of any capital improvements upon the Common Property, including the necessary fixtures and personal property related thereto; and/or (iii) covering any shortfall in the amount of Annual Assessments which are necessary to fund the actual monetary needs of the Association. Any Special Assessment must be approved by a vote of no less than two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a special meeting duly called for this purpose.

b. **Individual Assessment.** In addition to the Annual Assessments and Special Assessments authorized above, the Board of Directors shall have the power to levy an individual assessment applicable to any particular Owner of a Lot or Dwelling (“Individual Assessment”) for any of the following purposes: (i) to cover the costs incurred by the Association due to that Owner’s failure to maintain its Lot or Dwelling pursuant to the standards set forth in this Declaration; (ii) to reimburse the Association for damage to any Common Property, caused by an act or omission of the Owner, members of the Owner’s family, or such Owner’s agents, guests, employees, tenants or invitees, and which is not the result of ordinary wear and tear; (iii) for the payment of fines, penalties or other charges imposed against any particular Owner relative to such Owner’s failure to comply with the terms and provisions of this Declaration, the Bylaws, the Rules and Regulations; or (iv) for the payment of fines, penalties or other charges imposed against an Owner for failure to comply with the Architectural Guidelines set forth in Exhibit D. The due date of the Individual Assessment shall be fixed in the Board of Directors’ resolution authorizing such Individual Assessment. The Board of Directors shall send written notice of the amount and due date of such Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date such Individual Assessment is due.

**Section 6.7 Certificate of Payment** <sup>OR Agent (2)</sup> Upon request, the Association shall furnish a certificate in writing signed by an officer of the Association stating whether the Assessments on a specific Lot have been paid. A properly executed certificate as to the status of Assessments on a Lot is binding upon the Association as of its date of issuance. The Board of Directors may establish a reasonable fee to cover the cost of issuing a certificate. If requested by the requesting Owner, the Association shall indicate in such certificate that it is issued for the benefit of both the Owner and its Mortgagee(s).

**Section 6.8 Effect of Non-Payment of Assessments.** Any Assessment which is not paid by its due date shall become delinquent, and the delinquent Assessment shall bear interest from such due date at the rate of eighteen percent (18%) per annum, or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent Owner shall also pay (a) a late charge established by the Board of Directors to defray the costs arising because of such late payment; and (b) any and all attorneys’ fees incurred by the Association in collecting the delinquent Assessment, whether or not a lawsuit is brought or a lien is filed to enforce the payment of the delinquent Assessment. If such Assessment is not paid within thirty (30) days

after the due date, the Association may bring an action at law against the delinquent Owner or may impose and file a lien (which may be foreclosed in like manner to a mortgage) against the delinquent Owner's Lot or Dwelling, and interest, late charges, collection costs, court costs, and reasonable attorneys' fees related to such action or the foreclosure of such lien shall be added to the amount of the delinquent Assessment. No Owner may waive or otherwise escape liability for Assessments by not using the Common Property or by abandoning his Lot or Dwelling.

**Section 6.9 Subordination of the Lien to Certain Mortgages.** The lien of the Assessments provided for by this Declaration shall be subordinate to the lien of any Mortgage recorded prior to the date of such Assessment. The sale or transfer of any Lot or Dwelling pursuant to a Mortgage foreclosure, or pursuant to any proceeding or conveyance in lieu thereof, shall not extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer or thereafter.

## **ARTICLE VII**

### **ARCHITECTURAL CONTROL**

#### **Section 7.1 Architectural Review Board.**

a. **Submission of Plans; Architectural Guidelines.** All lands and improvements in the Development are subject to architectural and environmental review by the Riverwalk Residential Architectural Review Board (the "ARB") in accordance with this Article VII, Section 9.31 below, and the Architectural Guidelines for the Riverwalk Residential attached as Exhibit D (the "Guidelines"). No site work, landscaping, utility extensions, drainage improvements, paving, parking areas, building, fence, wall or any other physical or structural improvement, or change or alteration to the exterior of any existing structures or improvements, or to any existing landscaping, shall be commenced, until the ARB has approved plans for the same. It is anticipated that each Owner will first submit schematic design plans for preliminary review by the ARB prior to seeking final ARB approval. Following ARB approval of the schematic design plans, the Owner shall submit a completed Architectural Review Submission Form, attached as Exhibit E, along with final, detailed plans and specifications showing the nature, size, workmanship, design, shape, finished grade elevation, height, materials and color of the proposed improvements. In addition, a detailed landscape plan and a plot plan showing drainage, topography, harmony to exterior design and materials and the location relative to boundaries and adjacent improvements must be submitted. Approval by the ARB shall also be required for any exterior remodeling, repainting, and/or re-roofing of a Dwelling and any new landscaping on a Lot. The ARB shall promulgate, from time to time, revisions to the Guidelines for the Development. The ARB may also adopt different Guidelines for improvements in different phases or sections of the Development. The written Guidelines shall be made available to all builders doing business in the Development, and to all Owners and prospective Owners. As to any Owner owning and seeking to improve multiple Lots, the approval of the plans and specifications by the ARB for the improvement of a Lot shall not also constitute the approval by the ARB for the completion of the same improvements, pursuant to the same plans and specifications, for another Lot unless the ARB so indicates in writing.

b. **Composition.** The ARB shall consist of no less than three (3) members and no more than five (5) members, none of whom shall be required to be Owners in the Development. Until Declarant's Class "B" membership terminates, Declarant shall be entitled to appoint all members of the ARB, and may remove any member of the ARB, in its sole discretion, with or without cause. The members of the ARB, during Declarant's Class "B" ownership, may be members, employees, principles, or affiliates of Declarant. Following the termination of Declarant's Class "B" membership, the members of the ARB shall be appointed by the Board of Directors, and the Board of Directors may remove any member of the ARB, in its sole discretion, with or without cause.

c. **Decisions.** Decisions by the ARB shall be made by a majority of its members, voting in person or by proxy. The decisions of the ARB shall be final and binding, and may be based on any grounds, including without limitation, purely aesthetic reasons. Notwithstanding any provision of this Declaration to the contrary, the ARB shall have sole and full authority to determine matters of aesthetic judgment and the determination of the ARB as to such matters shall be final and binding and shall not be subject to judicial review so long as the ARB has exercised its review and approval powers in accordance with the terms of this Declaration.

**Section 7.2 Approval or Disapproval.** An Owner shall submit two (2) sets of plans, specifications and plot plans (collectively, the "Plans") to the ARB prior to applying for a building permit. The ARB shall provide the Owner a written receipt for the Plans, showing the date the Plans were submitted. Following submission of the Plans, the ARB shall have a thirty (30) day period in which to review the Plans. The ARB shall have the absolute and exclusive right to approve, conditionally approve or disapprove the proposed Plans. The ARB may base its decision on the Guidelines, the Development Plan, and any other grounds, including without limitation, purely aesthetic reasons. In the event that the Plans are disapproved or conditionally approved, the Owner must re-submit revised Plans to the ARB for its review. Following re-submission of the Plans, the ARB shall have another thirty (30) day period in which to review such re-submitted Plans. Failure by the ARB to respond in writing to a submittal or re-submittal of Plans within such thirty (30) day period shall be deemed to be an approval of the Plans as submitted or re-submitted. Otherwise, the ARB approval or disapproval shall be in writing and shall accompany one (1) copy of the Plans to be returned to the Owner. Whenever the ARB disapproves any Plans, the disapproval shall be accompanied by a written outline of the reason or reasons for such disapproval. The remaining copy of the Plans shall become the property of the ARB.

a. **Inspection.** Upon completion of approved construction, the ARB may, at its option and in its sole discretion, inspect the construction to ensure that the approved Plans and submitted samples were complied with by the Owner. To satisfy its lender or any other party, an Owner may request that the ARB inspect its unit and issue a certificate certifying that the completed improvements were completed in accordance herewith and with the approved Plans and samples. Upon such request, the ARB may or may not elect to inspect the completed improvements. The letter of compliance will normally be issued by the ARB without a fee; provided, however, if the ARB's first inspection (if the ARB elects to inspect) reveals material deviations or deficiencies from the approved Plans and samples, the ARB reserves the right to charge a reasonable fee for each and every subsequent inspection that is necessary to

demonstrate compliance with the approved Plans and samples. Any such fees must be paid by the Owner at the time such inspection is requested.

b. **Appeal.** In the event of a dispute between the ARB and an Owner relative to the review and approval of Plans, the inspection and approval of the Dwelling, improvements and structures constructed on the Owner's Lot, or any other matter arising under Article VII of this Declaration, the Owner, unless the ARB's denial was based on purely aesthetic reasons, in which event no right of appeal shall be had, shall be entitled to appeal the final decision of the ARB to the Board of Directors. In such case, the decision of the Board of Directors shall be final and binding on both the ARB and the Owner.

c. **Variances.** The ARB shall have the right to waive minor violations of setback requirements required under this Declaration and/or minor variances from approved Plans. An Owner must submit to the ARB a written request for a variance. The ARB shall consider the request for a variance, and may approve or disapprove such request, in its sole discretion. In any case, however, an approved variance must still be in basic conformity with and shall blend effectively with the general architectural style and design of the Development and shall not materially change the scheme of restrictions set forth in this Declaration. No member of the ARB shall be liable to any Owner for any claims, causes of action or damages arising out of the grant or denial of any variance to an Owner. Each request for a variance shall be reviewed separately and no variance shall constitute a waiver of any provisions of this Declaration or the Guidelines as applied to any other person, Owner, Lot, Dwelling, or property.

d. **ARB Not Responsible for Defects in Plans.** The approval of Plans by the ARB shall not constitute or be construed as an approval by the ARB, the Association, Declarant or any other person or entity of (i) the structural stability or quality of any proposed structure, (ii) its compliance with applicable laws and governmental requirements, (iii) its compliance with the Master Declaration or other restrictive covenants which are of record (unless, with respect to the Master Declaration, the Master Association has caused the Master Architectural Review Board to delegate its approval authority with respect to property within the Development to the ARB, and the ARB, in its approval, indicates that the approval is an approval of the Plans under this Declaration and under the Master Declaration), and/or (iv) its engineering or structural design or quality of materials. By approving such Plans, neither Declarant, the ARB, nor the Association assumes any liability or responsibility, including without limitation, any liability or responsibility for any defect in any structure constructed on the basis of such Plans. Neither the ARB, the Association, nor Declarant shall be liable in damages or otherwise to any Owner by reason of a mistake of judgment and/or any negligent act or omission arising out of or in connection with any submission of any Plans and/or any decision by the ARB. Each and every person who submits Plans to the ARB for approval agrees, by the acceptance of a deed for any part of the real property now or hereafter subjected to this Declaration, to waive its right to bring any action, proceeding or suit against the ARB, the ARB's individual members, Declarant and/or the Association to recover any damage, costs or liability which results from building in accordance with or following such approved Plans.

**Section 7.3 Violations.** All work within the Development must be performed strictly in accordance with the Plans approved by the ARB. If, after such Plans have been approved, the

improvements are altered, erected, or maintained upon the Lot in a manner that is different than shown on the approved Plans, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the ARB. The Owner of the Lot upon which such non-conforming improvement has been placed shall have a sixty (60) day period to undertake and complete whatever alterations or changes may be necessary in order for such improvement to conform to the approved Plans. If such Owner fails to remedy the nonconformity within such time, the Owner shall be subject to any of the remedies set forth or allowed under Section 7.4 hereof.

**Section 7.4 Enforcement of Guidelines.** Either Declarant or the Board of Directors shall have the standing and authority on behalf of the Association to enforce in any court of competent jurisdiction the Guidelines and the decisions of the ARB. If Declarant or the Association is required to enforce the provisions thereof or such decisions by an action at law or in equity, the violating Owner shall be responsible for all reasonable attorneys' fees and costs incurred by Declarant and the Association. If any Owner fails to comply with a decision by the ARB or with the requirements hereof after thirty (30) days prior written notice, Declarant and/or the Association shall have the right to enter upon the Owner's Lot, and make such corrections or modifications as are necessary, or remove anything in violation of the provisions hereof or the Guidelines, and shall be entitled to charge the cost thereof to the Owner as an Individual Assessment. Declarant, the Association, and their respective agents or employees, shall not be liable to the Owner or to any occupant or invitee of any Lot for any trespass or damages or injury to the property or person, unless caused by gross negligence or willful misconduct.

**Section 7.5 Term of Approval.** Approval by the ARB shall be effective for a period of one (1) year from the date the approval is given, or one (1) year from the expiration of the thirty (30) day period specified in Section 7.2 hereof in those cases in which the ARB's approval is not expressly granted or denied. If construction has not commenced within the one (1) year period, the ARB's approval shall expire and no construction shall thereafter commence without a written renewal of such prior approval by the ARB.

## **ARTICLE VIII**

### **EXTERIOR MAINTENANCE**

**Section 8.1 Owner's Responsibility; Default.** It shall be the affirmative duty of each Owner at all times to keep and maintain the Lot, Dwelling, improvements, landscaping and stormwater drainage and retention improvements located on and serving to drain only its Lot in good and functional condition and repair, consistent with the approved Plans and specifications therefor. The Association shall have the right to provide exterior maintenance upon any Lot or Dwelling in the Development in the event that an Owner fails to perform its duties to properly maintain in accordance with the provisions hereof. Prior to performing any maintenance on an Owner's Lot and/or Dwelling, the Board of Directors of the Association, or a committee appointed by the Board of Directors, shall determine that the Lot and/or Dwelling is in need of repair or maintenance and is detracting from the overall appearance of the Development. Except in the event of an emergency, prior to commencement of any maintenance work, the Board of Directors must give fifteen (15) days prior written notice to the Owner at the last address listed in

*Ability To Fine ?*

the Association's records that unless certain specified repairs or maintenance are commenced within the fifteen (15) day period and thereafter diligently pursued to completion, the Association may make such repairs or maintenance and charge the cost to the Owner. Upon the failure of the Owner to act within the fifteen (15) day time period and to thereafter diligently pursue repairs or maintenance, the Association shall have the right to enter in or upon any Lot and the exterior of any Dwelling or improvements located thereon, or to hire personnel to do so, to make such necessary repairs or maintenance specified in the written notice. In this connection, the Association shall have the right to do such things as, but not limited to, paint, repair, replace and care for roofs, gutters, downspouts and exterior building surfaces, clean or resurface paved sidewalks, access ways and parking areas, trim and care for trees, shrubs, grass, walks, swales, berms and other landscaping and drainage improvements, as well as to provide general cleanup, and removal of debris, which in the opinion of the Association is necessary to prevent the detracting from the overall beauty and setting of the Development. Declarant and the Association, or their agents or employees, shall not be liable to the Owner for any trespass or damages or injury to the property or person of the Owner or the occupants or invitees of the affected Lot and/or Dwelling, unless caused by gross negligence or willful misconduct.

**Section 8.2 Assessment of Cost.** The cost of the repair or maintenance referred to in Section 8.1 shall be levied as an Individual Assessment against the Owner of the Lot and/or Dwelling upon which such maintenance is done. The Individual Assessment shall be secured by a lien upon the affected Lot and/or Dwelling and shall also constitute a personal obligation of the Owner. In the event that the Association retains an attorney to enforce compliance with Section 8.1, the Owner of the Lot and/or Dwelling shall be responsible for reimbursing the Association for all such costs and attorneys' fees incurred by the Association.

**Section 8.3 Access at Reasonable Hours.** For the purpose of performing the repairs or maintenance authorized by this Article, the Association, through its duly authorized agents, contractors or employees, shall have the right to enter upon any Lot and the exterior of any improvements thereon during reasonable hours on any day, except Sundays and national holidays, except that in an emergency situation, as determined by the Board, entry may be made on any day and at any hour.

**Section 8.4 Association's Maintenance Responsibility.** The Association shall maintain and keep in good repair the Common Property, and all improvements thereon, as a Common Expense. This maintenance obligation shall include, but not be limited to, maintenance, repair and replacement, subject to the insurance and casualty loss provisions contained herein, of all utility lines, pipes, wires, glass, conduits, structures, systems, trees, fences, shrubs, grass, streets, parking spaces, walks, and other improvements situated upon the Common Property. The Association shall also maintain as a Common Expense all stormwater drainage and retention improvements and features located in the Development and comprising part of the master stormwater drainage plan for the Development. The maintenance of each Lot in the Development and all parts of any Dwelling, structure or improvement thereon, unless specifically identified as being the responsibility of the Association, shall be the responsibility of the Owner of such Lot.

**ARTICLE IX**

**RESTRICTIVE COVENANTS**

Handwritten signature and notes in the top right corner, including the word "Reservations" written vertically.

The Development shall be subject to the following restrictions, reservations and conditions which shall be binding upon each and every Owner and the Owner's heirs, personal representatives, tenants, invitees, successors, and assigns, and shall run with the land, as follows:

**Section 9.1 Water and Sewage Facilities.** No individual water supply system or individual septic or sewage disposal system shall be permitted on any Lot or Dwelling. This Section 9.1 does not restrict the right of any Owner to install, operate and maintain a water well for use only for air conditioning, heating and/or irrigation purposes. However, Declarant reserves the right to separately impose (meaning not by way of this Declaration, an amendment hereto, or by Supplemental Declaration) further restrictions upon any Lot or property within the Development prior to its conveyance thereof to a third party, including, without limitation, restrictions upon the extraction and use of groundwater.

**Section 9.2 Landscaping.** Landscaping on each Lot and/or Dwelling and stormwater drainage and retention features located on and serving only that Lot and/or Dwelling shall be continuously maintained in a good, aesthetically pleasing condition by the Owner thereof. The Owner of each Lot or Dwelling abutting a body of water, creek, or stream shall maintain the shoreline of the Lot or Dwelling free of debris and weeds consistent with applicable environmental regulations. Landscaping as approved by the ARB shall be installed within thirty (30) days of occupancy or completion of any Dwelling, as evidenced by a certificate of occupancy or its equivalent, whichever occurs first. In the event that a landscaping easement, as shown on a recorded plat, is greater than the indicated building setback line for such Lot or Dwelling, the landscaping easement shall control, and no Owner may encroach upon such landscaping easement with any Dwelling or improvements on such Owner's Lot.

**Section 9.3 Obnoxious or Offensive Activity.** No obnoxious or offensive activity shall be allowed upon the Development, nor shall any use or practice be allowed which is a source of annoyance, embarrassment or discomfort to Owners or their tenants or invitees, or which interferes with the peaceful possession and proper use and enjoyment of the Development. No improper, unsightly, offensive or unlawful use shall be made of any Lot or any improvements thereon or of the Common Property, nor any part thereof; and all laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed. The use, enjoyment and occupancy of the Development shall not cause or produce any of the following effects discernible outside the Dwellings or affecting any adjoining property; noise or sound that is objectionable because of its volume, duration, intermittent beat, frequency or shrillness; smoke, odor, dust, dirt or fly ash; unusual fire or explosive hazards; or vibration.

**Section 9.4 Rules and Regulations.** The Board of Directors shall promulgate Rules and Regulations governing the use and enjoyment of the Development. The Rules and Regulations shall be observed by the Owners and their tenants or invitees; the Rules and Regulations may contain fines for the failure of an Owner to observe them or to observe any part of this Declaration. The Rules and Regulations may further deal with multi-family structures, air-

conditioning units, signs, mailboxes, temporary structures, noisy mufflers or other nuisances, garbage and trash disposal, clotheslines, parking, vehicle traffic and the state of repair of vehicles, tree removal, gutters, pets, game and play structures, swimming pools, television antennas, driveways, walkways, sight distance at intersections, garages, fences, and any other matters which concern the use and enjoyment of the Development.. These matters are set out by way of illustration only and shall not be construed to restrict or limit the authority of the Board of Directors to promulgate and enforce Rules and Regulations on matters that did not appear on this illustrative list. The Rules and Regulations may augment or clarify the terms of this Declaration or any provision, covenant or restriction contained in this Declaration. Copies of the Rules and Regulations shall be made available to each Owner prior their effective date. In the event that the Association retains an attorney to enforce compliance with the Rules and Regulations, the non-complying Owner shall be responsible for reimbursing the Association for all such costs and attorneys' fees incurred by the Association.

*Aggressive Dogs*

**Section 9.5 Animals.** Birds, fish, dogs and cats may be kept as pets only, and shall not be held or offered for sale or maintained or bred for any commercial use. All dogs and cats must be leashed or fenced when outside and shall not be permitted to run loose. Each Owner shall be responsible for maintaining any area used by his/her pet. No other animals, fowl, reptiles or livestock shall be kept or maintained in the Development. The number of household pets generally considered to be outdoor pets, such as dogs and cats, shall not exceed three (3) in number, except for newborn offspring of such household pets which are under nine (9) months of age. No pet or animal shall be permitted to remain if it disturbs the tranquility of the Development or the Owners or tenants thereof. If the Association or the Board of Directors receives any complaint that a pet or an animal constitutes an unreasonable annoyance, inconvenience or nuisance, the Board of Directors shall give the Owner of such animal reasonable notice and opportunity for hearing. If the Board of Directors finds that such animal constitutes an unreasonable annoyance, inconvenience or nuisance, the Board of Directors may require that such animal be removed from the Development. The Board of Directors may adopt Rules and Regulations concerning pets and animals which are more restrictive than the provisions of this Declaration, including Rules requiring that all animals be kept on a leash when in the Common Property, and that Owners are responsible for cleaning up any mess that a pet creates within these areas or within any portion of the Development not consisting of the Owner's Lot. The Board of Directors may adopt Rules and Regulations prohibiting certain pets, which are more restrictive than the provisions of this Declaration, except that such Rules and Regulations shall not apply to animals residing in the Development at the time such Rules and Regulations are adopted. In any event, the Board of Directors, at any time, may require that any animal found to be an unreasonable annoyance, inconvenience or nuisance be removed as provided in this Section 9.5. If legal action is brought to enforce or challenge this restriction, the losing party shall pay the prevailing party's attorneys' fees and other court costs.

**Section 9.6 Garbage and Trash.** No trash, garbage or other waste material or refuse shall be placed or stored on any part of the Development, except in covered or sealed sanitary containers. All such sanitary containers must be stored within each Dwelling, building, buried underground, or placed within an enclosure or concealed by means of a screening wall of material similar to and compatible with that of the building approved by the ARB. These elements shall be integrated with the concept of the building plan, shall be designed so as not to



attract attention, and shall be located in the most inconspicuous manner possible.

**Section 9.7 Storage Receptacles.** No fuel tanks or similar storage receptacles may be exposed to view and may be installed only within an approved accessory building, within a screened area, or buried underground, and shall otherwise comply with all applicable governmental regulations and with standards established, from time to time, by the Board of Directors, and/or the ARB.

**Section 9.8 Vehicles and Repair.** No inoperative cars, motorcycles, trucks or other types of vehicles shall be allowed to remain either on or adjacent to any Lot or Dwelling for a continuous period in excess of forty-eight (48) hours; provided, however, this provision shall not apply to any such vehicle being kept in a garage or an enclosure and not visible from the street or any neighboring Lot or Dwelling. All trucks in excess of 3/4 ton, commercial vehicles, campers, mobile homes, motor-homes, boats, house trailers, boat trailers, or trailers of any other type must be parked or stored in a fully enclosed garage or an area completely screened from view from any other Lot, Dwelling or the Common Property. This prohibition on outside parking shall not apply to the temporary parking of trucks and commercial vehicles, such as pick-up, delivery, and other commercial services vehicles, and during the periods of approved construction on a Lot or Dwelling. Additional Rules and Regulations regarding use, repair and storage of vehicles in the Development may be promulgated, from time to time, by the Board of Directors.

**Section 9.9 Temporary Structures.** No building or structure of a temporary character, including, but not being limited to, trailers, tents, shacks and pens, shall be permitted in the Development; provided, however, temporary improvements used solely in connection with the construction of approved Dwellings or permanent improvements shall be permitted, provided that they are located as inconspicuously as possible and removed immediately upon completion of such construction.

**Section 9.10 Signs.** No signs, advertisements, billboards, solicitation or advertising structures of any kind except those expressly permitted by this Declaration or the Guidelines shall be erected, modified or maintained on any Lot, unless prior written approval of the ARB is obtained; provided, however, reasonable street numbers and name signs on individual Dwellings shall be permitted without prior approval from the ARB, as shall, within one (1) month from any political election, political signs which are tasteful in nature and supportive of a candidate seeking election. The Board of Directors delegates authority to the ARB to promulgate reasonable Rules and Regulations concerning the signs to be permitted in connection with the sale of Lots and/or Dwellings. In the event that an Owner desires to sell its Lot or Dwelling, the Owner must purchase an approved "for sale" sign from the Declarant or the ARB, at cost. No other "for sale" signs are permitted, provided that the ARB, in its discretion, may allow residential brokerage firms which it reasonably deems to be reputable to place listing or "for sale" signs upon a lot advertising the listing and prospective sale of that Lot and its improvements, if any.

**Section 9.11 Air Conditioning Equipment.** No window air conditioning units shall be permitted within the Development, except upon such construction trailers or other temporary structures of a similar nature as may be present within the Development during the development

thereof or the construction of any Dwelling or improvement therein. The exterior portions of all central air conditioning units shall be located at the rear of a Dwelling or Lot, screened or landscaped so as to prevent visibility and minimize noise transmission to other Lots, and the same shall be concealed from visibility from all streets, other Lots, and the Common Property. The Board of Directors shall have the authority, from time to time, to promulgate additional, and/or more restrictive, regulations pertaining to air conditioning units and the concealment thereof.

**Section 9.12 Drainage Structures.** No person (other than Declarant), without the prior written approval of the ARB, shall obstruct, alter or in any way modify the method and/or structures of drainage utilized or now or hereafter installed by Declarant or the Association from, on and over any Lot or the Common Property, nor shall any structure be erected, placed or maintained which shall in any way obstruct such drainage devices or facilities or impede their efficient operation.

**Section 9.13 Antennae.** Except and only to the extent required by the Telecommunications Act of 1996, as amended, no exterior antennae, including without limitation, any television, radio, or microwave antenna are allowed. One small and inconspicuous satellite dish having a diameter of thirty-five inches (35") or less, which is installed upon or adjacent to any residence, and is not visible from adjacent properties or the street, and is integrated with the residential structure and surrounding landscape, is permitted and does not require ARB approval. Such equipment shall be located only in side or rear yards that are not adjacent to a street, and shall be located as inconspicuously as possible.

**Section 9.14 Subdivision.** No part of the Development shall be further subdivided, except as platted, without the prior written consent of Declarant, for so long as Declarant owns any lands included within the Development Plan, and thereafter, without the prior written consent of the Board of Directors.

**Section 9.15 Completion of Construction.** After commencement of construction of a Dwelling or any other improvements on a Lot, the Owner shall diligently prosecute the work so that the Dwelling or improvements shall not remain in a partly finished condition any longer than reasonably and normally necessary for their completion. The Owner of the Lot on which a Dwelling or improvements are being constructed shall at all times keep public and private streets contiguous to the Lot free from any dirt, mud, garbage, trash or other debris which might be caused by construction of the Dwelling or improvements.

**Section 9.16 Excavation.** No clearing or excavation shall be made except in connection with the construction, maintenance or repair of improvements on Lots or Common Property, and upon completion thereof; exposed openings shall be backfilled, and disturbed ground shall be leveled, graded and seeded, as provided on the approved plans for landscaping.

**Section 9.17 Maintenance of Protective Screening.** Any protective screening constructed along exterior Lot lines as a buffer against the encroachment of noise, dust and/or visual pollution, or other adverse influence, shall be maintained by the Owner of such Lot, at such Owner's expense, including the repair and replacement thereof from time to time, for so

long as such buffer shall continue to be necessary because of the continued adverse influence on the adjacent properties, as reasonably determined by the ARB.

**Section 9.18 Utility Service.** No “service lines” shall be constructed, placed or maintained anywhere in or upon the Development, unless contained in conduits or cables constructed, placed and maintained underground or concealed in, under or on buildings or other approved improvements; provided, however, electrical transformers may be permitted if properly screened and approved by the ARB. Notwithstanding the immediately preceding sentence, the erection and use of temporary power or telephone service poles incident to the construction of approved improvements shall be allowed. The foregoing restrictions shall not apply to “transmission lines” now or hereafter existing on the Development. As used in this Section 9.18, (a) the term “service line” shall include lines, wires or other devices for the communication or transmission of electric current or power on any site or part thereof; including without limitation, telephone and television signals; and (b) the term “transmission line” shall include such master lines and wires which transmit the current or power to the Lots or parts thereof; and from which the “service lines” run.

**Section 9.19 Mailboxes.** No mailboxes or newspaper boxes shall be permitted in the Development unless and until approved by the ARB pursuant to the Guidelines.

**Section 9.20 Changes to Development Plan.** No Owner shall seek, directly or indirectly, to change or amend any aspect of the Development Plan, which change or amendment would in any manner affect any part of the lands included in the Development Plan and lying outside of that Owner’s Lot, including but not limited to any change in permitted density of development, permitted land use, stormwater drainage requirements or otherwise.

**Section 9.21 Clotheslines.** No clotheslines shall be permitted and no laundry or wash shall be dried or hung in the Development.

**Section 9.22 Play Structures and Yard Accessories.** All basketball backboards and any other fixed games, shall be located at the side or rear of a Dwelling. All play structures and yard accessories shall be located to the rear of any Lot and within the building set back line. For any such structure exceeding six feet (6’) in height, thirty (30) square feet or constructed on a concrete slab, approval must first be obtained from the ARB pursuant to the Guidelines. No metal carport, free standing metal utility building or other accessory structure shall be erected on or attached to any Dwelling.

**Section 9.23 Trees.** Living trees measuring eight inches (8”) or more in diameter at a height three feet (3”) or more above ground level shall not be cut down, removed or relocated from the Development without the prior written consent of the ARB, unless the trees are located within six feet (6’) of a Dwelling or its proposed location, as approved by the ARB.

**Section 9.24 Garages and Garage Sales.** The ARB shall establish criteria for garages based upon the different Guidelines adopted in different portions of the Development. The ARB may even, in its sole discretion, determine that garages are not necessary or allowable for certain portions of the Development. No garage sales, sidewalk sales, bazaars, or other sidewalk or

outdoor type sales or auctions of any type shall be allowed within the Development, except that such sales as are organized by or for the benefit of any charity may be allowed by the ARB in its sole discretion, provided that any such approved sale may not last for more than one (1) day, the ARB shall not approve more than two (2) such sales in any calendar year, and no more than two (2) such sales shall occur in a calendar year.

**Section 9.25 Fences.** No fences shall be erected without prior ARB approval. No chain link fences shall be permitted. A complete listing of fencing restrictions shall be included in the Guidelines.

**Section 9.26 Above Ground Pools.** No above ground pools shall be erected or installed on any Lot or Dwelling. The construction and use of in-ground pools shall be governed by the Guidelines.

**Section 9.27 Rights of Declarant.** Declarant and/or its designee has the right to maintain upon a portion of the Development sales, administrative, construction or other offices, signs and other promotional equipment and apparatus which shall not be subject to Assessments.

**Section 9.28 Reconstruction.** Any Dwelling or improvement that is destroyed, in whole or in part, by fire, windstorm, flood, or other Act of God (a) must be rebuilt or restored with reasonable promptness in accordance with its original Plans that were approved by the ARB, or (b) all debris must be removed and the Lot shall be promptly restored to the condition it was in prior to the erection of the destroyed Dwelling and/or improvements. Any such reconstruction must be commenced within three (3) months from the date of such damage or destruction, or, if no reconstruction is to occur, then all such debris must be removed and the Lot shall be restored to its prior condition within such three (3) month period. The cost of complying with the requirements and provisions in this Section 9.28 shall be borne solely by the Owner of the Lot, Dwelling or improvement so affected.

**Section 9.29 Residential Use.** Except as specifically provided in this Declaration and/or in any Supplemental Declaration, each Lot shall be used solely for the construction and occupancy of a Dwelling designed for single-family residential use and for no other purpose whatsoever. Except as specifically provided for herein and/or in any Supplemental Declaration, no Owner shall use or permit the use of its Lot or Dwelling for any business, commercial, manufacturing or mercantile use or purpose, or for any other non-residential purpose. Notwithstanding the immediately preceding sentence, it shall be permissible for Owners to conduct certain commercial activities within their Dwelling which (a) do not conflict with local zoning ordinances, restrictions and regulations; (b) do not unduly burden traffic flows within the Development; and (c) do not cause the parking of nonresident vehicles in driveways or upon any streets in the Development for an unreasonable or excessive period of time. By way of example, and not of limitation, the following uses may be considered acceptable: home day care for a reasonable number of children, music lessons, tutoring, telemarketing, crafts, and hobbies which do not create an unusual noise nuisance. It shall be within the discretion of the Board of Directors to determine, on a case-by-case basis, which commercial activities will be compatible with the residential nature of the Development.

**Section 9.30 Sight Easements.** As and if shown on the recorded plats for the Property,

Declarant has imposed or may impose certain sight easements, which constitute triangular-shaped sections of land at certain street intersections, in which nothing shall be erected, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection, as determined in the reasonable discretion of the ARB.

## ARTICLE X

### AMENDMENTS

**Section 10.1 Amendment by Declarant.** For as long as Declarant owns the Additional Property or any other property included within the Development Plan, Declarant reserves the sole right to do the following: (a) amend this Declaration for the purpose of curing any ambiguity or any inconsistency between the provisions contained herein, and/or between the provisions contained herein and those in the Master Declaration; (b) include in any contract or deed or other instrument hereafter made any additional covenants and restrictions applicable to any Lot or Dwelling which do not lower the standards of the covenants and restrictions contained in this Declaration; (c) release any Lot or property from any part of the covenants and restrictions contained herein which have been violated, if Declarant, in its sole judgment, determines such violation to be a minor or insubstantial violation; (d) amend this Declaration in a way which does not materially and adversely affect the substantive rights of any existing Owner or Mortgagee; and (e) amend this Declaration so long as the Class "B" membership remains outstanding. The foregoing amendments may be made without the approval of any Owner, Mortgagee, or the Association.

**Section 10.2 No Additional Covenants or Restrictions may be Imposed by an Owner.** No Owner may impose any additional covenants or restrictions on its Lot or Dwelling or any other part of the Development, without the prior written approval of Declarant for so long as Declarant owns any lands contained within the Development Plan (and thereafter, without the prior written approval of the Board of Directors).

**Section 10.3 Amendments by the Owners.** Except as expressly provided in this Declaration, the covenants, conditions and restrictions contained in this Declaration may be amended at any time and from time to time by a written agreement signed by Owners of at least two-thirds (2/3) of the votes appurtenant to the Lots which are then subject to this Declaration (but, with respect to any Additional Property annexed by Supplemental Declaration to the Development, the covenants, conditions, and restrictions contained within such Supplemental Declaration may be amended as provided for therein); provided, however, no such amendment requiring FHA or VA approval shall be effective until approved by FHA or VA. The agreement to amend this Declaration shall be in recordable form and shall be recorded in the Office of the Clerk of Court for York County, South Carolina.

**Section 10.4 Amendments Requiring Declarant's Approval.** So long as Declarant shall own any Additional Property, the following types of amendments must also be approved in writing by Declarant:

- a. Any amendment which directly or indirectly by its provisions or in

practical application shall affect Declarant in a manner different from the manner in which it affects other Owners,

b. Modifies the definitions provided for by Article I of this Declaration in a manner which alters Declarant's rights or status,

c. Modifies or repeals any provision of Article II of this Declaration,

d. Alters the character and rights of membership as provided for by Article III of this Declaration or affects or modifies in any manner whatsoever the rights of Declarant as a Member of the Association,

e. Alters any previously recorded or written agreement with any public, quasi-public or governmental agencies, utility companies, political subdivisions, public authorities or other similar agencies or bodies, with respect to zoning, streets, roads, drives, easements or facilities within the Development,

f. Denies or abridges the right of Declarant to convey Common Property to the Association,

g. Modifies the basis or manner of levying Assessments on Class "B" Lots or any other property owned by Declarant, or,

h. Alters or repeals any of Declarant's rights or any provision applicable to Declarant's rights under this Declaration or any Supplemental Declaration.

## **ARTICLE XI**

### **PRIVACY WALLS OR FENCES**

**Section 11.1 General Rules of Law to Apply.** To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to each Privacy Wall or fence which is built in the Development.

**Section 11.2 Encroachments.** In the event that any portion of any Privacy Wall or fence protrudes over or into an adjoining Lot or Common Property, such Privacy Wall or fence shall not be deemed to be an encroachment, and the affected Owner shall not have or maintain an action for the removal of the Privacy Wall or fence or projection, or for damages. In the event that such a protrusion exists, it shall be deemed that the affected Owner has granted a perpetual non-exclusive easement to the adjoining Owner for continuing maintenance and use of the protruding portion of the Privacy Wall or fence.

**Section 11.3 Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a Privacy Wall or fence shall be the responsibility of: (i) by the Owner who constructed the Privacy Wall or fence, or, in the case of an Owner who has purchased a Lot on

which the previous owner thereof constructed a Privacy Wall or fence, then by the subsequent Owner, or, (ii) in the case of Lots which are shown upon the Development Plan as being benefited by a Privacy Wall or fence, then by the Owner(s) of the Lot(s) shown as being so benefitted.

**Section 11.4 Destruction by Fire or Other Casualty.** If a Privacy Wall or fence is destroyed or damaged by fire or other casualty, the Owner who erected the Privacy Wall or fence must restore it to the same condition it was in prior to the fire or other casualty; provided, however, the other Owners who make use of the Privacy Wall or fence shall contribute to the cost of restoration in proportion to their use, but without prejudice to the right of an Owner to demand a larger contribution from a party whose negligent or willful acts or omissions caused such damage or destruction. The mere existence of a Privacy Wall or fence between two Lots or Dwellings shall not be construed as being indicative of use by the non-constructing Owner. The rights of any Owner to contribution from any other Owner under this Section 11.4 shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 11.5 Arbitration.** In the event of any dispute arising concerning a Privacy Wall or fence under the provisions of this Article, the parties shall submit their dispute to final, binding arbitration. Each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. The decision of the arbitrators shall be binding and conclusive upon the parties and no party to the dispute shall thereafter have the right to institute any action or proceeding, at law or in equity.

## **ARTICLE XII**

### **COVENANTS COMMITTEE**

**Section 12.1 Committee.** The Board of Directors may appoint a Covenants Committee consisting of at least three (3) and no more than seven (7) members to conduct hearings relative to alleged infractions of this Declaration and/or the Rules and Regulations. Nothing shall prohibit a person from serving on both the ARB and the Covenants Committee.

**Section 12.2 Hearing Procedure.** The Covenants Committee shall not impose a fine, suspend voting, or infringe upon any other rights of a Member or other occupant for violations of Rules and Regulations unless and until the following procedure is followed:

a. **Demand.** Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:

- (i) the alleged violation;
- (ii) the action required to abate the violation; and,

(iii) a time period which, except in emergency situations, shall be not less than ten (10) days, during which the violation may be abated without further sanction.

b. **Appeal.** Following a hearing before the Covenants Committee, the violator shall have the right to appeal its decision to the Board of Directors by giving written notice to the President or Secretary of the Association within ten (10) days after the hearing date.

c. **Fines.** The Covenants Committee may impose Individual Assessments for violations of this Declaration against an Owner as follows:

(i) First event of noncompliance or violation – an Individual Assessment not in excess of One Hundred Dollars (\$100.00).

(ii) Second event of non-compliance or violation - an Individual Assessment not in excess of Five Hundred Dollars (\$500.00).

(iii) Third and subsequent non-compliance or violation or violations which are of a continuing nature - an Individual Assessment not in excess of One Thousand Dollars (\$1,000 00).

Individual Assessments shall be paid not later than thirty (30) days after notice of the imposition of the Individual Assessment. The imposition of Individual Assessments shall be in addition to all other rights and remedies to which the Association may be otherwise entitled hereunder or at law or in equity.

### **ARTICLE XIII**

#### **DURATION**

**Section 13.1 Term.** The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by Declarant, the Association and any Owner and their respective legal representatives, heirs, successors and assigns, for a term (“Term”) of thirty (30) years from the date this Declaration is recorded.

**Section 13.2 Renewal.** After the initial thirty (30) year Term provided for in Section 13.1, this Declaration shall be automatically renewed and extended for an unlimited number of successive ten (10) year periods unless previously terminated by an instrument executed and approved by two-thirds (2/3) of the votes which are appurtenant to the Lots, and, if Declarant is still then the owner of any of the Additional Property, or the Class “B” membership shall not have theretofore terminated, then also by Declarant.

### **ARTICLE XIV**

#### **ENFORCEMENT**

**Section 14.1 Remedies.** Declarant desires to maintain a high standard in the appearance and quality of the Development as a quality mixed-use community. Although damages would be difficult to measure, the failure of any Owner or the Association to abide by the terms, covenants and restrictions contained in this Declaration would result in irreparable damage to Declarant and its reputation as a developer. Accordingly, Declarant, the Association, or any Owner or group of



Owners, shall have the right, but not the obligation, to enforce any and all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration by proceeding at law or in equity against any person or entity violating or attempting to violate any of these restrictions, conditions, covenants, reservations, liens and charges, either to restrain violation thereof or to recover damages therefore. The remedies contained in this Declaration shall be in addition to and not in substitution for any other remedies now or hereafter provided by law. The failure of Declarant, its successors or assigns, or the Association or an Owner, to enforce any covenant or restriction or any obligation, right, power, privilege, authority or reservation herein contained, however long continued, shall not, in any instance, be deemed to be a waiver of the right to enforce the same as to the same breach or violation, or as to any other breach or violation hereof.

**Section 14.2 Notices.** Any notice required to be sent to any Owner or Member shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the person who appears as Owner or Member on the records of the Association at the time of such mailing.

**Section 14.3 Tenants.** All tenants, lessees, occupants or persons living with an Owner or in such Owner's Dwelling ("Tenants and/or Occupants") shall be subject to the terms and conditions of this Declaration. Each Owner agrees to cause any Tenants and/or Occupants to comply with this Declaration, Guidelines, Bylaws, Articles of Incorporation and the Rules and Regulations promulgated thereunder or hereunder. Each Owner is and shall be responsible and liable for all violations and losses caused by such Tenants and/or Occupants. In the event that a Tenant and/or Occupant violates a provision of this Declaration, Guidelines, Bylaws, Articles of Incorporation, or Rules and Regulations adopted pursuant thereto, the Association shall have the power to bring an action or suit against both the Owner and the Tenant and/or Occupant to recover damages, obtain injunctive relief, or for any other remedy available at law or in equity, and the Owner shall be responsible for reimbursing the Association for all such costs and reasonable attorneys' fees.

## **ARTICLE XV**

### **MISCELLANEOUS**

**Section 15.1 Number and Gender.** Reference to the singular shall include the plural and reference to the plural shall include the singular, as indicated by the context. Reference to any gender shall include reference to all genders.

**Section 15.2 Severability.** The provisions of this Declaration shall be independent and severable. The invalidation or partial invalidation of any provision or provisions of this Declaration shall not affect or modify any other provisions, and the remaining provisions which shall continue in full force and effect.

**Section 15.3 Notices.** Any notice provided for herein shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person as shown on the records of the Association at the time of such mailing, unless otherwise provided herein.

**Section 15.4 Headings.** The article, section and paragraph headings used herein are for reference purposes only and shall not in any way effect the meaning, content or interpretation of this Declaration.

**Section 15.5 Equal Opportunity Housing.** This Development provides equal opportunity housing. Each Lot or Dwelling shall be sold without regard to the race, creed, color, national origin, ancestry, religion, marital status, age or sex of the purchaser.

**Section 15.6 HUD and VA Approval.** If this Declaration has been initially approved by HUD or VA in connection with any loan programs made available by HUD or VA and/or any loans which have been insured or guaranteed by HUD or VA, then for so long as there is a Class "B" membership, the dedication of Common Property, the annexation of Additional Property, and the amendment of this Declaration shall require the prior approval of HUD or VA, as applicable, unless the need for such approval has been waived by HUD or VA.

## **ARTICLE XVI**

### **EFFECT AND INTENT OF DECLARATION**

It is the intent of Declarant that this Declaration shall act to supplement the Master Declaration as to the real property within the Development in furtherance of the General Plan of Development for the Project. This Declaration shall not be construed to supersede or to replace the Master Declaration as to the property within the Development, and the provisions of both this Declaration and the Master Declaration shall be fully operative, subject to the terms hereof. The provisions of this Declaration which are more restrictive in nature than those found in the Master Declaration shall govern and control as to the Development. However, in the event of any express and actual conflict between the provisions of this Declaration and the Master Declaration, the provisions of the Master Declaration shall control and govern.

## **ARTICLE XVII**

### **LIMITED COMMERCIAL USES WHERE APPROVED BY DECLARANT**

Notwithstanding anything to the contrary contained elsewhere within this Declaration, and for so long as Declarant owns any part of the Property or Additional Property, Declarant may, at its option and in its sole discretion, approve within the Development any commercial use which it believes, in its sole but reasonable discretion, to be compatible with the primary use of the Development, which such commercial uses may include, without limitation, a reception or meeting hall, and/or an amenities center with included commercial and/or retail components. Declarant shall have no liability of any kind to any Owner resulting from any approval given pursuant to this Article XVII, and each Owner, by acceptance of a deed for any property within the Development, waives any claim it may have arising out of any such approval and releases Declarant, and its agents, employees, designees, and attorneys, therefrom. In the event that Declarant, with respect to the Property, approves any commercial use thereon, Declarant shall record a notice of such approval in the York County real property records, which notice shall

include (a) a description of the property subject to such approval, and (b) a description of the approved use. With respect to any Additional Property annexed to the Development by way of a Supplemental Declaration hereafter, if Declarant approves any commercial use with respect thereto as provided hereby, Declarant may either include such approved use as a permitted use with respect to such property in the Supplemental Declaration or record in the York County real property records separate notice of its approval with respect to such use, together with a description of the approved use and the property affected thereby.

IN WITNESS THEREOF, Declarant has caused this Declaration to be executed as of the day and year first above written.

**Signed, sealed and delivered in the presence of**

**DECLARANT:  
THE GREENS OF ROCK HILL, LLC**

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

Its: \_\_\_\_\_

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

PERSONALLY APPEARED before me the above named witness who makes oath that s/he saw the within named The Greens of Rock Hill, LLC, by and through \_\_\_\_\_, as the \_\_\_\_\_ thereof, sign, seal and deliver the within instrument, and that s/he with the other witness who signed above witnessed the execution thereof.

SWORN TO before me this \_\_\_\_ day \_\_\_\_\_  
of \_\_\_\_\_, 2010

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_  
[SEAL

**EXHIBIT "A"**

**Legal Description**  
**of**  
**Property**

**EXHIBIT "B"**

**Legal Description**  
**of**  
**Additional Property**

**EXHIBIT "C"**

**EXHIBIT "D"**  
**Initial Architectural/Design Guidelines**  
**for**  
**Riverwalk Residential**

The following are the initial architectural and design criteria ("Guidelines") established by Declarant for the use and development of the Property.

**EXHIBIT "E"**

**Architectural Review Submission Form and Other Forms and Schedules**

Date: \_\_\_\_\_  
Owner's Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Lot Number: \_\_\_\_\_  
\_\_\_\_\_

**House and Grounds**

**Enclosure Checklist**

Please provide two (2) sets of each of the following:

\_\_\_\_\_ Site Plan with location of all significant trees and building improvements (driveways, walks, patios, decks, pool areas, and fences).

\_\_\_\_\_ Foundation Plans

\_\_\_\_\_ Detailed Floor Plan with gross heated areas in square feet on floor-by-floor basis

\_\_\_\_\_ Roof Plan showing proposed roof pitches (Minimum 8 and 12 pitch on dominant roof line required)

\_\_\_\_\_ Elevations (Front, rear and side)

\_\_\_\_\_ Complete topographic contours for the Dwelling (for both before and after the proposed construction)

\_\_\_\_\_ Building sections and wall sections

\_\_\_\_\_ Description and samples of exterior materials as required on the attached **Exterior Finish Schedule**

\_\_\_\_\_ How the proposed structure will be connected to central water, sewer and other utility facilities and other services

\_\_\_\_\_ Plumbing plan

\_\_\_\_\_ Driveway location, and in cases where the driveway is to cross any drainage ditch, the installation of a culvert and covering to be used under the proposed driveway

\_\_\_\_\_ Preliminary landscape design and plans. Final plans to be submitted prior to driveway and walkway construction. Please include plant list (indicating size and number) and show existing significant trees and/or plant groups.

In addition, the ARB will require the following. **Lots must not be cleared prior to Site Plan Approval and inspection of proposed Dwelling location and proposed tree removal by an ARB member.**

\_\_\_\_\_ Stake out of Dwelling location prior to clearing of Lot.

\_\_\_\_\_ Marking of all trees greater than 8" in diameter at a height three feet (3') aboveground level and more than 6' from house that are proposed to be removed.

**PLAN REVIEW WILL NOT BEGIN UNTIL ALL ITEMS ARE SUBMITTED**



**Exterior Finish Schedule**

Date: \_\_\_\_\_  
Owner's Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Lot Number: \_\_\_\_\_

Provide description of exterior materials to be used along with names and phone numbers of manufacturers. Samples of paint, brick, stone, stucco, siding, etc. must be submitted. Exterior colors must be approved prior to painting or installation. Exterior building materials (other than roofing materials) shall be masonry, brick, stone, stucco, wood or generally accepted wood composite products (or some combination thereof). Corrugated metal and vinyl exterior building materials are expressly prohibited.

Foundation: \_\_\_\_\_  
Siding: \_\_\_\_\_  
Trim: \_\_\_\_\_  
Roof Shingles: \_\_\_\_\_  
Chimney: \_\_\_\_\_  
Windows: \_\_\_\_\_  
Doors: \_\_\_\_\_  
Shutters: \_\_\_\_\_  
Garage Door: \_\_\_\_\_  
Patios: \_\_\_\_\_  
Decks: \_\_\_\_\_

**PLAN REVIEW WILL NOT BEGIN UNTIL ALL OF THE ABOVE ITEMS ARE  
SUBMITTED**

**APPLICATION  
FINAL ARCHITECTURAL REVIEW**

No clearing, grading or construction shall commence before written approval of this application is obtained & pre-construction review is completed.

This form and all required information, including drawings, photographs, material samples, etc., must be submitted in digital format using PDF, tiff, or jpeg file formats.

This is an Application for Final Architectural Review of a new Residence:     YES     NO

If NO, check one of the following:     Resubmittal     Addition

Pool

Other \_\_\_\_\_

(Describe)

Lot #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_

**Complete all applicable information below:** (For resubmittals complete only new or changed information)

**Owner's Name:** \_\_\_\_\_

Current Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ (Provide the preferred phone number for contact)

Email: \_\_\_\_\_

**Registrant:** \_\_\_\_\_  
(Primary Contact if other than the Owner)

Current Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ (Provide the preferred phone number for contact)

Email: \_\_\_\_\_

**Builder:** \_\_\_\_\_

Current Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ (Provide the preferred phone number for contact)

Email: \_\_\_\_\_

**FEE CHECKLIST**

All fees must be paid before approval of submittals will be made by the ARB.

Deliver this form and the required fees to:

\_\_\_\_\_

(Make checks payable to the \_\_\_\_\_ Homeowners Association, Inc.)

**Complete the following registration information:**

Date: \_\_\_\_\_

Lot Number: \_\_\_\_\_ Lot Address: \_\_\_\_\_

Lot Owner: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Registrant Name (primary contact if not Owner): \_\_\_\_\_

Registrant e-mail address: \_\_\_\_\_

Registrant Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ (w/area code)

Submitted by: (signature) \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Indicate payments attached: (See Article 6.3 for Fee Schedule)**

Initials \_\_\_\_\_ Homeowner's assessments paid to HOA for current year

Initials \_\_\_\_\_ \$ \_\_\_\_\_ .00 Construction Deposit

Initials \_\_\_\_\_ \$ \_\_\_\_\_ .00 Architectural Review Fee

Shaded Areas To Be Completed By HOA Only			
\$ _____ .00 or \$ _____ Architectural Review Fee:	Check #: _____	Date: _____	Paid By: <input type="checkbox"/> Owner <input type="checkbox"/> Contractor
\$ _____ .00 Construction	Check #: _____	Date: _____	Paid By: <input type="checkbox"/> Owner <input type="checkbox"/> Contractor
HOA Assessments	Current: <input type="checkbox"/> YES <input type="checkbox"/> NO		
Application Received By:			Date: _____

**APPENDIX A:  
ARCHITECTURAL REVIEW SUMMARY**

Plan review at Riverwalk Residential is an all digital process. All items submitted to the ARB must be in digital form using .jpg, .pdf, or .tif file formats. One hard copy of the documents must be sent to the HOA at the address below.

The following is a brief summary of the review process and is provided for convenience only. It is essential that the Architectural Guidelines are studied in full to gain a complete knowledge of the requirements for building in Riverwalk Residential.

- **STEP ONE – PAYMENT OF FEES and SUBMISSION OF PLANS:**

Submit the hard copy documents, review fees and the construction deposit to:

\_\_\_\_\_

Submit the application, drawings and all other required information for review. Plans may be sent to \_\_\_\_\_. Incomplete submittals will not be reviewed.

The ARB will review the submittal and a letter of approval or disapproval will be sent to the property owner within 15 days of the submission date. Construction must start within four months of approval.

- **STEP TWO – ON-SITE REVIEWS:**

Request an On-Site Review for the following:

Final Review: This review is to be scheduled upon completion of all construction, including landscaping and accessory structures. Note that the Final Survey must be submitted along with the request for Final Review.