

# Brickyard Plantation

This document is an **unofficial** copy of the governing documents for Brickyard Plantation. It was created to improve readability and allow residents to easily search for desired items. While every effort has been made to ensure this document matches our official governing documents, errors may exist. In cases where this document conflicts with the official recorded copy of the Covenants & Restrictions (C&R's) and Bylaws, the official recorded copy is controlling. The official copy of the C&R's and Bylaws can be downloaded from our website.

[www.BrickyardPlantation.org](http://www.BrickyardPlantation.org)

<b>Covenants &amp; Restrictions</b> .....	<b>Page 1</b>
Executed January 4, 1991	
<i>Filed with Charleston County January 7, 1991 (M199 – 708)</i>	
<b>Bylaws</b> .....	<b>Page 49</b>
Executed January 4, 1991	
<i>Filed with Charleston County January 7, 1991 (M199 – 708)</i>	
<b>Covenants &amp; Restrictions Amendment (Tracts 10 &amp; 11)</b> .....	<b>Page 78</b>
Executed July 7, 1995	
<b>Bylaws Amendment (Section 13.3)</b> .....	<b>Page 80</b>
Executed December 20, 2006	

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

**DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR  
BRICKYARD PLANTATION**

THIS Declaration made by Brickyard Plantation, a South Carolina Limited Partnership (hereinafter called “Developer”).

**WITNESSETH:**

WHEREAS, Developer proposes to create a subdivision known as Brickyard Plantation (hereinafter referred to as the “Subdivision”) containing detached home site lots and multifamily developments or condominium regimes, together with common areas as more fully described herein; and

WHEREAS, Developer is the owner of certain real property located in the Town of Mount Pleasant, Charleston County, South Carolina, more particularly described in Exhibit. “A” attached hereto, which property Developer desires to submit to the plan and operation of this Declaration and which property shall be deemed a part of the Subdivision; and

WHEREAS, the Developer wishes to accomplish the following objectives for its benefit and the benefit of Owners of property in the Subdivision by the imposition of the covenants and restrictions set forth herein:

- A. To maintain the value and the residential character and integrity of the residential portions of the Subdivision and to maintain the quality and value of any recreational portions of the Subdivision,
- B. To preserve the quality of the natural amenities of the Subdivision,
- C. To minimize or eliminate the possibility of any disruptions of the peace and tranquility of the residential environment of the Subdivision,
- D. To prevent the abuse or unwarranted alteration of the trees, vegetation, lakes, streams and other bodies of water and natural character of the land in the Subdivision
- E. To prevent any property Owner or any other persons from building or carrying on any other activity in the Subdivision to the detriment of any Owners of Property in the Subdivision, and
- F. To keep property values in the Subdivision high, stable and in a state of reasonable appreciation; and

WHEREAS, the Developer is desirous of maintaining design criteria, location, construction specifications, and other controls to assure the integrity of the Subdivision; and

WHEREAS, as hereinafter provided in this Declaration, the Developer has retained and reserved the right, privilege and option to submit to the provisions of this Declaration at a later time and from time to time as a part of the Subdivision, all or any portion of the real property described in Exhibit "B" attached hereto and incorporated herein by reference;

NOW, THEREFORE, the Developer hereby declares that all of the Property described in Exhibit "A" and any additional property described in Exhibit "B" or so much of it as Developer may, in its sole discretion, see fit to develop or dedicate, as, by subsequent amendment hereto, may be subjected to this Declaration, shall be held, mortgaged, transferred, sold, conveyed, leased, occupied and used subordinate and subject to the following easements, restrictions, covenants, charges, liens and conditions which are hereby imposed for the purpose of protecting the value and desirability of these lands and which restrictions, easements, charges, liens, conditions, and covenants shall touch and concern and run with title to the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in these described properties or any portion of them. This instrument also binds the respective heirs, devisees, fiduciary representatives, successors, successors in title and/or assigns, and shall inure to the benefit of anyone or anything who/which purchases or takes any interest in real property within the lands subject to this Declaration.

## **ARTICLE I**

### **DEFINITIONS**

When used in this Declaration, unless the context shall prohibit or require otherwise, the following words shall have the following meanings, and all definitions shall be applicable to the singular or plural forms of any such term(s):

**Section 1.1. Additional Property** shall mean and refer to the real property described in Exhibit "B" and all improvements thereon.

**Section 1.2. Assessment** shall mean and refer to an Owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided.

**Section 1.3. Association** means Brickyard Plantation Property Owners Association, Inc. (a South Carolina eleemosynary corporation), its successors and assigns.

**Section 1.4. Board of Directors** shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

**Section 1.5. By-Laws of the Association** shall mean and refer to those By-laws of the Association which govern the administration and operation of the Association attached hereto as Exhibit "C" and made a part hereof by reference, as may be amended from time to time.

**Section 1.6. Common Areas** shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners or designated by the Developer as Common Areas. Such areas are intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and are not dedicated for use by the general public and the general public shall thereby have no easement of use and enjoyment therein. Specifically included as part of the Common Areas are all maintenance areas, alleys, parking lots and parking areas, medians, green areas, landscaped entrances (either to the Subdivision as a whole or various portions thereof), walkways, sidewalks, jogging trails, bike paths, signage, lagoons, streams, ponds, marshes, easement areas designated as Common Areas, access easements across other real property, parks, and other Recreational Amenities as hereinafter defined, and such other lands and/or improvements as, by subsequent amendment of or supplement to this Declaration, may be subjected to this Declaration and designated as Common Areas by the Developer.

However, nothing herein contained nor any general plan or plat of the Properties showing areas which may later be developed as additional phases of the Subdivision shall be deemed to include such property as Common Areas, nor shall the Association or any Owner be entitled to any right, title or interest in such property unless and until such property shall have been formally included as a part of the Subdivision by the Developer pursuant to the terms herein contained and dedicated as a Common Area by the Developer. Notwithstanding anything contained herein to the contrary, the Developer, its successors and assigns, shall not be obligated to convey to the Association the above described marshes. The Developer, in Developer's sole judgment and discretion, its successors or assigns, may elect to convey any or all of such marshes to the National Trust for Historic Preservation, The Nature Conservancy, Lowcountry Open Land Trust, or other similar nonprofit land conservation organization, or to the Town of Mount Pleasant.

**Section 1.7. Common Expenses** shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of financial, equipment, or material reserves, consistent with the provisions and intent of this Declaration.

**Section 1.8. Declaration** shall mean this Declaration, together with all supplements and amendments to this Declaration as filed in the Office of the Charleston County Register of Mesne Conveyance.

**Section 1.9. Developer** means Brickyard Plantation, a South Carolina Limited Partnership, its successors and assigns. The Developer shall have the right to assign any or all rights which it may possess, as Developer, to the Brickyard Plantation Property Owners Association, Inc., or any person or entity, including a SubDeveloper, provided, however, that the instrument or assignment shall expressly so provide.

**Section 1.10. Foreclosure** shall mean and refer to, without limitation, the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of judicial foreclosure.

**Section 1.11. Institutional Mortgage** shall mean a Mortgage held by a bank, trust company, insurance company or other recognized lending institution, or by an institutional or governmental purchaser or mortgage loans in the secondary market, such as, but not limited to, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

**Section 1.12. Lease** shall mean and refer to any lease, sublease or rental contract, whether oral or written, and for a term of hours, days, months or years.

**Section 1.13. Living Space** shall mean and refer to enclosed and covered areas within a dwelling on a Lot, exclusive of garages, rooms over garages, unenclosed porches, portecocheres, garages, carports, breezeways, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics and basements.

**Section 1.14. Lot** shall mean and refer to: (1) any parcel of Property within the Subdivision intended for use as a single-family Lot, (2) those portions of the Subdivision identified as "Lots" on Exhibit "A" attached hereto, or on any future subdivision of such Property, (ii) any townhouse, condominium unit or patio or cluster home, whether detached or attached, together with (iii) any similar portions of the Additional Property that may be so designated from time to time by the

Developer, but shall not include any Common Areas as defined herein.

**Section 1.15. Mortgage**, with an initial capital letter, shall mean and refer to a mortgage, security deed, deed of trust, installment land sales contract and security agreement or other similar security instrument granting, creating or conveying a lien upon, a security interest in, or a security encumbered title to a Lot, Multi-Family Area or Common Area.

**Section 1.16. Mortgagee**, with an initial capital letter, shall mean and refer to the holder of a Mortgage.

**Section 1.17. Multi-Family Area** shall mean and refer to any portion of the Subdivision designated as such by the Developer in which common elements are owned by either the Owners of Lots in such Multi-Family Area as tenants-in-common or by the Multi-Family Association composed of such Owners, pursuant to a Horizontal Property Regime within the Subdivision upon which there will be constructed either attached or detached townhouses, condominium units, cooperative units, cluster homes, patio homes or similar multi-family structures.

**Section 1.18. Multi-Family Association or Subordinate Regime** shall mean and refer to a corporation or an unincorporated association the shareholders or members of which are all Owners of Lots within a Multi-Family Area or within any subordinate property development within the Subdivision, whether submitted to a horizontal property regime or made subject to further or additional restrictions and/or covenants of ownership, use and control.

**Section 1.19. Multi-Family Declaration** shall mean and refer to any instrument or document, and any amendments thereto, which is recorded in the Office of the Register of Meson Conveyances for Charleston County, South Carolina with respect to any Multi-Family Area and which creates a townhouse, patio home, cluster home, cooperative regime, or condominium or horizontal property regime for such Multi-Family Area or imposes covenants, conditions, easements and restrictions with respect to such Multi-Family Area.

**Section 1.20. Occupant** shall mean and refer to any person, including, without limitation, any Owner or any guest, invitee, licensee, lessee, tenant, transient paying guest, or family member of an Owner lawfully occupying or otherwise using a Lot within the Subdivision.

**Section 1.21. Owner**, with an initial capital letter, shall mean and refer to one or more persons or entities, including Developer, who or which own(s) fee simple title to any Lot, including contract sellers, but excluding those having such

interest merely as security for the performance of an obligation. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term "Owner" shall also refer to the heirs, successors and assigns of any Owner, and shall refer to the Developer so long as Developer retains its Class B Membership, whether or not Developer owns any Lot.

**Section 1.22. Person** shall mean and refer to a natural person, corporation, partnership, association, proprietorship, trust, or any other legal entity or any combination thereof.

**Section 1.23. Property** or Properties shall mean and refer to all property which is subject to this Declaration.

**Section 1.24. Recreational Amenities** shall include such recreational facilities and improvements owned by and so designated by Developer and are, from time to time, located within the Subdivision or located within or dedicated to the Common Areas, including, without limitation, playground areas, lagoons, and any clubhouse, park, tennis court, ball field, dock, boat ramp or other recreational facility constructed by the Developer and dedicated to the common use and enjoyment of the Owners by the Developer.

**Section 1.25. Subdivision**, with an initial capital letter, shall mean and refer to those tracts or parcels of land described on Exhibit "A", together with all improvements presently thereon and subsequently constructed thereon, and, upon the submission to the provisions of this Declaration of the tracts or parcels of land described in Exhibit "B", or any portion thereof, shall mean and refer to the real property described in Exhibit "A" and the real property described in Exhibit "B" or such portion thereof so submitted, together with all improvements thereon or thereafter constructed thereon.

**Section 1.26. Subdivision Plat** shall mean and refer to those certain plats described in Exhibit "A" attached hereto together with: (1) any future revisions or further subdivisions thereof; or (ii) any subdivision plat for any portion of the Additional Property as may be submitted to the terms of this Declaration, and recorded from time to time in the RMC Office for Charleston County.

**Section 1.27. Sub-Developer** shall mean and refer to any Person to whom Developer conveys an unsubdivided tract of land within the Subdivision or the Additional Property with the intention that such Person shall subdivide such unsubdivided and

undeveloped tract of land into Lots pursuant to a plan approved by the Developer.

## ARTICLE II

### PLAN OF DEVELOPMENT

**Section 2.1. Plan of Development of the Subdivision.** The Subdivision initially shall consist of the Property described on Exhibit "A" attached hereto. The Property shall also include certain improvements to the Common Areas, including utility systems, drainage systems and other improvements serving the Lots, and various Recreational Amenities to the extent the same are, from time to time, installed and existing and submitted to the provisions hereof. The dimensions of the Property constituting the Subdivision are shown on the Subdivision Plat. The Properties within the Subdivision are shown on the Subdivision Plat. The Property within the Subdivision shall be subject to the covenants, easements and restrictions set forth in this Declaration. Developer shall have the right, but not the obligation, for so long as Developer: (i) owns any portion of the Common Areas; or (ii) owns any Multi-Family Area; or (iii) owns any Lot primarily for the purpose of sale of the Lot; or (iv) has the option to add the Additional Property or any portion thereof to the Subdivision, to make improvements and changes to all Common Areas and to any or all Lots or other property owned by Developer, including but not necessarily limited to the following: (i) installation and maintenance of any improvements in and to the Common Areas, including the Recreational Amenities; (ii) changes in the location of the boundaries of the Common Areas, any Recreational Amenities, and any Lots owned by Developer or of the dedicated or undedicated Common Areas; (iii) installation and maintenance of any water, sewer and other utility systems and facilities, to include, but not limited to, T.V. cable and its various attendant services and telephone service to include teletype or computer, telex, news service, or computer, or any such like instrument used in the transmittal, reception, or retrieval of messages, facts, or information; and (iv) installation of security and/or refuse facilities. The Association shall have the right to access and collect reasonable fees and charges for the use of Recreational Amenities.

**Section 2.2. Plan of Development of Additional Property.** Developer hereby reserves the option, to be exercised in its sole discretion, to submit at any time, or from time to time, the Additional Property or a portion or portions thereof to the provisions of this Declaration and thereby to cause the Additional Property or a portion or portions thereof to become part of the Property and part of the plan and operation of this Declaration, regardless of whether or not such Property is owned

by Developer, its successors or assigns. Developer reserves the right to plan, design, develop, construct, maintain and manage the Common Areas, the Additional Property, the Recreational Amenities, the Multi-Family Areas and any unsold Lot as Developer deems necessary or convenient for its purposes, except as otherwise expressly stated in this Declaration, including without limitation the right to expand the number, size and density of the unsold Lots, the Common Areas, the Multi-Family Areas, the Recreational Amenities and the Additional Property. This option may be exercised by Developer in accordance with the following rights, conditions and limitations, which are the only conditions and limitations on such option to add all or any portion of the Additional Property to the Subdivision.

This option to add Additional Property/phases(s) may be exercised from time to time during a period of twenty (20) years from the date of recordation of this Declaration; provided, however, that Developer reserves the right to terminate such option at any time prior to the expiration of such twenty year period by executing and filing an agreement evidencing such termination in the Office of the Register of Mesne Conveyances for Charleston County, South Carolina, and, except for such termination by Developer, no other circumstances will terminate such option prior to the expiration of such twenty (20) year period.

The additions authorized under this Section 2.2 shall be made by filing of record a Supplementary Declaration or Amendment to this Declaration with respect to the Additional Properties which shall expressly extend the operation and effect of the covenants and restrictions of this Declaration to such Additional Properties. The Supplementary Declaration or Amendment may contain such additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Developer, to reflect the different character, if any, of the Additional Properties.

The legal description of the Additional Property is set forth on Exhibit "B"; portions of the Additional Property may be added to the Subdivision at different times, and there are no limitations fixing the boundaries of those portions or regulating the order, sequence or location in which any of such portions may be added to the Subdivision. 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 or the balance of the Additional Property.

If the Additional Property or any portion thereof is added to the Subdivision, any improvements developed therein and any dwellings constructed thereon will be subject to the standards

and restrictions set forth herein, including all assessments set forth herein.

If the Additional Property or any portion thereof is added to the Subdivision, Developer reserves the right to designate and restrict the boundaries of the Lots, Recreational Amenities, MultiFamily Areas, if any, to be added to the Subdivision in connection therewith.

Should the option to add the Additional Property or any portion of it not be exercised within the term specified herein or be terminated by Developer, such option shall in all respects expire and be of no further force and effect. DEVELOPER SHALL NOT BE OBLIGATED TO IMPOSE ON THE ADDITIONAL PROPERTY OR ANY PORTION OF IT ANY COVENANTS, CONDITIONS, OR RESTRICTIONS SIMILAR TO THOSE CONTAINED HEREIN, AND THAT PROPERTY NOT SUBMITTED TO THIS DECLARATION WILL BE FREE OF ANY COVENANT OR CONDITIONS WHATSOEVER UNLESS OTHERWISE AFFIRMATIVELY IMPOSED.

The option reserved by Developer to cause all] or any portion of the Additional Property to become part of the Subdivision shall in no way be construed to impose upon Developer any obligation to add all or any portion of the Additional Property to the Subdivision or to construct thereon any improvements of any nature whatsoever or to restrict or limit its use in any manner.

The option reserved under this Section 2.2 may be exercised by Developer only by the execution of an amendment to this Declaration which shall be filed in the Office of the Register of Mesne Conveyances for Charleston County, South Carolina, together with a revision of or an addition to the Subdivision Plat showing the Additional Property or such portion or portions thereof as are being added to the Subdivision by such amendment, as well as the Lots, Recreational Amenities, Common Areas, Multi-Family Areas, or other types of Property located within the Subdivision.

SUBSEQUENT TO INCLUSION AND/OR RESTRICTION AND IN ITS SOLE DISCRETION, DEVELOPER MAY CONVEY TO THE ASSOCIATION THE COMMON AREAS DESIGNATED BY DEVELOPER OR ANY OTHER PROPERTY OWNED BY THE DEVELOPER, BE IT RECREATIONAL AMENITY OR OTHERWISE, CONTAINED WITHIN THE PROPERTY AS DESCRIBED IN EXHIBIT "A" OR EXHIBIT "B" OR SUCH PORTION OR PORTIONS OF ANY, EITHER, OR ALL OF THEM, ANY SUCH CONVEYANCE TO BE SUBJECT TO THE LIEN OF TAXES NOT YET DUE AND PAYABLE, ALL EASEMENTS AND RESTRICTIONS OF RECORD, UTILITY EASEMENTS SERVING OR OTHERWISE ENCUMBERING THE PROPERTY AND/OR THE ADDITIONAL PROPERTY, AND ANY EXCEPTIONS WHICH WOULD BE DISCLOSED BY AN ACCURATE SURVEY OR PHYSICAL INSPECTION OF SUCH PARCEL(S).

Any such amendment shall expressly submit the Additional Property or such portion of it to all the provisions of this Declaration, and upon the exercise, if any, of such option or options, the provisions of this Declaration shall then be construed as embracing the real property described in Exhibit "A" and the Additional Property or such portion or portions thereof so submitted to the terms hereof, together with all improvements thereon. If the Additional Property or any portion or portions of it is added to the Subdivision, then from and after the addition to the Subdivision of the Additional Property or such portion or portions by such amendment to this Declaration, the number of votes in the Association shall be modified to include the Lots to be located on the Additional Property or such portion or portions of it as are added, so that there shall continue to be one vote in the Association per Lot in the Subdivision, and the total number of votes in the Association shall be increased by the number of Lots added as determined by the formula provided in this document for the voting rights for any Lot or Developer-owner property located on the Additional Property or such portion or portions thereof as are added.

**Section 2.3. Multi-Family Associations.** In the event that Developer submits the Additional Property or any portion or portions thereof to the terms of this Declaration, there may be established by Developer, its successors or assigns, Multi-Family Associations structured as horizontal property regimes and similar multi-family projects, the membership of which shall be limited to the Owners of Lots within the Multi-Family Areas located within such portion or portions of the Additional Property so submitted in order to promote the health, safety and social welfare of the Owners of Lots therein, as well as to provide for the maintenance of Lots, other improvements and/or other common elements owned by such Owners and/or such Multi-Family Associations, provided that such Owners shall also be members of the Association and such Lots and other improvements shall continue to be subject to the terms of this Declaration. Such Multi-Family Areas may be subject to MultiFamily declarations which impose covenants and restrictions which are in addition to, but not in abrogation or substitution of those imposed hereby, and such Multi-Family Associations may levy additional assessments and make and enforce supplementary covenants, restrictions, rules and regulations with respect to such Multi-Family Areas.

**Section 2.4. Transfers to Sub-Developers.** The Developer shall have the right to transfer any portion of the Subdivision or the Additional Property to a Sub-Developer, who shall have the right to further subdivide tracts of land so conveyed to such Sub-Developer into single-family Lots, provided, however, that such subdivision plan is approved by the Developer. The Developer may also transfer to such Sub-Developer the right and

option of designating Common Areas within such tracts of land provided any such designation and conveyance of Common Areas is approved by the Developer.

**Section 2.5. Interest Subject to Plan of Development.** Every purchaser of a Lot or any portion of the Subdivision shall purchase such Lot or other Property and every mortgagee and lienholder holding an interest therein shall take title, or hold such security interest with respect thereto, with notice of Developer's plan of development as set forth herein, and Developer shall have and does hereby specifically reserve the right to add the Additional Property or any portion or portions thereof to the Subdivision as hereinabove provided, and, with respect to each Lot or other Property located within the Additional Property, to convey to the purchaser thereof the title to the Lot or other Property and its appurtenant membership and voting rights in the Association. Any provision of this Declaration to the contrary notwithstanding, the provisions of the foregoing plan of development set forth in this Article may not be abrogated, modified, rescinded, supplemented or amended in whole or in part without the prior written consent of Developer.

### **ARTICLE III THE ASSOCIATION; MEMBERSHIP AND VOTING RIGHTS**

**Section 3.1. The Association.** The Developer has established or will establish the Association for the purpose of exercising powers of owning, maintaining and administering the Common Areas, the Recreational Amenities and common facilities and providing common services, administering and enforcing covenants, conditions and restrictions contained herein, and levying, collecting and disbursing assessments and charges herein created. Further, the Developer reserves the right to convey to the Association and the Association agrees to accept any or all of its rights and obligations set forth herein. The Association shall be authorized but not required to provide the following services:

- a)** Clean-up, maintenance, landscaping of all open spaces, lagoons, lakes, open spaces within the Subdivision or in a reasonable proximity to the Subdivision such that their deterioration would affect the appearance of the Subdivision as a whole.
- b)** Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the State and local governments.

- c) Construction, maintenance, landscaping and reconstruction of Recreational Amenities and other improvements within the Common Areas.
- d) to set up and operate the Architectural Review Board as provided herein.
- e) To construct improvements on open spaces and Common Areas.
- f) To provide administrative services including, but not limited to, legal, accounting, financial and communication services informing members of activities, notice of meetings, referendums, etc., incident to the above listed services.
- g) To provide liability and hazard insurance covering improvements and activities on the open spaces and the common properties, independently or in collaboration with the Developer.
- h) To provide directors and officers liability insurance for the Association and its duly elected Directors and Officers.
- i) Maintenance of all lakes and lagoons Located within the properties, including the stocking of such lakes and lagoons if approved by the Board of Directors.
- j) Landscaping of roads and parkways, sidewalks and walking paths within the Subdivision and any common properties or open spaces located therein.
- k) To take any and all actions necessary to enforce all covenants and restrictions affecting the Subdivision and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Subdivision.
- l) To provide any and all services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligation and business under the terms of this Declaration.

**Section 3.2. Rules and Regulations.** The Association may adopt from time to time additional reasonable rules and regulations governing the use of Common Areas, Recreational Amenities and Lots.

**Section 3.3. Membership.** Every person or entity who is an Owner of any Lot which is subjected to this Declaration shall be a member of the Association. Membership shall be appurtenant

to and may not be separated from ownership of any Lot which is subject to assessments.

**Section 3.4. Voting Rights.** The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners [including any Sub-Developers(s)], excepting the Developer. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 3.3 above. When more than one person holds such interest or interests in any Lot, the vote attributable to such Lot shall be exercised as such persons mutually determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B. The sole Class B member shall be the Developer. The Class B member shall be entitled to ten (10) votes for each Lot in which it holds either the interest required for membership under Section 3.3 above or (as to the Additional Property) the right to submit Lots to this Declaration (up to a maximum of 954 Lots). The Class B membership shall cease and become converted to Class A membership upon the occurrence of the first of the following events:

1. When the Developer has conveyed to others 716 Lots in the Subdivision (Lots shall include those Lots contained in or situate on any Additional Property which Developer shall hereafter bring under the terms of this Declaration); or
2. When the Developer executes and records an instrument forfeiting its Class B Membership; or
3. December 31, 2010.

When a purchaser of an individual Lot or Lots takes title thereto from the Developer or from a Sub-Developer, such purchaser becomes a Class A member.

**Section 3.5. Initial Assessment.** At the time of the first sale of each Lot from the Developer or Sub-Developer to an Owner, there shall be assessed by the Association and collected from each Owner/purchaser an initial assessment equal to at least two months' assessments for such Lot, to establish and maintain a working capital fund for the use and benefit of the Association. The purpose of such working capital fund is to ensure that the Association will have cash available to meet unforeseen expenditures, or to acquire equipment or service deemed necessary by the Association. Such initial assessments

shall not be considered as advance payment of regular assessments.

**Section 3.6. Association May Require Single Property Management Firm.** The Association may require any and-all MultiFamily Associations established with respect to any portion of the Subdivision to exclusively utilize the same property management firm as utilized by the Association.

#### ARTICLE IV PROPERTY RIGHTS IN THE COMMON AREAS

**Section 4.1. Owners' Easements of Enjoyment.** Subject to the provisions of Section 4.3 below, every Owner shall have a nonexclusive right and easement of enjoyment in and to the dedicated Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot.

**Section 4.2. Title to Common Areas.** The Developer hereby covenants for itself, its successors and assigns, that on or before December 31, 2010, it will convey to the Association in accordance with the provisions hereof, by limited warranty deed or deeds, fee simple title to the Common Areas, subject, however, to all liens and encumbrances of record and also subject to the following covenant, which shall be deemed to run with the land and shall be binding upon the Association, its successors and assigns:

“In order to preserve and enhance the property values and amenities of the community, the Common Areas and all facilities now or hereafter built or installed thereon shall at all times be maintained in good repair and condition by the Association and shall be operated in accordance with high standards. The maintenance and repair of the Common Areas shall include, but not be limited to, the repair of damage to walkways, buildings, recreational equipment, if any, fences, signs, and utility lines, connections and appurtenances.”

This Section shall not be amended so as to eliminate or substantially impair the obligation for the maintenance and repair of the Common Areas. The Developer may also impose additional covenants on such Common Areas at the time of such conveyance (s).

**Section 4.3. Extent of Owners' Easements.** The rights and easements created hereby shall be subject to the following:

- A. The right of the Developer and of the Association to dedicate, transfer or convey all or any part of the Common Areas, with or without consideration, to any successor

association, governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely affect the use of the Common Areas by the Owners;

- B.** The right of the Developer and of the Association, to grant, reserve and accept easements and rights-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, fuel oil and other utilities and services, including a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Developer to grant and reserve easements and rights-of-way through, over, and upon and across the Common Areas for the completion of the Subdivision, and for the operation and maintenance of the Common Areas;
- C.** The right of visitors, invitees, etc., to ingress and egress in and over those portions of the Common Areas that lie within the private roadways, parking lots and/or driveways (and over any other necessary portion of the Common Areas in the case of landlocked adjacent Owners) to the nearest public highway;
- D.** The right of the Association, as provided in its By-Laws, to suspend the enjoyment rights of any Owner for any period during which any assessment remains unpaid, for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- E.** The right of the Developer and the Association to establish rules and regulations for the Subdivision and to prescribe fees and charges from time to time for use of the Recreational Amenities.

**Section 4.4. Delegation of Owner's Rights.** Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Areas and facilities to his tenants, invitees or licensees.

**Section 4.5. Additional Structures.** Neither the Association nor any Owner or any group of Owners shall, without the prior written approval of Developer and the Architectural Review Board, erect, construct or otherwise locate, or permit the existence of, any structure or other improvement in the Common Areas.

**Section 4.6. Access.** All Owners, by accepting title to Lots conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress and egress to and from such Lot and acknowledge and agree that such access, ingress and egress shall be limited to roads, sidewalks, walkways, and trails located within the Subdivision from time

to time, provided that pedestrian and vehicular access to and from all Lots shall be provided at all times.

**Section 4.7. Easements for Developer.** During the period that Developer owns any Common Area, or owns any Lot primarily for the purpose of sale or has the option to add the Additional Property or any portion thereof to the Subdivision, Developer shall have an alienable and transferable right and easement on, over, through, under and across the Common Areas for the purpose of constructing or improving Lots, any improvements to the Common Areas, the MultiFamily Areas and the Additional Property and for installing, maintaining, repairing and replacing such other improvements to the Subdivision (including the Recreational Amenities and other portions of the Common Areas) as are contemplated by this Declaration or as Developer desires, in its sole discretion, including without limitation any improvements or changes permitted, and described in this Declaration, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided that in no event shall Developer have the obligation to do any of the foregoing.

**Section 4.8. Changes in Boundaries.** Additions to Common Areas. Developer expressly reserves for itself and its successors and assigns the right to make minor changes and realignments in the boundaries of the Common Areas and any Lots, Recreational Amenities or Multi-Family Areas owned by Developer, including the minor realignment of boundaries between adjacent Lots, Common Areas, and/or Multi-Family Areas owned by Developer. In addition, Developer reserves the right, but shall not have the obligation, to convey to the Association at any time, and from time to time, any portion of the Additional Property, such real property to be conveyed to the Association as an addition to Common Areas and subject to the other provisions set forth in this Declaration.

**Section 4.9. Easements for Utilities.** There is hereby reserved for the benefit of Developer, the Association and their respective successors and assigns the alienable, transferable and perpetual right and easement, as well as the power to grant and accept easements to and from any private or public authority, agency, public service district, public or private utility or other person upon, over, under and across: (i) all of the Common Areas; (ii) all portions of the Multi-Family Areas in which Lots are not constructed or erected; (iii) an area across every Lot fifteen (15') feet in width along the front boundary lines thereof, and five (5') feet in width along the side boundary lines thereof, and ten (10') feet in width along the rear boundary lines thereof; for the purpose of installing, replacing, repairing, maintaining and using master television antenna and/or cable systems, security and similar systems, and all utilities, including but not limited to storm sewers and

drainage systems and electrical, gas, telephone, water and sewer lines. Such easements may be granted or accepted by the Developer, its successors or assigns, or by the Board of Directors of the Association; provided, however, that for so long as Developer owns any portion of the Common Areas, owns any Lot primarily for the purpose of sale or has the option to add the Additional Property or any portion thereof to the Subdivision, the Board of Directors must obtain the written consent of Developer prior to granting or accepting any such easements. To the extent possible, all utility lines and facilities serving the Subdivision and located therein shall be located underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Subdivision so encumbered: (i) to erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities; (ii) to cut and remove any trees, bushes or shrubbery; (iii) to grade, excavate or fill; or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems.

**Section 4.10. Easements for Walks, Trails and Signs.** There is hereby reserved for the benefit of Developer, the Association and their respective successors and assigns, the alienable, transferable and perpetual right and easement upon, over and across: (i) all portions of the Multi-Family Areas in which Lots are not constructed or erected; and (ii) all other lands which may remain unimproved for the installation, maintenance and use of sidewalks, jogging trails, bike paths, traffic directional signs, lagoons, drainage ways, and related improvements.

**Section 4.11. Easements for Association.** There is hereby reserved a general right and easement for the benefit of the Association, its Directors, officers, agents and employees, including but not limited to any property manager employed by the Association and any employees of such manager, to enter upon any Lot, or Multi-Family Area or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner, occupant or Multi-Family Association, or the Owner(s) or Multi-Family Area affected.

**Section 4.12. Sales Offices, Rental Offices, Property Management Offices and Construction Offices.** Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Developer, its successors and assigns, the perpetual, alienable and transferable right and easement in and to the Property, including the Common Areas, for the maintenance of signs, sales offices, rental offices,

property management offices, construction offices, business offices and model or sample Lots, together with such other facilities as in the sole opinion of Developer reasonably may be required, convenient or incidental to the completion, management, rental, improvement and/or sale of Lots, Multi-Family Areas, Common Areas or the Additional Property. The Developer also reserves the right to grant to any Sub-Developer, builder or builders the right to operate and maintain builder's trailers, sales offices and signage at any location within the Subdivision upon such terms and conditions as the Developer in the Developer's sole discretion may establish.

**Section 4.13. Easements for Additional Property.** There is hereby reserved in the Developer, its successors, assigns and successors in title to the Additional Property, for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Subdivision, perpetual, non-exclusive rights and easements for: (i) pedestrian and vehicular access, ingress, egress and parking over, across, within and on all sidewalks, streets, trails, parking facilities and lagoons from time to time located on or within the Common Areas or within easements serving the Common Areas; (ii) the installation, maintenance, repair, replacement and use of security systems and utility facilities and distribution lines, including without limitation drainage systems, storm sewers and electrical, gas, telephone, water, sewer end master television antenna and/or cable system lines; and (iii) drainage and discharge of surface water onto and across the Subdivision, provided that such drainage and discharge shall not materially damage or affect the Subdivision or any improvements from time to time located thereon.

**Section 4.14. Maintenance Easement.** Subject to the other terms of this Declaration, there is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement to enter upon any unimproved portions of any Lot or Multi-Family Area for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Subdivision; provided that such easements shall not impose any duty or obligation upon the Developer or the Association to perform any such actions. Furthermore, there is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of Lots or MultiFamily Areas which are located within twenty (20') feet from the water's edge of any lagoon, pond or other body of water within the Subdivision for the purpose of mowing such area and keeping same clear and free from unsightly growth and trash, as well as for the purpose

of maintaining such body of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards.

**Section 4.15. Environmental Easement.** There is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement on, over and across all unimproved portions of the Common Areas, Lots and Multi-Family Areas for the purposes of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include without limitation the right to implement erosion control procedures and practices, the right to drain standing water and the right to dispense pesticides.

**Section 4.16. Wells and Effluent.** There is hereby reserved for the benefit of Developer, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement: (i) to pump water from lagoons, ponds and other bodies of water located within the Subdivision for the purpose of irrigating any portions of the Subdivision and for other purposes; (ii) to drill, install, locate, maintain and use wells, pumping stations, water towers, siltation basins and tanks and related water and sewer treatment facilities and systems within the Common Areas, including within any portion of the Recreational Amenities; or (iii) to spray or locate any treated sewage effluent within the Common Areas, including within any unimproved portion of the Recreational Amenities.

**Section 4.17. No Partition.** There shall be no judicial partition of the Subdivision or any part thereof, nor shall any person acquiring any interest in the Subdivision or any part thereof seek any such judicial partition unless the Subdivision has been removed from the provision of this Declaration.

**Section 4.18. South Carolina Coastal Council Jurisdiction.** NOTICE IS HEREBY GIVEN OF THE RESTRICTION THAT AS TO ANY PORTION OF ANY LOT WITHIN THE SUBDIVISION WHICH MAY CONTAIN SUBMERGED LAND OR OTHER CRITICAL AREAS, ALL ACTIVITIES ON OR OVER AND ALL USES OF SUCH LAND OR OTHER CRITICAL AREAS ARE SUBJECT TO THE JURISDICTION OF THE SOUTH CAROLINA COASTAL COUNCIL. ANY OWNER IS LIABLE TO THE EXTENT OF SUCH OWNERS' OWNERSHIP FOR ANY DAMAGES TO, ANY INAPPROPRIATE OR UNPERMITTED USES OF, AND ANY DUTIES OR RESPONSIBILITIES CONCERNING ANY SUBMERGED LAND, COASTAL WATERS OR OTHER CRITICAL AREAS.

## ARTICLE V

**RIGHT OF ASSOCIATION TO ALTER, IMPROVE, MAINTAIN AND REPAIR  
COMMON AREAS AND PORTIONS OF LOTS**

**Section 5.1.** The Association shall have the right to make or cause to be made such alterations, modifications, improvements, repairs, maintenances and replacements to the Common Areas and the portions of Lots set forth herein, and the cost thereof shall be assessed as Common Expenses and collected from the Owners on an equal basis.

**Section 5.2. Responsibilities of Owners and Multi-Family Associations.** Unless specifically identified herein or in a MultiFamily Declaration as being the responsibility of the Association or a Multi-Family Association, all maintenance and repair of Lots, together with all other improvements thereon or therein and all lawns, landscaping and grounds on and within a Lot shall be the responsibility of the Owner(s) of such Lot. Unless otherwise provided in the appropriate Multi-Family Declaration, the maintenance and repair of all Common Areas or common elements located within Multi-Family Areas (including all landscaping and grounds and all recreational facilities and other improvements located within such Multi-Family Area) shall be the sole responsibility of the appropriate Multi-Family Association. Developer shall be responsible for Developer-owned properties. Each Owner or Multi-Family Association shall be responsible for maintaining such Owner's Lot or Multi-Family Area, as the case may be, in a neat, clean and sanitary condition, and such responsibility shall include the maintenance and care of all exterior surfaces of all buildings and other structures. All attendant lawns, trees, shrubs, hedges, grass, natural areas, and other landscaping shall be maintained by the Owner(s) thereof. As provided in Section 5.3(b) hereof, each Owner or Multi-Family Association shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining or cleaning any item which is the responsibility of such Owner or Multi-Family Association, but which responsibility such Owner or Multi-Family Association fails or refuses to discharge. No Owner or Multi-Family Association shall: (i) decorate, change or otherwise alter the appearance of any portion of the exterior of a structure on any Lot or within a Multi-Family Area unless such decoration, change or alteration is first approved, in writing, by the Architectural Review Board, as otherwise provided herein; or (ii) do any work which, in the reasonable opinion of the Architectural Review Board, would jeopardize the soundness and safety of the Subdivision, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case obtaining the written approval of the Architectural Review Board and the Owners and Mortgagees of the Lots directly affected thereby or benefitting from such easement or hereditament.

**Section 5.3. Association's Responsibility.**

**A.** Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas, which responsibility shall include the maintenance, repair and replacement of: (i) all Common Areas, walks, trails, lagoons, ponds, bike trails, jogging paths, landscaped areas/natural areas and other improvements situated within the Common Areas or within easements encumbering Lots, or Multi-Family Areas; (ii) such security systems and utility lines, pipes, plumbing, wires, conduits and related systems which are a part of the Common Areas and which are not maintained by the Developer or a public authority, public service district, public or private utility or other person; and (iii) all lawns, trees, shrubs, hedges, grass, and other landscaping situated within the Common Areas as they may be constituted from time to time. The Association shall not be liable for injury or damage to any person or property (A) caused by the elements or by any Owner or any other person, (B) resulting from any rain or other surface water which may leak or flow from any portion of the Common Areas, or (C) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system or utility line or facility, the responsibility of the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored or left in or upon any portion of the Common Areas or any other portion of the Subdivision. No diminution or abatement of assessments or any dues or charges shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner. The Developer intends that all roads providing access to Lots within the Subdivision shall be dedicated as public roads to the appropriate governmental entity and at the appropriate time, at the sole option of the Developer.

**B.** In the event that the Developer or the Board of Directors determines that: (i) any Owner or Multi-Family Association has failed or refused to discharge properly his, her or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which he or it is responsible hereunder; or (ii) that the need for maintenance, cleaning,

repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his family, tenants, guests or invitees, and is not covered or paid for by insurance in whole or in part, then, in either event, the Developer or the Association, except in the event of an emergency situation, may give such Owner or Multi-Family Association written notice of the Developer's or the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such Owner or MultiFamily Association, as the case may be, and setting forth with reasonable particularity the maintenance, cleaning, repairs or replacement deemed necessary. Except in the event of emergency situations, such Owner or Multi-Family Association, as the case may be, shall have fifteen (15) days within which to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner or Multi-Family Association to comply with the provisions hereof after such notice, the Developer or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner or MultiFamily Association, as the case may be, and said cost shall be added to and become a part of the assessment to which such Owner and his Lot are subject and shall become a lien against such Lot, or, in the case of a Multi-Family Association, shall be added to and become a part of the assessments for all Owners within such Multi-Family Association and shall become a lien against such Owners' Lots. In the event that the Developer undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse the Developer for the Developer's costs and expenses.

**Section 5.4 Sub-Associations.** Nothing contained herein shall preclude the Developer or any Sub-Developer, with the Developer's prior written consent, from establishing a Sub-Association, the purpose of which is to provide for improvement, repair and maintenance of a particular tract or section of the Subdivision. Any assessments, rules, regulations and guidelines established by such Sub-Associations shall be in addition to and not in lieu of the covenants, conditions, restrictions, easements and assessments established in this Declaration, and to the extent there is any conflict between the covenants and restrictions of such SubAssociations and those set forth herein, then in such event the provisions of this Declaration shall control.

## ARTICLE VI

## COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 6.1. Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges for the maintenance of the Common Areas, including such reasonable reserves as the Association may deem necessary, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs of collection, and reasonable attorney's fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Property against which each such assessment is made. Each such assessment, together with interest, costs of collection, and reasonable attorney's fees for the collection thereof, shall also be the personal obligation of the person who was the Owner of such Property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 6.2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners in the Subdivision (and their respective families, guest, tenants and invitees) and for the improvement, protection, replacement, operation, and maintenance of the Common Areas and Recreational Amenities and for the provision of various forms of insurance for the Association, its property (including the dedicated Common Areas and Recreational Amenities), members, directors, officers, employees and agents, and for the provision of necessary and reasonable services for and other expenses of the Association.

**Section 6.3. Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or for any other purpose set forth in the By-Laws of the Association. So long as the total amount of special assessments allocable to each Lot does not exceed Five Hundred and no/100 (\$500.00) Dollars in any one fiscal year, the Board of the Association may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if such assessment shall

have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. Special assessments shall be paid as determined by the Board of Directors, and the Board may permit special assessments to be paid in installments extending beyond the fiscal years in which the special assessment is imposed.

**Section 6.4. Notice and Quorum for Any Action Authorized Under Section 6.3.**

Written notice of any meeting called for the purpose of taking any membership action authorized under Section 6.3 above shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

**Section 6.5. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots (whether improved or unimproved) and may be collected on a monthly, quarterly or annual basis.

**Section 6.6. Date of Commencement of Annual Assessments: Due Dates.** The annual assessments provided for herein shall commence as to each Lot on the date that such Lot is conveyed by the Developer or Sub-Developer to an Owner, except that on the date of the recordation of a plat subdividing such Sub-Developer owned Property into single-family Lots, each such Lot shall be subject to a one-time assessment of One Hundred Fifty and no/100 (\$150.00) Dollars per Lot. The first annual assessment shall be adjusted according to the number of days remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**Section 6.7. Effect of Nonpayment of Assessments: Remedies of the Association.**

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate equal to the lesser of (a) eighteen (18%) percent per annum or (b) the maximum rate provided by applicable

law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot (as in the foreclosure of a mortgage), or both. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of such Owner's Lot.

**Section 6.8. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any deed or other proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 6.9. Exempt Property.** The following property, individuals, partnerships or corporations, subject to this Declaration, shall be exempted from the assessment, charge and lien created herein:

- A. The grantees in conveyances made for the purposes of granting utility easements.
- B. Owners of all open space and common properties
- C. All lands below the mean high water mark.
- D. Unsubdivided land and/or undeveloped residential lots owned by the Developer or Sub-Developer, except as provided in Section 6.6.

## ARTICLE VII

### USE RESTRICTIONS

**Section 7.1. Conformity and Approval of Structures.** No structure, fence, sidewalk, wall, drive or other improvement shall be placed or altered on any Lot except in accordance with the provisions of this Declaration.

**Section 7.2. Prior Review of All Plans.** No building, fence, wall, dock or other structure, and no change in topography, landscaping, grading, filling or any other item shall be commenced, erected or maintained upon any portion of the Subdivision, nor shall any exterior addition to or change be made until the plans and specifications (including but not necessarily limited to all elevations, a complete landscaping

plan for the Lot and a complete tree survey of the Lot) showing the grading, filling, nature, kind, size, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to the harmony of the external design and location in relation to the surrounding structures and topography by the Developer. Any change in exterior appearance of any building, wall, fence or other structural improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval.

Provided, however, that upon the Developer's selling of not less than 716 of the Lots in the Subdivision, this right of approval shall be transferred to an Architectural Review Board of the Association. Such Architectural Review Board shall be comprised of not less than three (3) representatives to be appointed by the Board of Directors of the Association; provided, further, that the Developer may transfer its rights of approval under this Declaration prior to its selling all of the Lots in the Subdivision if it so chooses. The transfer of control shall not be mandatory on the part of the Developer if the Developer has brought any portion of the Additional Property under the terms of this Declaration. The Developer or the Architectural Review Board shall require a minimum application fee of \$50.00 with each request or submission of plans or specifications; provided, however, that a Sub-Developer shall be charged a fee of Fifty and no/100 (\$50.00) Dollars per plan. The Architectural Review Board shall have the power and authority to adjust the application fee at any time.

In the event the Architectural Review Board fails to approve or disapprove any request within thirty (30) days after complete written plans and specifications have been submitted to it, the same shall be deemed approved, and this article shall be deemed to have been fully complied with, provided, however, that no such failure to act shall be deemed an approval of any matters specifically prohibited by any other provisions of this Declaration. Refusal or approval of plans, specifications and plot plans or any of them may be based on any grounds, including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Developer or the Architectural Review Board may deem sufficient. Neither Developer nor any member of the Architectural Review Board shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Review Board, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Review Board. Further, neither Developer nor any member of the Architectural Review Board shall be liable for damages to anyone submitting plans or specifications for approval under this Section, or to any owner of property affected by this Declaration by reason of mistake

in judgment, negligence, or non-feasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the Architectural Review Board for approval agrees, by submission of -such plans and specifications, and every Owner of any Lot agrees, that he will not bring any action or suit against Developer, or any member of the Architectural Review Board, to recover for any such damage. No approval of plans, location or specifications shall be construed as representing or implying that such plans, specifications or standard will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good workmanlike manner. Neither the Developer, the Association nor the Architectural Review Board shall be responsible or liable for any defects in any plan or specification submitted, revised or approved under these covenants nor for any defects in construction pursuant to such plans and specifications. The property owner shall have sole responsibility for compliance with approved plans and does hereby hold the Architectural Review Board and the Developer harmless for any failure thereof caused by the property owner's architect or builder.

**Section 7.3 Objectives of the Architectural Review Board.** Architectural and design review shall be directed towards attaining the following objectives for the Property:

- (1)** Preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruption of natural water courses or scar natural land forms.
- (2)** Ensuring that the location and configuration of structures are visually harmonious with the terrain, with the vegetation of the residential lot and with surrounding residential lots and structures, and does not unnecessarily block scenic views from existing structures or tend to dominate any general development or natural landscape.
- (3)** Ensuring that the architectural design of structures and their materials and colors are visually harmonious with the Property's overall appearance, history and cultural heritage, with surrounding development, with natural land forms and native vegetation, and with development plans, officially approved by the Owner, or any governmental or public authority, if any, for the areas in which the structures are proposed to be located.
- (4)** Ensuring the plans for landscaping provide visually pleasing settings for structures on the same lot and

on adjoining or nearby lots and blend harmoniously with the natural landscape.

- (5) Ensuring that any development structure, building or landscaping complies with the provisions of these covenants.
- (6) Promoting building design and construction techniques that respond to energy consumption and environmental quality considerations such as heat loss, air emissions and runoff water quality.

**Section 7.4. Fences.** No fences whatsoever shall be erected or allowed to remain in the Subdivision except approved privacy patio fences in rear yards only not exceeding six (6') feet in height, and set back from Lot lines at such distance as the Developer or Architectural Review Board in its sole discretion may require, or except those erected by the Developer in Common Areas. Said fences and patio fences shall be allowed only after obtaining prior written approval of the Developer. Said fences shall be treated wood or stained or painted to match the colors of the siding on the principal house structure. No fences shall be permitted which obstruct the view of any marsh, stream or other body of water when viewed from inside any adjacent Lot.

**Section 7.5. Residential Use of Lots.** All Lots shall be used for single-family residential purposes exclusively. No structures, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family dwelling (except as to Lots devoted to Multi-Family use), provided, however, that nothing contained herein shall be construed to prevent the Developer or any Sub-Developer from maintaining one or more model homes and/or sales offices in the Subdivision for the purpose of selling, leasing or managing Lots or other property in or near the Subdivision. No accessory structures or outbuildings, whether or not attached to the principal residence (including but not necessarily limited to carports, storage sheds, dog houses, awnings, breezeways, covered swimming pools and the like) shall be constructed or allowed to remain on any Lot unless approved by Developer or the Architectural Review Board. Provided, however, that the Developer may construct attached storage compartments, screened-in rear porches and rear sunrooms as an integral part of the principal residence. Provided, further, however, that an Owner, after application to and written approval by the Architectural Review Board, may construct attached storage compartments, screened-in rear porches and rear sun rooms as an integral part of the principal residence, if and only if such construction and improvement is consistent with the design of the principal residence and with the standards of construction prevailing in the Subdivision.

**Section 7.6 Prohibition Against Business Activity and “Time Sharing” Use.** No business activity, including but not limited to, a rooming house, boarding house, gift shop, antique shop, professional office or beauty/barber shop or the like or any trade of any kind whatsoever shall be carried on-upon or in any Lot. Provided, however, that nothing contained herein shall be construed so as to prohibit home occupations (i.e., any occupation on a Lot and clearly incidental thereto, carried on by a member of the family resident of the premises is employed, so long as no stock in trade is kept or commodities sold, no mechanical equipment is used except such that is normally used for family, domestic, or household purposes, and there is no exterior indicating that the building is being used for any purpose other than a dwelling), or the construction of houses to be sold on said Lots or the showing of said Lot for the purpose of selling or leasing Lot in the Subdivision. Nothing herein shall be construed to prevent the Developer from erecting, placing or maintaining signs, structures and offices as it may deem necessary for its operation and sales or lease or management of Lots in the Subdivision. Provided, however, that nothing herein contained shall prevent the Developer from erecting and maintaining sales and marketing signs in Common Areas or on other property owned by the Developer.

No Lot or structure shall be “time shared”, nor shall any Lot or structure be owned, used or operated in violation of the statutory provisions regulating Vacation Time Sharing Plans, S.C. Code Ann. Sections 27-32-10 et seq., as the same may be amended from time to time, nor shall any Lot or structure be owned, used or operated so as to constitute such Lot or structure as a “time sharing unit” within the meaning of such statutory provisions.

**Section 7.7. Association Office.** Nothing in this Declaration shall be construed to prohibit the Association from constructing, operating and maintaining a facility for use as its office and headquarters, for the benefit of the Association and its members, provided that such facility shall first be approved in all respects in writing by the Developer.

**Section 7.8. Temporary Structures.** No structure of a temporary character shall be placed upon any Lot at any time, provided, however, that this prohibition shall not apply to shelters approved by the Developer and used by the contractor during construction of a house, it being clearly understood that the latter temporary shelters may not, at any time, be used for residence or permitted to remain on the Lot after completion of construction. No trailer, mobile home, double-wide, park model trailer, motor home, tent, barn, camper, bus, tree house or other similar vehicle, out-building or structure shall be placed on any Lot or on any portion of the Common Areas at any time either temporarily or permanently.

**Section 7.9. Mining and Drilling Prohibition.** No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, and no derrick or other structure designed for use in boring for oil or natural gas shall be stored, erected, maintained or permitted in the Subdivision.

**Section 7.10. Use and Height Restrictions.** No structure shall be erected, placed or permitted to remain on any single-family Lot other than one detached single-family residential dwelling, not to exceed two and one-half stories in height, and in no instance shall any residence exceed thirty-five (35') feet in height above existing grade. For purposes of this Section, the first parking level or deck underneath a building built at or above grade shall not be considered a story.

**Section 7.11 Setbacks and Building Lines.**

(a) Each dwelling which shall be erected on any Lot shall be situated on such Lot in accordance with the building and setback codes of the Town of Mount Pleasant, South Carolina. However, in each case individual setbacks and sidelines must be approved by the Developer or Architectural Review Board for its aesthetic value and the Developer or Architectural Review Board may require a more stringent setback so long as the required setback does not violate the setback requirements of the Town of Mount Pleasant, South Carolina. The Developer or Architectural Review Board shall have the power and authority to promulgate and publish setback requirements for each Lot. In certain cases, the Developer or Architectural Review Board may require an Owner to seek a variance from the Town of Mount Pleasant, South Carolina if necessary to protect important trees, vistas or to preserve aesthetic value.

**Section 7.12. Timely Construction Progress.** Once construction of improvements on a residence is started on any Lot, the improvements must be substantially completed within nine (9) months from commencement of construction and all landscaping must be completed within ninety (90) days after completion of the improvements or residence. All construction sites must be maintained in an orderly fashion and all construction debris must be placed in a trash container or removed within forty-eight (48) hours.

**Section 7.13. Material Restriction.** All structures constructed or placed on any Lot shall be built of substantially new material and no used structures shall be relocated or placed on any such Lot.

**Section 7.14. Re-Building Requirement.** Any dwelling or outbuilding on any Lot which may be destroyed in whole or in

part by fire, windstorm or for any other cause or act of God must be rebuilt or all debris removed and the Lot restored to a natural condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than three (3) months.

**Section 7.15. Elevation and Drainage Changes.** No changes in the elevation, topography or drainage characteristics of the Subdivision shall be made on the premises without the prior written approval of the Developer nor shall any fill be used to extend any property beyond any boundary line of any waterfront property.

**Section 7.16. Tree Removal.** No trees or bushes of any kind having a diameter of six (6") inches or more (measured from a point two (2') feet above the ground level) shall be removed from any Lot without the express written authorization of the Developer or Architectural Review Board. The Developer or Architectural Review Board shall further have the authority to require any Owner removing a tree in violation of this clause to replace same at such Owner's cost. The Developer or Architectural Review Board reserves the right to have specimen trees preserved and to have site planning provide for their preservation.

**Section 7.17. Clothesline.** No clothesline or drying yards shall be located upon the premises so as to be visible from any Common Area or other dwellings.

**Section 7.18. Water Systems.** No individual water supply system shall be permitted upon any Lot with the exception of a shallow well to be used for irrigation purposes only, which shallow well shall be approved in writing all respects, including the pump and the covering or screen thereof and method of operation by the Developer, its successors or assigns, prior to installation.

**Section 7.19. Sewer System.** No surface toilets or septic tanks are permitted in the Subdivision (other than those utilized for a designated model home complex by the Developer). A purchaser of a dwelling assumes responsibility for attaching to public sewer system including all fees associated therewith. All plumbing fixtures, dishwashers, toilets or sewage disposal system shall be connected to the central sewer system of the Subdivision.

**Section 7.20. Garbage Disposal.** Each Owner shall provide garbage receptacles or similar facilities in accordance with reasonable standards established by the Developer, which shall be visible from the streets on garbage pickup days only. No garbage or trash incinerator shall be permitted upon the premises. No burning, burying or other disposal of garbage or

trash on any Lot or within the Subdivision shall be permitted. Provided, however, that Owner shall be permitted to modify the requirements of this Section where necessary to comply with orders of governing bodies or their franchisees.

**Section 7.21. Sign Controls.** No signs of any character shall be erected on any Lot or displayed to the public on any Lot except “For Sale” signs or signs indicating the name of one contractor only (not subcontractors) during the period of sale or construction only, provided said signs (a) shall not exceed six square feet in size, (b) shall only refer to the premises on which displayed, (c) shall be located within fifteen (15’) feet of the main structure but no less than twenty five (25’) feet from the front street right-of-way, and (d) shall not exceed more than one per Lot. This restriction shall not apply to signs used to identify and advertise the Subdivision as a whole, nor to signs for selling and/or houses during the development and construction period, which period shall not exceed twenty (20) years from the date hereof, provided such signs are approved by the Developer or Architectural Review Board. Also, the provisions of this Section shall not apply to anyone who becomes the owner of any Lot as purchaser at a judicial or foreclosure or as transferee pursuant to any proceedings in lieu thereof.

**Section 7.22. Natural Buffer Zone.** The Developer has established or will establish certain natural buffer zones running parallel to the main right-of-way running through the Subdivision. The natural buffer zone is hereby designated as Common Area and shall be maintained by the Association for the benefit of the Lot Owners.

No Lot Owner or any Lot Owner’s family, guests, agents or employees shall disturb the natural buffer zone in any manner and/or for any reason. Owners of Lots adjoining said natural buffer zone shall be responsible for advising their contractor or subcontractors of the natural buffer zone and will ensure no encroachment or clearing of said area.

If the natural buffer zone is disturbed, the Lot Owner responsible will be required to pay all costs incurred by the Developer and the Association as a result of its attempt to restore the area to its natural state and as a result of such action as is required by the Town of Mount Pleasant.

**Section 7.23. Exclusion of Above Ground Utilities.** All electrical service, wires, pipes, lines, telephone, cable television (CATV) lines and utility services of any type shall be placed in appropriate conduit underground and no outside electrical lines shall be placed overhead. No exposed or exterior radio or television transmission or receiving antenna shall be erected, placed or maintained on any part of the

Subdivision except those master facilities approved by the Developer. Provided, however, that the normal service pedestals, etc., used in conjunction with such underground utilities shall be permitted within the Subdivision. Overhead utilities shall be permitted during the construction period and until utility companies can place them underground.

**Section 7.24. Antennas.** No exterior antennas of any kind shall be placed, allowed or maintained upon any portion of the Subdivision, including any Lot, without the prior written consent of the Developer. No free-standing antennas whatsoever shall be placed on any Lot, including, without limitation, satellite dishes. However, the Developer reserves the right to (but shall not be obligated to) erect a master antenna, satellite dish or other similar master system for the benefit of the Subdivision as a whole.

**Section 7.25. Certain Vehicles Prohibited From Lots.** No travel trailers or mobile homes, campers or other habitable motor vehicles of any kind, whether self-propelled or not, school buses, motorcycles, trucks, or commercial vehicles, or boat trailers or boats shall be kept, stored or parked overnight, either on any Common Area, specifically including streets and guest parking areas, or any Lot.

**Section 7.26. Junk or Disabled Vehicles.** No stripped, partially wrecked, unlicensed or invalidly licensed, disabled or junk motor vehicle, or part hereof, shall be permitted to be parked or kept in the Subdivision.

**Section 7.27. Motorcycles.** The Association shall have the authority to prohibit the use, maintenance or storage of motorcycles in the Subdivision.

**Section 7.28. Pets.** No animals, livestock, birds, or fowl shall be kept or maintained on any part of the Subdivision except dogs, cats, pet fish and birds which may be kept thereon in reasonable numbers (not to exceed three) as pets for the pleasure and use of the property Owner but not for any commercial use or purpose. All animals must be kept on a leash when they are outside the Owner's dwellings on a Lot and must not become a nuisance to other residents by barking or other acts. Non-owners (e.g. rents or lessees) may not keep any pets on any part of the Property, without prior written approval of the Owner, said approval to be filed with the Association.

**Section 7.29. Perimeter Access.** There shall be no access to any Lot on the perimeter of the Subdivision except from designated roads within the Subdivision, provided, however, that Developer reserves the right to construct and operate temporary construction roads during the construction and development period.

**Section 7.30. Rental Period.** No Owner shall lease or rent any Lot more than three (3) times in any given twelve month period nor shall any Owner lease or rent any Multi-Family Lot more than twelve (12) times in any one year period.

**Section 7.31. Prohibition of Open Outdoor Storage.** No junk, debris or materials of any kind shall be stored on a Lot other than in an approved enclosed structure, which shall be attached to the principal dwelling or in a manner that is visible from any other Lot, Common Area, street, easement or amenity area. Firewood and bicycles may be stored outside in side or rear yards only, provided they are not visible from any Common Area, easement, street or amenity area.

**Section 7.32. Prohibition of Accessory Structures.** No dog houses, garages, carports, or any other accessory structure shall be constructed upon any Lot, except an attached storage compartment, garage, accessory building, porch, swimming pool, swing set and similar play structure which has been approved in writing by the Developer or the Architectural Review Board prior to installation or construction.

**Section 7.33. Nuisances.** No noxious or offensive activity shall be carried on upon or in any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or a nuisance to the neighborhood, including Common Areas, other homesites, easement areas or residences. No trash, leaves or rubbish may be burned on any Lot or within the Subdivision nor shall there be maintained any plants, poultry, animals (other than household pets) or device or thing of any sort, the normal activities or existence of which is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the Owner thereof.

**Section 7.34. Landscaping.** The Developer reserves the right to reasonably restrict the placement of landscaping, fences or other impediments to the enjoyment of views from and of adjoining Common Areas or Recreational Amenity areas.

**Section 7.35. Special Hazards.** Each Owner accepts and assumes all the risks and hazards of ownership or occupancy attendant to the ownership of such Lot, including but not limited to its proximity to any recreational facility or Common Area or the marsh and other bodies of water. Specifically, the Developer does hereby disclaim any and all liability for any property damage or personal injury resulting from erosion along the bank of the marsh, and all ditches, streams, lakes, lagoons or other bodies of water or watercourses located in the Subdivision.

**Section 7.36.** Additional Restrictions for Lots Fronting Lagoons and Marsh.

- A.** No foliage or vegetation on lagoons or marsh shall be removed or altered without permission of the Developer and the Architectural Review Board.
- B.** A lagoon or marsh owner shall maintain and mow the area between the Lot line and the lagoon or marsh even though such area may be owned by the Association or others.
- C.** No dock, pier, or wharf shall be constructed on any lagoon and no dock, pier, or wharf shall be constructed on the marsh without the approval of the Developer or Architectural Review Board and the Association. In order to obtain such approval, it will be necessary to submit plans specifying the location, color, height, finish and other details of such proposed facility. The Developer also reserves the right to require uniformity of design and to submit approved designs for docks, piers, or wharfs. The Developer and the Architectural Review Board have the right to disapprove such plans on any grounds including aesthetic consideration. Any approved dock, pier, or wharf must be well maintained by the Owner and, if not maintained as required, enforcement of this requirement may be enforced as provided herein in cases of violations of these covenants.
- D.** The Association shall have the authority, subject to the approval of the Architectural Review Board, to build bridges and walkways around the lagoons or on common property.
- E.** No water vehicles shall be permitted in the lagoons without approval of the Board of Directors of the Association.
- F.** No waste, garbage, or wastewater are to be discharged, dumped or otherwise placed in the lagoons.
- G.** Fishing will be allowed in accordance with the rules to be established by the Association.
- H.** The Association shall have the authority to establish fines and regulations governing the lagoon and all other common areas.

**Section 7.37. Traffic Regulations.** Traffic regulations on all roads and streets within the Subdivision will enforced under the provisions of the South Carolina Uniform Act for regulating traffic to private roads. A speed limit of 25 MPH is established on all roads and streets and all traffic control signs, including but not limited to speed limit, stop, directional and no parking signs will be enforced.

**Section 7.38. Encroachments.** No Owner or individual shall alter in any way any Common Area except with the written permission of the Association provided that such activity is required for the benefit of the Association or the Subdivision as a whole.

**Section 7.39. Subdivision of Lot: Easements and Encroachments.** No Lot shall be subdivided except as hereinafter provided and no building or residence, including porches or projections of any kind, shall be erected so as to extend over or across any of the building lines as hereinafter established. Provided, however, if any portion of any Common Area unintentionally encroaches upon a Lot or any part thereof, whether by settlement or otherwise, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of improvements to a Lot or Lots encroaches upon the Common Area or any portion thereof, whether by settlement or otherwise, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event any improvement or part thereof is partially or totally destroyed and then rebuilt, any encroachment of any Common Area upon a Lot or Lots or encroachment of a Lot or Lots upon any Common Area or upon an adjoining Lot or Lots resulting because of such rebuilding, shall be permitted, and a valid easement shall exist for the maintenance of such encroachments so long as the same stand. Such encroachments and easements shall not be considered or determined to be encumbrances either on any Common Area or any Lot or Lots, and no Owner shall be entitled to damages or injunctive relief because of the construction, re-construction or maintenance thereof.

**Section 7.40. Increased Size of Lots.** Lot or Lots may be subdivided provided the effect is to increase the size of the adjoining Lot or Lots. In such cases, the Developer may alter the building or set-back lines to conform to the resubdivided Lot(s). Should the Owner or Owners of any Lots and/or portions of Lots which have been combined for a single building site subsequently wish to revert to the original plan of subdivision, or make any other combination which would not be in violation of this restriction, that may be done only if the written consent of the Developer is first had and obtained. In such instances, the adjoining Lot Owners, or other Owners in the Subdivision shall not have the right to pass on or interfere with such Lot rearrangement. Such rights shall be exclusively that of the Developer or any successors or assigns to whom the Developer may expressly have transferred such rights, but the purchaser of any Lot in the Subdivision does not, by virtue of his status as a purchaser, become any such successor or assign.

**Section 7.41. Alteration of Building Lines in the Best Interest of Development.** Where because of size, natural

terrain, or any other reason in the sole opinion of the Developer, it would be to the best interest of the Development of this Subdivision that the building lines of any Lot should be altered or changed, then the Developer reserves unto itself, its successors and assigns, and no other, the right to change said lines to meet such conditions. The Developer specifically reserves the right to transfer and assign this right of change of building lines to the Association or the Architectural Review Board herein established.

**Section 7.42. Replatting of Lots.** No Lot shall be subdivided by an Owner, or its boundary lines changed, except as herein provided. However, the Developer hereby expressly reserves to itself, its successors and assigns, the right to replat any one or more Lots owned by the Developer shown on the plat of said Subdivision prior to delivery of the deed therefor in order to create a modified building Lot or Lots. The restrictions and covenants herein apply to each such building Lot so created or recreated.

**Section 7.43. Building Requirements.** The Living Space of the main structure on any Lot shall not be less than the following minimums:

LOTS	Minimum Square Feet of Living Space
Tract 3 Lots	1,400 sq ft
Tract 4 Lots	2,000 sq ft
Tract 5 Lots	2,400 sq ft
Tract 6 Lots	2,200 sq ft
Tract 7 Lots	1,400 sq ft
Tract 8 Lots	1,700 sq ft
Tract 9 Lots	1,700 sq ft

All lots within the Property known as Tract B containing 52.000 acres, described in "Exhibit A", or such lots as shall be shown and designated on any future Subdivision Plat of such Property

Houses of less that the stated minimum Living Space may be approved by the Developer or the Architectural Review Board if in the opinion of the Developer or Architectural Review Board the design and construction of such house would be in keeping with the adjoining properties and the lowering of the minimum Living Space requirement for such Lot would not depreciate the value of adjoining properties subject to this Declaration. Upon submission of the Additional Properties or any portions thereof to this Declaration, the Developer shall at such time or times designate the minimum square footage requirements for such Lots.

**Section 7.44. Lakes and Lagoons.** The lakes and lagoons within the Subdivision are not designed for boating, swimming

or bathing purposes and the same is prohibited. No docks, landings or other structures may be located in or adjacent to any lake or lagoon without the prior written consent of the Developer. Fishing shall be permitted within the lakes so long as all regulations of the South Carolina Wildlife and Marine Resources Department, as the same may be changed from time to time, are strictly observed. No water may be withdrawn from any lake or lagoon for any reason by any Owner. All property owners adjacent to the lakes and lagoons shall be prohibited from using insecticides, pesticides and other hazardous materials within twenty-five (25') feet of such lakes or lagoons.

**Section 7.45. Utility Company Requirements.**

- A.** Each Lot owner, lessor, and/or such owner's and lessor's heirs, successors and assigns, agree to pay the South Carolina Electric and Gas Company, or any successor or substitute electric utility company regulated by the South Carolina Public Service Commission, a monthly charge, plus applicable State of South Carolina sales tax, for operation and maintenance of street lighting systems.
  
- B.** Each Lot owner, lessor, and/or such owner's and lessor's heirs, successors and assigns shall contact the South Carolina Electric and Gas Company three (3) business days prior to any digging or excavation work on said property including, but not necessarily limited to, swimming pool installations, trenching or any type or digging. Upon notification by the Lot owner, lessor, and/or such owner's and lessor's heirs, successors and assigns, a field survey will be conducted by the South Carolina Electric and Gas Company personnel to insure that there are not conflicts with such utility companys' safety requirements. An excavation in violation of such utility companys' safety requirements is expressly prohibited.

**Section 7.46. Gardens, Basketball Goals, Etc.** Grass, ornamental plants and shrubbery (and only the foregoing) may be planted in the front or side yard of any Lot, except that all other planting in these yards may be done only with the prior written approval of the Developer or Architectural Review Board or in accordance with guidelines previously established by the Board. No vegetable garden, hammocks, statuary or recreational equipment may be placed, erected, allowed or maintained upon the front or side yard of any Lot without the prior written consent of the Board or its designee. This provision shall not, however, apply to basketball goals. Basketball goals may be installed after the type and location have been previously approved in writing by the Architectural Review Board.

**Section 7.47. Lighting.** The following exterior lighting may be installed without the necessity of obtaining the prior approval of the Board or its designee: (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yards or a Lot; (c) illumination of a

model home and entrance features constructed by the Developer; and (d) other lighting originally installed by the Developer. Plans for all other exterior lighting must be submitted and approved in accordance with Section 7.2.

**Section 7.48. Sight Distance at Intersections.** All Lots at street intersections shall be so landscaped as to permit safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain at the corner of a Lot where this would create a traffic or sight problem.

**Section 7.49. Guns.** The use of firearms in the Subdivision is prohibited. The term “firearms” includes “B-B” guns, pellet guns and small firearms of all types.

**Section 7.50. Solar Devices.** No artificial or manmade device which is designed or used for, collection of or heating by solar energy or other similar purposes shall be placed, allowed or maintained upon any portion of the Subdivision, including any Lot, without the prior written consent of the Board or its designee.

**Section 7.51. Wetlands.** Each Lot within the Subdivision which contains U. S. Army Corps of Engineers jurisdictional wetlands shall be subject to the following additional covenants, conditions and restrictions, unless waived by the Developer and the U. S. Army Corps of Engineers:

- A.** The Owner or Owners of such Lots agree to abide by all rules and regulations of the South Carolina Coastal Council and/or the U. S. Army Corps of Engineers with respect to such wetlands.
- B.** No permanent structure shall be constructed within such wetlands.
- C.** No manicured lawns shall be permitted within such wetlands.
- D.** No trees over four (4”) inches in diameter, measured two (2’) feet above the ground, may be removed from such wetlands.

## **ARTICLE VIII**

### **GENERAL PROVISIONS**

**Section 8.1. Enforcement.** The Developer, the Association, or any Owner shall have the right to enforce, by any proceedings at law or in equity, all of the restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Developer, the Association, or any

Owner to enforce any covenant or restriction herein contained shall in no event be deemed as a waiver of right to do so thereafter. The Developer and the Association shall have the right to establish, assess and collect reasonable fines and penalties for violations of this Declaration, which shall be liens against Dwellings as provided herein. Such fines shall not exceed Fifty (\$50.00) Dollars per violation per day.

**Section 8.2. Severability.** Invalidation of any covenants or restrictions or any term, phrase or clause of this Declaration by the adjudication of any court or tribunal shall in no way effect the other provisions hereof which are hereby declared to be severable and which shall remain *in full force and effect.*

**Section 8.3. Duration.** The Covenants and Restrictions of this Declaration shall run with and bind the property constituting the Subdivision, and shall inure to the benefit of and be enforceable by the Developer, the Association, or any Owner for a period of twenty (20) years from the date hereof and thereafter shall continue automatically in effect for additional periods of twenty (20) years, unless otherwise agreed to in writing by the then Owners of at least seventy-five (75%) percent of the Lots.

**Section 8.4. Assignment.** The Developer shall have the right to assign to any one or more persons, firms, corporations, partnerships or associations any and all rights, powers, titles, easements and estates reserved or given to the Developer in this Declaration.

**Section 8.5. Amendment.**

- A. Amendments by Developer. For a period of twenty (20) years from the date of recording this Declaration, the Developer may amend this Declaration in any particular, by an instrument in writing filed and recorded in the RMC Office for Charleston County, South Carolina, with or without the approval of any Owner or mortgagees. Any amendment made pursuant to this Section shall be certified by Developer as having been duly approved by Developer, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section. In addition to the foregoing amendment rights, the Developer shall have the right at any time without a vote of the Owners to amend the covenants and restrictions of this Declaration to correct typographical or clerical errors, and as may be required by any governmental authority, institutional or governmental lender, insurer or purchaser of mortgage loans including, for example, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veterans Administration or the Federal Housing Administration.

**B. Amendments by Association.** Amendments to this Declaration, other than those authorized by Section 8.5(a) above, shall be proposed and adopted in the following manner:

- 1) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.
- 2) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by members of the Association. Such amendment must be approved by Owners holding at least a majority of the total votes in the
- 3) Association; provided, however, that during any period in which Developer owns a Lot primarily for the purpose of sale or has the option under this Declaration to add the Additional Property or any portion thereof to the Subdivision, such amendment must be approved by Developer.
- 4) The agreement of the required percentage of the Owners and, where required, Developer and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

**Section 8.6. Multiple Associations.** So long as Developer, its successors or assigns, owns an unsold Lot in the Subdivision or any of the Additional Property, it shall have the right to merge the Association with other associations governing the use and control of other property in the Subdivision.

**Section 8.7. No Dedication of Common Areas Etc.** Every park, stream, body of water, Common Area, Recreational Amenity, and other amenity within the Subdivision is a private park, facility or amenity and neither the Developer's recording or any such plat nor any other act of the Developer with respect to the Property is, or is intended to be, or shall be construed, as a dedication to the public of any said parks, Common Areas, recreational facilities and amenities other than s reflected therein. An easement for the use and enjoyment of each of said areas designated as parks is reserved to the Developer, its successors and assigns; to the persons who are, from time to time, members of the Association; to the members and Owners of any recreational facility; and to the residents, tenants and occupants of any multi-family residential buildings, and all other kinds of residential structures that may be erected within the boundaries of the Property and to the invitees of all the

aforementioned persons; the use of which shall be subject to such rules and regulations as may be prescribed by the Association, if the Association is the Owner of the facility or Property involved.

**Section 8.8. Time is of the Essence.** It is agreed that time is of the essence with regard to these restrictions, covenants, limitations and conditions.

**Section 8.9. Remedies for Violation of Restrictions.** In the event of a violation or breach of any of these restrictions by any Owner, or agent of such Owner, the Owners of Lots in the Subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Developer, its successors and assigns, shall have the right, whenever there shall have been built on any Lot in the Subdivision any structure which is in violation of these restrictions, to enter upon the Property where such violation exists, and summarily abate or remove the same at the expense of the Owner, if after thirty (30) days written notice of such violation, it shall not have been corrected by the Owner. The Developer and Association are hereby granted a perpetual easement across each Lot for the purposes of carrying out its responsibilities under this Section, and any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservation, restriction or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. Should the Developer or Association employ counsel to enforce any of the foregoing covenants, conditions, reservations or restrictions, because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for the Developer's or Association's counsel, shall be paid by the Owner of such Lot or Lots in breach thereof.

**Section 8.10. Rule Against Perpetuities, Etc.** The Developer herein shall not in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself. In the event that any of the provisions hereof are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event such term shall be reduced to a period of time which shall not violate the rule against perpetuities or any other law of the State of South Carolina, and such provision shall be fully effective for said reduced period of time.

WITNESS the execution hereof this 4<sup>TH</sup> day of January, 1991

WITNESSES:

BRICKYARD PLANTATION, a South Carolina Limited Partnership

By: Southern Management Agency, Inc  
Its General Partner

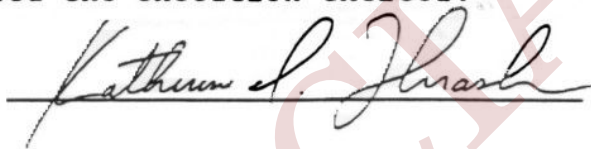
*Katherine L. J. J. J.*  
*[Signature]*

By: *Jeffrey B. Coggin*  
Jeffrey B. Coggin  
Its President


UNOFFICIAL

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE,

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within Brickyard Plantation, a South Carolina Limited Partnership, by Southern Management Agency, Inc., its General Partner, by Jeffrey B. Coggin, its President, sign, seal and as its act and deed, deliver the within Declaration of Covenants and Restrictions and that (s)he with the other witness witnessed the execution thereof.

  
\_\_\_\_\_

SWORN to before me this  
4<sup>TH</sup> day of January, 1991.

  
\_\_\_\_\_  
Notary Public for South Carolina

My Commission Expires: 11/6/96

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ROBERT W. KING  
REGISTER CHARLESTON COUNTY SC

IN THE DISTRICT OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
ROBERT W. KING  
ATTORNEY AT LAW  
ATTORNEYS INITIALS

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**EXHIBIT "A"**

**Description of Property Submitted to the Declaration**

ALL that certain piece, parcel or tract of land, with the buildings and improvements thereon, situate, lying and being in Christ Church Parish, County of Charleston, South Carolina, being a portion of Wampancheone Plantation, measuring and containing five hundred seventeen and seven hundred five one-thousandths (517.705) acres, more or less, being designated as Tract I on a plat of Wampancheone Plantation prepared by Southeastern Surveying, Inc. dated September 21, 1989, recorded in the RMC Office for Charleston County on July 11, 1990, in Plat Book BA, Page 169; said tract having such size, shape, dimensions, buttings and boundings, more or less, as will by reference to said plat more fully appear.

THE foregoing Property includes all that certain piece, parcel or tract of land situate, lying and being in the Town of Mount Pleasant, Charleston County, South Carolina, shown and designated as Parcel B containing 52.000 acres, more or less, as shown on a plat thereof entitled "A Conditional Plat of the Right-of-Way of Brickyard Boulevard and A 52.00 Acre Tract Cut Out of Brickyard Plantation, a/k/a a Portion of the Wampancheone Plantation Located in the Town of Mount Pleasant, Charleston County, South Carolina" prepared by Josiah M. Williams, III, Registered Surveyor, S. C. Reg. No. 7626, dated December 13, 1990, said plat being duly recorded in the R.MC Office for Charleston County in Plat Book **?**, Page **138** ; the said tract having such size, shape, dimensions, buttings and boundings, more or less, as will by reference to said plat more fully appear.

**ALSO**

ALL that certain piece, parcel or tract of land situate, lying and being in Christ Church Parish, County of Charleston, South Carolina, being almost a triangle in shape, being designated as Tract II containing 0.943 acre, more or less, as shown on a plat of Wampancheone Plantation prepared by Southeastern Surveying, Inc. dated September 21, 1989, recorded in the RMC Office for Charleston County on July 11, 1990, in Plat Book BA, Page 169; said tract having such size, shape, dimensions, buttings and boundings, more or less, as will by reference to said plat more fully appear.

**ALSO**

ALL that certain piece, parcel or tract of land situate, lying and being in Christ Church Parish, County of Charleston, South Carolina, on the west side of U. S. Highway 17, being shown and designated on a plat entitled **a** Boundary Plat of an Existing Tract of Land Owned by Meterine Investment, Inc. Located in the Town of Mount Pleasant, Charleston County, South Carolina," prepared by Southeastern Surveying, Inc. dated April 26, 1990, recorded in the

RMC Office for Charleston County on July 11, 1990, in Plat Book BZ, Page 168; said tract having such size, shape, dimensions, buttings and boundings, more or less, as will by reference to said plat more fully appear.

**ALSO**

ALL easements, rights, licenses, riparian, littoral or other rights appurtenant to or associated with the Property.

SAVING AND EXCEPTING from the above described Properties Tract Two containing 8.7 acres, more or less; Tract Ten containing 27.4 acres, more or less; and Tract Eleven containing 17.5 acres, more or less (the "Excluded Property"), as shown on an unrecorded Revised Sketch Plan of Brickyard Plantation prepared by Seamon, Whiteside & Associates, Inc. dated October 16, 1990 (the "Revised Sketch Plan"). The land use plan depicted on the Revised Sketch Plan is a dynamic design which has been and will be regularly modified and altered by the Developer in response to the changing requirements of governmental agencies and financial institutions, the changing needs of residents, evolution of the state of art of community planning and development, and changing financial conditions. The various property lines shown and acreages depicted on the Revised Sketch Plan are approximate only and Developer reserves the right to modify, amend and/or change the Revised Sketch Plan and/or the uses of the property shown thereon in any manner in its sole discretion, and further reserves the right to more clearly define the perimeter boundaries of the Properties subjected to this Declaration by the filing of an amendment or supplementary declaration to this Declaration together with the recording of accurate surveys of the Properties so submitted.

**EXHIBIT “B”**

**Additional Property**

ALL those certain tracts of land shown and designated as Tract Two containing 8.7 acres, more or less; Tract Ten containing 27.4 acres, more or less; and Tract Eleven containing 17.5 acres, more or less, as shown on the unrecorded Revised Sketch Plan of Brickyard Plantation prepared by Seamon, Whiteside & Associates, Inc. dated October 16, 1990.

**ALSO**

ALL other real property located adjacent to the property described in Exhibit “A” or adjacent to the Additional Property described above which is now owned or which from time to time may be acquired by the Developer for purposes of submission to this Declaration.

**ALSO**

ALL marshlands, lands lying below the mean highwater mark, easements, rights, licenses, riparian, littoral or other rights appurtenant to or associated with the property described above.

**ALSO**

ALL marshlands and lands lying below the mean highwater mark which adjoin the Property described in Exhibit “A”.

**EXHIBIT "C"**

**BY-LAWS OF BRICKYARD PLANTATION PROPERTY OWNERS  
ASSOCIATION, INC.**

**1. INTRODUCTION**

These are the By-Laws of Brickyard Plantation Property Owners Association, Inc., a non-stock, eleemosynary corporation to be organized under the laws of the State of South Carolina (hereinafter called "the Association"), which shall be organized for the purpose of administering Brickyard Plantation Subdivision (the "Subdivision"), a multi-phased planned unit development or subdivision. The Subdivision is identified by the name Brickyard Plantation and is located in Charleston County, South Carolina, as more particularly described in the Declaration of Covenants and Restrictions for the Subdivision, to which these By-Laws are attached as Exhibit "C" (the "Declaration"). Upon submission of the Additional Property, or any portion of the Additional Property, described in Exhibit "B" to the Declaration, these By-Laws become equally applicable to such Additional Property. The Developer of the Subdivision is Brickyard Plantation, a South Carolina Limited Partnership, its successors and assigns (the "Developer").

- A.** The provisions of these By-Laws are applicable to any and all land subject to the Declaration, and the terms and provisions of these By-Laws are expressly subject to the effect of the terms, provisions, conditions, and authorizations contained in the Declaration. The terms and provisions of the Declaration shall be controlling wherever and whenever, if ever, they are or may be in conflict with these By-Laws.
- B.** All present or future co-owners, tenants, future tenants, or their employees, invitees, licensees, or any other person that might use the lands of the Subdivision, or any of the facilities thereof in any manner, are subject to the regulations set forth in these By-Laws and in the Declaration, as either, or both, may be amended or supplemented from time to time.
- C.** The office of the Association shall be at 763 Highway 17 By-Pass, Mount Pleasant, South Carolina 29464, or such other place as the Board of Directors of the Association may designate from time to time.
- D.** The fiscal year of the Association shall begin on January 1 and end on December 31 of each year, unless changed by the Board of Directors of the Association as herein provided.

- E. The seal of the Association shall bear the name of the Association and the words “South Carolina”.
- F. There shall be no dividends or profits paid to any members nor shall any part of the income of the Association be distributed to its Board of Directors or officers. In the event there are any excess receipts over disbursements as a result of performing services, such excess shall be applied against future expenses, etc. The Association shall not pay compensation to its members, directors or officers for services rendered. At any one time, the Board may retain a management firm, and may contract with said firm to provide management for the Association and its subordinate regimes, or Developer-owned/controlled property, to include, but not be limited to, the following services:
  - 1. Financial services;
  - 2. Administrative and clerical services; and
  - 3. Maintenance, to include providing of goods, materials, labor and equipment, personnel supervision, contract labor, landscaping, and security.

Upon final dissolution of and liquidation, the Association may make distribution to its members as is permitted by law or any Court having jurisdiction thereof, and no such payment, benefit or distribution shall be deemed to be dividend or distribution of income.

This Association shall issue no shares of stock of any kind or nature whatsoever. Membership in the Association and the transfer of that membership as well as the number of members/votes shall be in accordance with the terms and conditions of the Declaration and the By-Laws of the Association, and the voting rights of the Owners shall be as set forth in the Declaration and/or these By-Laws of the Association.

**2. MEMBERSHIP, VOTING, QUORUM, PROXIES**

- A. All persons who are Owners as defined in the Declaration shall be members of this Association, provided, however, that no non-owner, tenant, sub-lessee, or assign shall be a member, nor have voting rights in this Association. The rights and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by a member or a member’s spouse, but in no event shall more than one (1) vote be cast or more than one (1) office held for each Lot, except for those Class B voting rights granted to or reserved by the Developer in the Declaration. Such voting weight shall continue to be equal upon the addition of all or

a portion of the Additional Property to the Subdivision, and each Lot therein shall have one (1) vote. Each Owner, by acceptance of a deed or other conveyance for a Lot, consents and agrees to the dilution of his voting interest in the Association by virtue of the submission from time to time of the Additional Property or any portion thereof to the terms of this Declaration as provided herein. The foregoing is not intended to include Mortgagees or any other persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect an owner's membership in the Association. Notwithstanding any of the foregoing to the contrary, no owner, whether one or more persons, shall have more than one membership/vote per Lot. Any membership shall automatically terminate when an Owner, as defined herein, is no longer seized and vested with title to any real property within the Subdivision, and membership and/or voting rights in the Association shall be limited to such Owners.

- B. The quorum at members' meetings shall consist of persons entitled to cast one-fourth (1/4) of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining a quorum.
- C. The vote of the Owners of a Lot owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate or appropriate resolution signed by all of the Owners of the Lot and filed with the Secretary of the Association, and such certificate or resolution shall be valid until revoked by subsequent certificate or resolution. If such a certificate is not on file, the vote of such Owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.
- D. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of the meeting for which their use is sought.
- E. Approval or disapproval of an Owner upon any matters, whether or not the subject of an Association meeting, shall be by the same person who casts the vote of such Owner if in an Association meeting.
- F. Except where otherwise required under the provisions of the Certificate of Incorporation of the Association, these By-Laws, the Declaration, or where the same may otherwise be required by law, the affirmative vote of the Owners holding at least a majority of the total votes cast at a meeting at which a quorum is present, shall be binding upon the members/Owners.

**3. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP**

- A.** The annual members' meeting shall be held at the office of the Association or such other place as may be designated by the Board of Directors, on the first Saturday in March of each year or at such other time as shall be designated by the Board of Directors, for the purpose of transacting any business authorized to be transacted by the members. The first annual meeting shall be held in 1992.
- B.** Special members' meetings shall be held whenever called by the President or Vice President, by a majority of the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all votes of the Class A Membership, and must be called by such officers upon receipt of a written request from the members of the Association owning a majority of the outstanding votes.
- C.** Notice of all members' meetings, regular or special, shall be given by the President, Vice President or Secretary of the Association, or other officers of the Association in the absence of said officers, to each member, unless waived in writing, such notice to be written or printed and to state the time and place and object for which the meeting is called. Such notice shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting, which notice shall be mailed or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him or her. If mailed, such notice shall be deemed properly given when deposited in the United States mail addressed to the member at his or her post office address as it appears on the records of the Association, the postage thereon prepaid. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. If any members' meeting cannot be organized because a quorum has not been attained, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended, whenever the latter percentage of attendance may be required as set forth in the Certificate of Incorporation, these By-Laws or the Declaration, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance if greater than a quorum, is present.
- D.** At meetings of membership, the President shall preside or, in the absence of the President, the membership may select

a chairman in the event that the Board does not designate an acting president or presiding officer for any such meeting.

E. The order of business at annual members' meetings, and, as far as practical, at any other members' meeting, shall be:

- (i) Calling of the roll and certifying proxies
- (ii) Proof of notice of meeting or waiver or notice
- (iii) Reading of minutes (iv) Reports of officers
- (v) Reports of committees
- (vi) Unfinished business
- (vii) New business
- (viii) Adjournment

#### 4. BOARD OF DIRECTORS

**Section 1. Governing Body; Composition.** The affairs of the Association shall be governed by a Board of Directors. Until the first annual meeting of the members, the affairs of the Association shall be managed by a Board of two (2) directors selected by the Developer. Thereafter, the affairs of the Association shall be managed by a Board of three (3) directors appointed or elected as provided herein.

**Section 2. Directors Appointed by Developer.** Developer shall have the right to appoint or remove any members of the Board of Directors or any officer or officers of the Association so long as Developer retains its Class B membership as provided in the Declaration. Each Owner, by acceptance of a Deed to or other conveyance of a Lot, vests in Developer such authority to appoint and remove directors and officers of the Association. The directors selected by the Developer need not be Owners or residents in the Subdivision. The names of the initial directors selected by the Developer shall be set forth in the Articles of Incorporation of the Association.

**Section 3. Number of Directors.** Commencing with the first annual meeting of the Association to be held in the calendar year 1992, the Board shall consist of three (3) members.

**Section 4. Nomination of Directors.** Elected directors shall be nominated from the floor at a meeting of the Association and may also be nominated by a nominating committee appointed by the Board of Directors.

**Section 5. Election and Term of Office.** Owner-Elected directors shall be elected and hold office as follows:

- A. Not later than thirty (30) days after the Developer's right to appoint directors and officers terminates, the

Association shall call a special meeting to be held at which Owners shall elect three (3) directors.

- B.** At annual meetings of the Membership thereafter, directors shall be elected. All eligible Members of the Association shall vote on all directors to be elected and the candidate(s) receiving the most votes shall be elected; provided, however, the initially elected directors shall serve the remainder of their terms.

The term of one (1) director shall be fixed at one (1) year, the term of one (1) director shall be fixed at two (2) years, and the term of one (1) director shall be fixed at three (3) years. At the expiration of the initial term of office of each respective Member of the Board of Directors, a successor shall be elected to serve for a term of two (2) years. The Members of the Board of Directors shall hold office until their respective successors have been duly elected by the Association.

**Section 6. Removal.** Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. This Section shall not apply to Directors appointed by the Developer.

**Section 7. Compensation.** No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

**Section 8. Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting of the directors which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

Meeting of Directors

**Section 9. Regular Meetings.** Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

**Section 10. Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director mailed or presented personally to such director within such time.

**Section 11. Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

In the event that the Developer in accordance with the privilege granted unto it, selects any person or persons to serve on any Board of Directors of the Association, the Developer shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or persons to serve on said Board of Directors. Replacement of any person or persons designated by the Developer to serve on any Board of Directors of the Association shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons designated as successor or successors to the person or persons so removed from said Board of Directors. The removal of any director and designation of his successor shall be effective immediately upon delivery of such written instrument by the Developer to any officer of the Association.

If any director's meeting cannot be organized because a quorum has not attended, or because the greater percentage of the director; required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws or the Declaration, the directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance is greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.

### **Powers and Duties of the Board of Directors**

**Section 12. Powers.** The Board of Directors shall manage and direct the affairs of the Association and may exercise all of the powers of the Association subject only to approval by the Owners, as designated and defined in the Declaration, when such is specifically required by these By-Laws. The Board of Directors shall exercise such duties and responsibilities as shall be incumbent upon it by law, the Declaration or these By-Laws, or as it may deem necessary or appropriate in the exercise of its powers and shall include, without limiting the generality of the foregoing, the following:

- A.** To prepare and adopt a budget, make, levy and collect assessments against members and members' Lots to defray the cost of the Common Areas and facilities of the Subdivision, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;
- B.** To carry out the maintenance, care, upkeep, repair, replacement, operation, surveillance and the management of the Common Areas, Recreational Amenities, services and facilities of the Subdivision wherever the same is required to be done and accomplished by the Association for the benefit of its members;
- C.** To carry out the reconstruction of improvements after casualty and the further improvement of the property, real and personal;
- D.** To make and amend regulations governing the use of the property, real and personal, in the Subdivision so long as such regulations or amendments thereto do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Declaration;
- E.** To acquire, operate, lease, manage and otherwise trade and deal with property, real and personal, including Lots in the Subdivision, as may be necessary or convenient in the operation and management of the Association, except those which may be required by the Declaration to have approval of the membership of the Association;
- F.** To enforce by legal means the provisions of the Certificate of Incorporation and By-Laws of the Association, the Declaration and the regulations hereinafter promulgated governing use of the property in the Subdivision;
- G.** To pay all taxes and assessments which are liens against any part of the Subdivision other than Lots and the appurtenances thereto, and to assess the same against the members and their respective Lots subject to such liens;
- H.** To carry insurance for the protection of the Subdivision, the members of the Association, and the Association against casualty, liability and other risks;
- I.** To pay all costs of power, water, sewer and other utility services rendered to the Association and not billed to the Owners of the separate Lots;
- J.** To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association as well as to dismiss said personnel;

- K.** To adopt and publish rules and regulations governing the use of the Common Areas, Recreational Amenities and facilities of the Association, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- L.** To suspend the voting rights and right to use of the Common Areas and facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- M.** To exercise for the Association all powers, duties and authority vested in or delegated to this Association by the Declaration and not reserved to the membership by other provisions of these By-Laws, or the Certificate of Incorporation;
- N.** To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- O.** To employ a manager, a managing agent, an independent contractor, or such other employees or agents as they deem necessary, and to prescribe their duties.
- P.** To make special assessments to the extent provided in the Declaration and these By-Laws.

**Section 13. Duties.** It shall be the duty of the Board of Directors to:

- A.** Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A Members who are entitled to vote;
- B.** Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- C.** Establish a fiscal year;
- D.** Establish the annual assessment period and fix the amount of the annual assessment against each member for each lot owned, at least thirty (30) days in advance of each annual assessment;

- E.** Establish the initial deposit to be made by each member in order to bring his total assessment deposit to the level required to meet his proportional share of the Common Expense;
- F.** Send written notice of each assessment to every lot owner, at least thirty (30) days in advance to each annual assessment period, and levy all such assessments as liens;
- G.** Collect all such assessments at monthly or other regular intervals as may be determined at its discretion;
- H.** Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same;
- I.** Issue, or to cause an appropriate officer to issue, upon demand by any person, a Certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- J.** Procure and maintain liability and fire and other hazard insurance on property owned by the Association;
- K.** Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- L.** Cause all of the facilities to be maintained;
- M.** Have a management agent for any of the above; and
- N.** Procure and maintain officers and directors liability insurance as it may deem appropriate.

**Section 14. Meeting Location.** Notwithstanding anything contained in these By-Laws to the contrary any meeting of members of directors may be held at any place within or without the State of South Carolina.

**Section 15. Actions Without Meetings.** To the extent now or from time to time hereafter permitted by the law of South Carolina the directors may take any action which they might take at a meeting of directors without a meeting, a record of any such action so taken, signed by each director, to be retained in the Association's minute book and given equal dignity by all persons with the minutes of meetings fully called and held.

**Section 16. Indemnity.** The Association shall indemnify every director and every officer, their heirs, executors and administrators, against all loss, damages, costs or expenses of any type reasonably incurred by him in connection with any action, suit, or proceeding to which he is made a party by reason of his being or having been a director or officer of the Association, except as to such matters wherein he shall be finally adjudged liable of gross negligence or willful misconduct. The Board may obtain for the Association directors and officers liability insurance coverage in such amounts as the Board deems necessary and appropriate.

**5. OFFICERS**

- A.** The executive officers of the Association shall be the President and Secretary, who shall be directors; a Vice President; and a Treasurer, all of whom shall be appointed by the Developer so long as Developer retains its Class B Membership, and thereafter elected annually by the Board of Directors and who may be peremptorily removed by vote of the directors at any meeting. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.
- B.** The President shall be the chief executive officer of the Association. The President shall have all the powers and duties which are usually vested in the office of the President of an association, including, but not limited to, the power to appoint committees from among the members from time to time, as the President may in the President's discretion determine appropriate, to assist in the conduct of the affairs of the Association.
- C.** Any Vice President, unless the majority may select a presiding officer, shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the directors.
- D.** The Secretary shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors, and such other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an association and as may be required by the directors or President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

- E.** The Treasurer shall have custody of all of the property of the Association, including funds, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of Treasurer.
- F.** The compensation of all officers and employees of the Association shall be fixed by the directors. This provision shall not preclude the Board of Directors from employing a director as an employee of the Association, nor preclude the contracting with a director for management of the Association.

## **6. FISCAL MANAGEMENT**

The provisions for fiscal management of the Association set forth both in these By-Laws and in the Declaration shall be supplemented and complemented by the following provisions:

- A.** The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot; for each subordinate regime and for those developer-owned entities. Such an account shall designate the name and address of the Owners(s) or ownership/control entity, the amount of each assessment against each category set forth immediately hereinabove, the dates and amount in which assessments come due, the amounts paid upon the account and the balance due upon assessments.
- B.** The Board of Directors shall adopt a budget for each fiscal year which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following items:
  - 1)** Common Expense budget, which shall include without limiting the generality of the foregoing, the estimated amounts necessary for maintenance, repair and/or replacement of: (a) all buildings and other improvements located within the Association's Common Areas, including Recreational Amenities; (b) all roads (not dedicated to the public), walks, trails, lagoons, ponds, parking lots, landscaped areas/natural areas and other improvements situated within the Common Areas or within easements encumbering Lots or Multi-Family Areas; (c) such security systems, utility lines, pipes, plumbing, wires, conduits and related systems which are a part of the service district, public or private utility or other person; and (d) all lawns, trees, shrubs, hedges, grass and other landscaping situated within the Subdivision (but not on Lots) as it may be constituted from time to time; and

- 2)** Proposed Assessments against each member. Copies of the proposed budget and proposed Assessments shall be transmitted to each member at least thirty (30) days prior to the first day of the fiscal year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished each member concerned. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board of Directors to at any time in their sole discretion levy an additional Assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.
- C.** The Board of Directors shall determine the method of payment of such Assessments and the due dates thereof and shall notify the members thereof. The Assessments will initially be on an annual basis unless changed by a vote of the majority of the Board of Directors.
- D.** The depository of the Association shall be such bank or banks as shall be designed from time to time by the directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the directors.
- E.** An audit of the accounts of the Association may be made annually and a copy of the report shall be furnished to each member not later than ninety (90) days after the last day of the fiscal year for which the report is made.
- F.** Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least one-half (1/2) the amount of the total annual assessments against members for common expenses. The premiums on such bonds shall be paid by the Association.

## **7. PHYSICAL MANAGEMENT**

Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair and have jurisdiction over the standards of exterior maintenance over all portions of the Common Areas, individual regimes, and all Lots, which responsibility shall include the maintenance, repair and/or replacement of: (i) all buildings and improvements

located within the Association's Common Areas, including Recreational Amenities; (ii) all roads, walks, trails, lagoons, ponds, parking lots, landscaped areas, natural areas and other improvements situated within the Common Areas or within easements encumbering Lots or Multi-Family Areas; (iii) such security systems and utility lines, pipes, plumbing, wires, conduits and related systems which are a part of the Common Areas and which are not maintained by a public authority, public service district, public or private utility or other person; and (iv) all lawns, trees, shrubs, hedges, grass and other landscaping situated within the Subdivision (but not on Lots) as it may be constituted from time to time. The Association shall not be liable for injury or damage to any person or property (a) caused by the elements or by any Owner or any other person, (b) resulting from any rain or other surface water which may leak or flow from any portion of the Common Areas, or (c) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system or utility line or facility, the responsibility for the maintenance of which is not that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored or left in or upon any portion of the Common Areas or any other portion of the Property. No diminution or abatement of Assessments or charges shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under the Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments and charges being a separate and independent covenant on the part of each Owner.

In the event that the Developer or the Board of Directors determines that: (i) any Owner or Multi-Family Association has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which he or it is responsible hereunder; or (ii) that the need for maintenance, cleaning, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his family, tenants, guests or invitees, and is not covered or paid for by insurance in whole or in part, then in either event, the Developer or the Association, except in the event of an emergency situation, may give such Owner or Multi-Family Association written notice of Developer's or the Association's intent to provide such necessary maintenance, cleaning, repairs or replacement, at the sole cost and expense of such Owner or Multi-Family Association, as the case may be, and cleaning,

repairs or replacement deemed necessary. Except in the event of emergency situations, such Owner or Multi-Family Association, as the case may be, shall have fifteen (15) days within which to complete the same in good and workmanlike manner, or if replacement is not capable of completion within said fifteen (15) day period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in good and workmanlike manner. In the event of emergency situations or the failure of any Owner or Multi-Family Association to comply with the provisions hereof after such notice, the Developer or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner or Multi-Family Association, as the case may be, and said cost shall be added to and become a part of the Assessment to which such Owner and his Lot are subject and shall become a lien against such Lot, or, in the, case of a Multi-Family Association, shall be added to and become a part of the assessments for all Owners within such Multi-Family Association and shall become a lien against such Owner's Lots. In the event that Developer undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse Developer for Developer's costs and expenses.

#### **8. PARLIAMENTARY RULES**

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the statutes of the State of South Carolina.

#### **9. AMENDMENTS TO BY-LAWS**

Amendments to these By-Laws shall be proposed and adopted in the following manner:

- A.** Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon vote of the majority of the directors, or by members of the Association holding one-fourth (1/4) of the Class A votes in the Association, whether meeting as members or by instrument in writing signed by them.
- B.** Upon any amendment or amendments to these By-Laws being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in absence of the President, who shall thereupon call a special joint meeting of the members of the Board of Directors of the Association and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments,

and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members if required as herein set forth.

- C. In order for such amendment or amendments to become effective, the same must be approved by a vote of the members holding at least a majority of the total votes at a meeting at which a quorum is present. Thereupon, such amendment or amendments to these By-Laws shall be transcribed, certified by the President or Secretary of the Association, and a copy thereof shall be recorded in the Register of Mesne Conveyances of Charleston County, South Carolina, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the directors and members.
- D. At any meeting held to consider such amendment or amendments to the By-laws, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.
- E. Notwithstanding the foregoing provisions of this Article, no amendment to these By-Laws which shall abridge, amend or alter the right of the Developer to designate and select members of each Board of Directors of the Association, as provided in Article 4 hereof, nor may any amendment be adopted or become effective without the prior written consent of the Developer so long as Developer retains its Class B voting privileges.
- F. In the alternative, the Developer may amend these By-Laws in the manner provided in the Declaration for amendments to the Declaration by the Developer.

## **10. INSURANCE AND CASUALTY LOSSES**

### **10.1 Insurance.**

**10.1.1** The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect adequate property insurance, in such form as the Board deems appropriate, for the benefit of the Association and insuring all insurable improvements in and to the Common Areas against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation, to include anticipated costs of demolition and clearing prior to building, but subject to such deductible levels as are deemed reasonable by the Board or under the terms

of any subordinated regime documents as they affect or control Multi-Family ownership) of any repair or reconstruction in the event of damage or destruction from any such hazard.

**10.1.2** The Board or its duly authorized agents shall have the authority and may obtain and continue in effect a public liability policy covering all the Common Areas and all damage or injury caused by the negligence of the Association, its members, its directors and officers, or any of its agents. Such public liability policy shall provide such coverages as are determined to be necessary by the Board of Directors.

**10.1.3** The Board or its duly authorized agents shall have the authority and may obtain: (i) worker's compensation insurance to the extent necessary to comply with any applicable law; and (ii) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable.

**10.1.4** All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for each of the Owners and costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Subdivision shall be vested in the Board of Directors; provided, however, that no Mortgagee or other security holder of the Common Areas having any interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. Insofar as permitted by law and reasonably obtainable, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

**10.1.4.1** All policies shall be written with a company holding rating of A+10 or better in such financial categories as established by Best's Insurance Reports, if such a company is available or, if not available, its equivalent rating or the best rating possible.

**10.1.4.2** All property insurance policies shall be for the benefit of the Association, and/or its subordinate property regimes, Owners and Owner's Mortgagees, if applicable, as their interests may appear.

**10.1.4.3** All policies shall contain a waiver of the insurer's right to cancel without first giving thirty (30) days' prior written notice of such cancellation to the Association and to any Mortgagee to which a mortgagee endorsement has been issued.

**10.1.4.4** In no event shall the insurance coverage obtained and maintained by the Association's Board of

Directors hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees, and all policies shall contain a provision that the “other insurance” clauses in such policies exclude from consideration policies obtained by individual Owners or their Mortgagees.

**10.1.4.5** All policies shall contain a waiver of subrogation by the insurer as to any claims against the Association, the Association’s directors and officers, the Owners and their respective families, servants, agents, tenants, guest and invitees, including without limitation the Association’s manager.

**10.1.4.6** All policies shall contain a provision that no policy may be cancelled, invalidated or suspended on account of the conduct of one or more of the individual Owners, or their respective families, servants agents, employees, tenants, guests and invitees, or on account of the acts of any director, officer, employee or agent of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.

**10.1.5** It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, public liability, property damage, title and other insurance with respect to his own Lot. The Board of Directors may require all Owners, to include the Developer, and/or Multi-Family Associations to carry public liability and property damage insurance on their respective properties and Lots, and to furnish copies of certificates thereof to the Association.

**10.2 Damage to or Destruction of Common Areas.** Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and, in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction, as used in this Article means repairing or restoring the damages to property to substantially the same condition in which it existed prior to the fire or other casualty. Within sixty (60) days following any damage or destruction of all or part of the Common Areas, the Association shall restore or replace such damaged improvements, to include trees, shrubbery, lawns, landscaping, and natural vegetation. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special assessment against all Owners, without the necessity of a vote

of the members of the Association, such special assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such a special assessment shall be levied against the Owners equally in the same manner as annual assessments are levied, and additional assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association.

**10.3 Damage to or Destruction of Lots or Multi-Family Areas.** In the event of damage or destruction by fire or other casualty to any Lots or Multi-Family Areas, such Owner or Multi-Family Association shall, at its/their own expense, promptly clear away the ruins and debris of any damaged improvements or vegetation and leave such Lot or Multi-Family Area in a clean, orderly, safe and sightly condition. Such other Owner or Multi-Family Association shall repair or rebuild such Lot or other improvements to substantially the same condition as existed prior to such fire or other casualty and in accordance with all applicable standards, restrictions and provisions of this Declaration (including without limitation Article 10 hereof) and all applicable zoning, subdivision, building and other governmental regulations. All such work of repair or construction shall be commenced promptly following such damage or destruction and shall be carried through, without interruption, diligently to conclusion.

**11. CONDEMNATION OF COMMON AREAS**

**11.1** Whenever all or any part of the Common Areas of the Subdivision shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting with the approval by a vote of two-thirds (2/3) of the total votes of the Association who are voting in person or by proxy, at a meeting duly called for such purpose, for so long as Developer owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Subdivision, the award of proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

**11.1.1** If the taking or sale in lieu thereof involves a portion of the Common Areas on which improvements

have been constructed, then, unless within sixty (60) days after such taking Developer, for so long as Developer owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Subdivision, together with at least seventy-five (75%) percent of the total votes of the Association, shall otherwise agree, the Association shall restore or replace such improvements so taken, to the extent practicable, on the remaining lands included in the Common Areas which are available therefor, in accordance with the plans approved by the Board of Directors, the Architectural Review Board, and by the Developer, for so long as the Developer owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Subdivision. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special assessment against all Owners, without the necessity of a vote pursuant to Paragraph 9.4 hereof, such special assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such special assessment shall be levied against the Owners equally in the same manner as annual assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. If such improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association.

**11.1.2** If the taking or sale in lieu thereof does not involve any improvements to the Common Areas, or if there are not funds remaining after any such restoration or replacement of such improvements is completed, then such award, proceeds or net funds shall be retained by and for the benefit of the Association.

**11.1.3** If the taking or sale in lieu thereof includes all or any part of a Lot or Multi-Family Area and includes any part of the Common Areas, then a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners of any Lot or Multi-Family Area; provided, however, such apportionment may instead be resolved by the agreement of: (i) the Board of Directors; (ii) the Owners of all Lots and Multi-Family Areas wholly or partially taken or sold, together with the Mortgagees for such Lot or Multi-Family Area; and (iii) the Developer, for so long as the Developer owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Subdivision.

## 12. ASSESSMENTS

**12.1 Purpose of Assessments.** The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of the Subdivision, and maintaining the Subdivision and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors. These assessments are in addition to any charges or assessments imposed by any MultiFamily Regime, Sub-Association or ownership sub-structure situate within the Subdivision as it may be constituted from time to time.

**12.2 Creation of Lien and Personal Obligation of Assessments.** Each owner of a Lot by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association: (a) annual Assessments, such Assessments to be established and collected as provided in the Declaration and in Paragraph 12.3 hereof; (b) special assessments, such assessments to be established and collected as provided in the Declaration and in Paragraph 12.4 hereof; and (c) individual or specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including but not limited to fines as may be imposed against such Lot in accordance with the provisions of these By-Laws and of the Declaration. Any such Assessments, together with late charges as provided in the Declaration, together with court costs and reasonable attorneys' fees incurred to enforce or collect such Assessments, shall be an equitable charge and a continuing lien upon the Lot, the Owner of which is responsible for payment. Each Owner shall be personally liable for assessments coming due while he is the Owner of a Lot, and his grantee shall take title to such Lot subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid assessments shall not apply to the holder of any first priority institutional Mortgage or to the holder of any Mortgage securing a loan made by the Developer, its affiliates, successors or assigns, and who take title to a Lot through foreclosure, or to any purchaser of such Lot at such foreclosure sale until title vests at which time charges for assessments apply as to any other Owner. In the event of co-ownership of any Lot, all of such co-Owners shall be jointly and severally liable for the entire amount of such assessments. Assessments shall be paid in such manner that unless otherwise provided by the Board, the annual assessment shall be paid in equal quarterly installments.

**12.3 Computation of Annual Assessments.** It shall be the duty of the Board at least thirty (30) days prior to the commencement of the Association's fiscal year to prepare and adopt a budget covering the estimated Common Expenses during the coming year, such budget to include a capital contribution of reserve account if necessary for the capital needs of the Association. The total annual assessments shall be divided among the Lots equally, except as provided in the Declaration, so that each Lot except Developer owned Lots, shall be subject to equal annual assessments. Upon the addition of the Additional Property or any portion thereof to the Subdivision, Assessments shall continue to be equal and the Lots being added to the Subdivision shall continue to be equal and the Lots being added to the Subdivision shall thenceforth pay assessments which are equal to those imposed upon Property and Lots previously in the Subdivision, except as provided in the Declaration. The Association's budget shall be revisable by the Board, without the necessity of approval by the Owners, to include Common Expenses and Assessments related to such additional Lots. In the event the Board fails for any reason to determine the Budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget and annual assessment in effect for the then current year shall be increased in proportion to the percentage increase, if any, for the then current year, over the previous year, in the Consumer Price Index (All Urban Consumers! United States City Average, All Items) or five (5%) percent, whichever is greater, and such increased budget shall be implemented for the succeeding year, until a new budget shall have been approved as provided above. If any budget at any time proves inadequate for any reason, then the Board may call a meeting of the Association for the approval of a special assessment as provided in Paragraph 12.4 hereof. The Common Expenses to be funded by the annual assessments may include, but shall not necessarily be limited to, the following:

**12.3.1** Management fees and expenses of administration including legal and account fees;

**12.3.2** Utility charges for utilities serving the Common Areas and charges for other common services for the Subdivision, including trash collection and security services, if any such services or charges are provided or paid by the Association;

**12.3.3** The cost of any policies of insurance purchased for the benefit of all Owners and the Association as required or permitted by the Declaration, including fire, flood and other hazard coverage, public liability coverage and such other insurance coverage as the Board of Directors determines to be in the interests of the Association and the Owners;

**12.3.4** The expenses of maintenance, operation, repair and replacement of those portions of the Common Areas and Recreational Amenities which are the responsibility of the Association under the provisions of the Declaration;

**12.3.5** The expenses of maintenance, operation, repair and replacement of other amenities and facilities serving the Subdivision, the maintenance, operation, repair and replacement of which the Board from time to time determines to be in the best interest of the Association;

**12.3.6** The expenses of the Architectural Review Board which are not defrayed by plan review charges;

**12.3.7** The expense for conducting recreational, cultural or other related programs for the benefit of the Owners and their families, tenants, guests and invitees;

**12.3.8** Ad valorem real and personal property taxes assessed and levied against the Common Areas;

**12.3.9** Such other expenses as may be determined from time to time by the Board of Directors of the Association to be Common Expenses, including without limitation taxes and governmental charges not separately assessed against Lots or Multi-Family Areas; and

**12.3.10** The establishment and maintenance of a reasonable reserve fund or funds (a) for maintenance, repair and replacement of those portions of the Common Areas which are the responsibility of the Association and which must be maintained, repaired or replaced on a periodic basis, (b) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (c) to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

**12.4 Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or for any other purpose set forth in the Declaration or the By-Laws of the Association. So long as the total amount of special assessments allocable to each Lot does not exceed Five Hundred and no/100 (\$500.00) Dollars in any one fiscal year, the Board of the Association may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any

Lot to exceed this limitation shall be effective only if such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. Special assessments shall be paid as determined by the Board of Directors, and the Board may permit special assessments to be paid in installments extending beyond the fiscal years in which the special assessment is imposed.

**12.5 Individual Assessments.** Any expenses of the Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests or invitees of any Owner shall be specially assessed against such Owners and their respective Lots. The individual assessments provided for in this Paragraph shall be levied by the Board of Directors and the amount and due date of such assessment so levied by the Board shall be as specified by the Board.

**12.6 Initial Assessment.** At the time of the first sale of each Lot from the Developer or Sub—Developer to an owner, there shall be assessed by the Association and collected from each Owner/purchaser an initial assessment equal to at least two months' assessments for such Lot, to establish and maintain a working capital fund for the use and benefit of the Association. The purpose of such working capital fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire equipment or service deemed necessary by the Association. Such initial assessments shall not be considered as advanced payment of regular assessments.

**12.7 Liens.** All sums assessed against any Lot pursuant to the Declaration, together with court costs, reasonable attorneys' fees, and late charges as provided herein, shall be secured by an equitable charge and continuing lien on such Lot in favor of the Association. Such liens shall be superior to all other liens and encumbrances on such Lot except only for:

(i) liens of ad valorem taxes; and (ii) liens for all sums unpaid on a first priority institutional Mortgage or on any Mortgage to the Developer, or its affiliates, successors or assigns, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument. Notwithstanding the foregoing to the contrary, the subordination of assessments to the lien of such Mortgages shall only apply to such assessments which have become due and payable prior to a foreclosure. All other person(s) acquiring liens or encumbrances on any Lot after the Declaration shall have been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for assessments as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens and encumbrances.

**12.8 Effect of Nonpayment;** Remedies of the Association. Any Assessments of an Owner c: any portions thereof which are not paid when due shall be delinquent. A lien and equitable charge as herein provided for each Assessment shall be attached simultaneously as the same shall become due and payable, and if an Assessment has not been paid within thirty (30) days, the entire unpaid balance of the annual Assessment may be accelerated at the option of the Board and declared due and payable in full. The continuing lien and equitable charge of such Assessment shall include all costs of collection (including reasonable attorneys' fees and court costs) and any other amounts provided or permitted hereunder or by law. In the event that the Assessment remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Article shall be in favor of the Association, and each Owner, by his acceptance of a deed or other conveyance to a Lot, vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such Assessments as a debt and/or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the Assessments provided herein, including by way of illustration but not limitation, nonuse of the Common Areas or abandonment of his Lot, and an Owner shall remain personally liable for Assessments, and late charges which accrue prior to a sale, transfer or other conveyance of his Lot.

In the event that any Lot is to be sold at the time when payment of any Assessment against the Owner of such Lot to the Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the proceeds of such purchase shall, after payment of those sums given priority by S.C. Code Ann. Section 27-31-200 (1976) (whether or not such Lot is a condominium apartment) be applied by the purchaser first to payment of any then delinquent Assessment or installment thereof due to the Association before the payment of any proceeds of purchase to the Owner who is responsible for payment of such delinquent Assessment.

In any voluntary conveyance of any Lot (other than deed in lieu of foreclosure as set forth above), the Grantee shall be jointly and severally liable with the Grantor for all unpaid assessments against Grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the Grantee to recover from the Grantor the amounts paid by the Grantee therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, -nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sums then remaining owing to it.

**12.9 Certificate.** The Treasurer, any Assistant Treasurer or the manager of the Association shall, within ten (10) days of a written request and upon payment of such fee as is from time to time determined by the Board of Directors, furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate in writing signed by the said Treasurer, Assistant Treasurer or manager of the Association setting forth whether the Assessments for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, late charges and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any Assessments stated therein to have been paid.

**12.10 Date of Commencement of Annual Assessments.** The annual assessments provided for herein shall commence as to each Lot as set forth the Declaration.

### **13. RULE MAKING**

**13.1 Rules and Regulations.** Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Multi-Family Areas and the Common Areas and facilities located thereon, including without limitation the Recreational Amenities. In particular but without limitation, the Board of Directors may promulgate from time to time rules and regulations which shall govern activities which may, in the judgment of the Board of Directors, be environmentally hazardous, such as application of fertilizers, pesticides and other chemicals. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rule or regulation be specifically overruled, cancelled or modified by the Board of Directors or in a regular or special meeting of the Association by the vote of the Owners, in person or by proxy, holding a majority of the total votes in the Association, provided that in the event of such vote, such action must also be approved by the Developer, for so long as the Developer owns any Lot or Lot primarily for

the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Subdivision.

**13.2 Authority and Enforcement.** Subject to the provisions hereof, upon the violation of the Declaration, the By-Laws or any rules and regulations duly adopted hereunder, including without limitation the failure to timely pay any assessments, the Board shall have the power: (i) to impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot, the Owners, occupants or guests of which are guilty of such violation; (ii) to suspend an Owner's right to vote in the Association; or (iii) to suspend an Owner's right (and the right of such Owner's family, guests and tenants and of the co-Owners of such Owner and their respective families, guests and tenants) to use any of the Recreational Amenities, and the Board shall have the power to impose all or any combination of these sanctions. An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests or tenants or by his Owners or the family, guests or tenants of his Owners or the family, guests or tenants of his Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

**13.3 Procedure.** Except with respect to the failure to pay assessments, the Board shall not impose a fine, suspend voting rights or infringe upon or suspend any other rights of an owner or other occupant of the Subdivision for violations of the Declaration, By-Laws or any rules and regulations for the Association, unless and until the following procedure is followed:

**13.3.1** Written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violation specifying:

**13.3.1.1** The alleged violation;

**13.3.1.2** The action required to abate the violation; and

**13.3.1.3** A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

**AMENDED DEC. 20, 2006** ~~13.3.2~~ Within two (2) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation

~~subsequently occurs, the Board may serve such Owner with written notice of a hearing to be held by the Board in executive session.~~

~~The notice shall contain:~~

~~13.3.2.1 The nature of the alleged violation;~~

~~13.3.2.2 The time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;~~

~~13.3.2.3 An invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and~~

~~13.3.2.4 The proposed sanction to be imposed~~

**AMENDED DEC 20, 2006** ~~13.3.3 The hearing shall be held in executive session of the Board of Directors pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.~~

**13.4 Enforcement.** Each Owner shall comply strictly with the By-Laws and the published rules and regulations of the Association adopted pursuant to the Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the Declaration and in the deed or other instrument of conveyance to his Lot, if any. Failure to comply with any of the same shall be grounds for imposing fines, for suspending voting rights or rights of use in and to the Recreational Amenities, or for instituting an action to recover sums due, for damages and/or for injunctive relief, such actions to be maintainable by the Developer, the Board of Directors on behalf of the Association or, in a proper case, by an aggrieved Owner. Should the Developer or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of the Declaration, the By-Laws and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately

be compensated by recovery of damages, and all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure or omission on the part of the Developer, the Association or any aggrieved Owner in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whomsoever against the Developer or the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any person under the provisions of the Declaration, the By-Laws or any rules and regulations of the Association, however long continued.

**14. DEFINITIONS**

All terms defined in the Declaration shall have the same meaning in these By-Laws as in the Declaration.

**15. CONFLICTS**

In the event of any conflict between the provisions of the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and the provisions of these By-Laws, the provisions of the Declaration shall control.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

**AMENDMENT TO DECLARATION OF  
COVENANTS AND RESTRICTIONS FOR  
BRICKYARD PLANTATION**

WHEREAS, the Declaration of Covenants and Restrictions for Brickyard Plantation recorded in Book M199, page 708 of the RMC Office for Charleston County reserve to the Developer (Brickyard Plantation, a South Carolina Limited Partnership), the descretion to subject property described in "Exhibit B" to said Declaration to the Covenants and Restrictions for Brickyard Plantation;

WHEREAS, the Developer, Brickyard Plantation, a South Carolina Limited Partnership is desirous of subjecting property described in said Exhibit B to said Covenants and Restrictions;

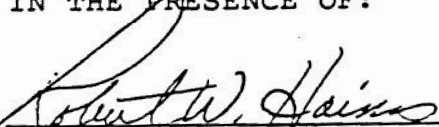
NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the Undersigned, BRICKYARD PLANTATION, A SOUTH CAROLINA LIMITED PARTNERSHIP, being the Owner of Tracts Ten and Eleven which are more fully represented and delineated on a plat entitled "A Boundary Survey of Tracts 10 & 11", A 47.458 Acre Tract, Being a Portion of Brickyard Plantation, Owned by Brickyard Plantation, a S. C. Limited Partnership", such plat being made by Southeastern Surveying, Inc., recorded in the RMC Office for Charleston County in Plat Book EA at page 659 , does hereby declare Tracts Ten and Eleven shown on said plat shall be bound and covered by:

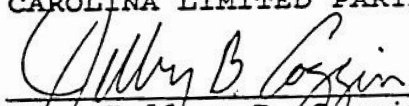
Declaration of Covenants, and Restrictions, for Brickyard Plantation dated January 4, 1991 and recorded January 7, 1991 in Book 14199, Page 708 of the R.M.C. Office for Charleston County.

IN WITNESS WHEREOF, BRICKYARD PLANTATION, A SOUTH CAROLINA LIMITED PARTNERSHIP has caused these presents to be executed this 7th day of July, 1995.

IN THE PRESENCE OF:

BRICKYARD PLANTATION, A SOUTH CAROLINA LIMITED PARTNERSHIP

  
\_\_\_\_\_  
Witness


  
\_\_\_\_\_  
By: Jeffrey B. Coggin  
Its: President

  
\_\_\_\_\_  
Witness

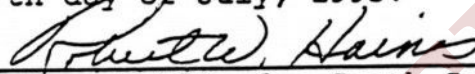
BK P 257PG585

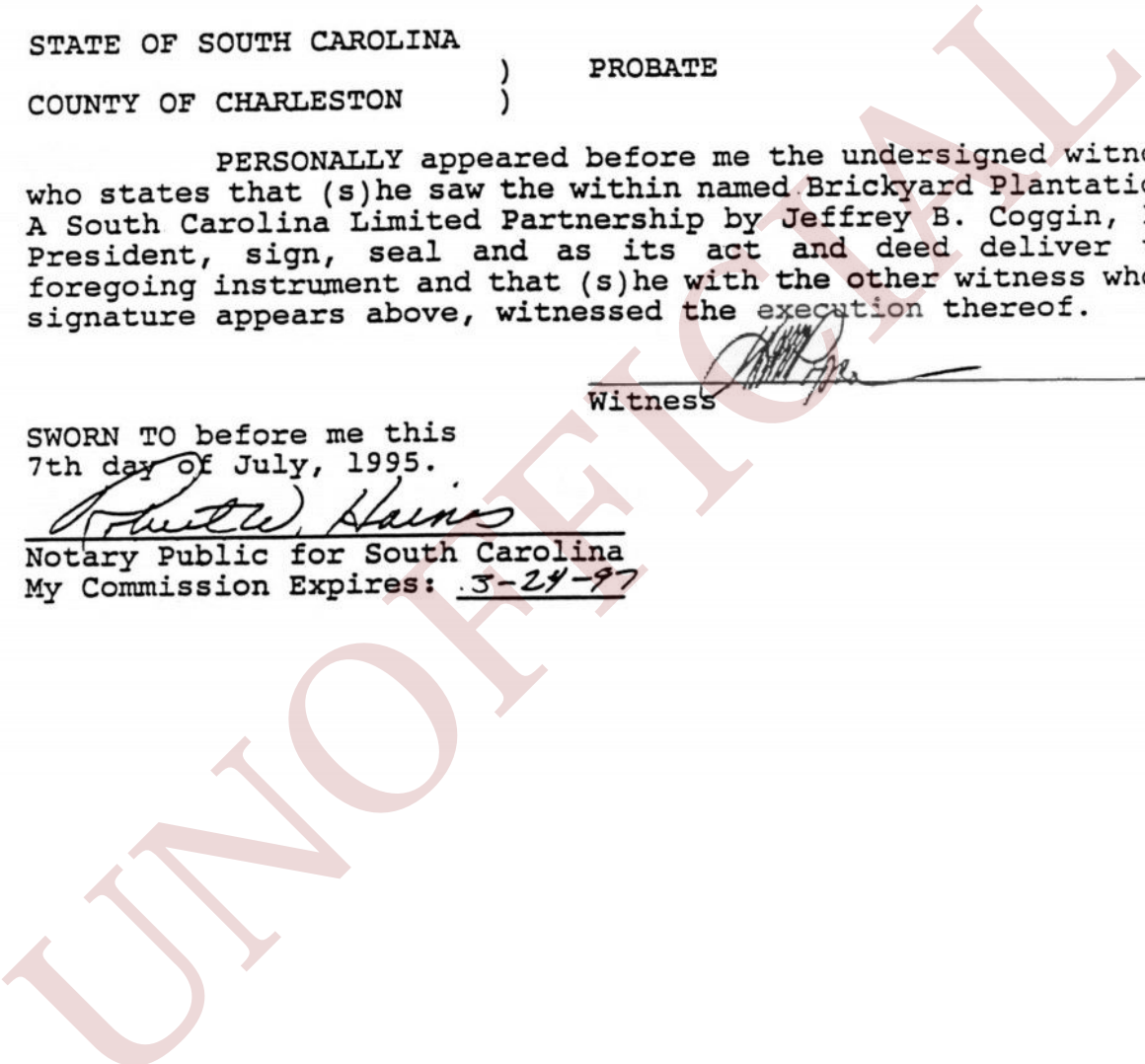
STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON ) PROBATE

PERSONALLY appeared before me the undersigned witness who states that (s)he saw the within named Brickyard Plantation, A South Carolina Limited Partnership by Jeffrey B. Coggin, Its President, sign, seal and as its act and deed deliver the foregoing instrument and that (s)he with the other witness whose signature appears above, witnessed the execution thereof.

  
\_\_\_\_\_  
Witness

SWORN TO before me this  
7th day of July, 1995.

  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: 3-24-97



STATE OF SOUTH CAROLINA	)	AMENDMENT TO DECLARATION OF
	)	COVENANTS AND RESTRICTIONS OF
	)	THE BY-LAWS OF BRICKYARD
	)	PLANTATION PROPERTY OWNERS
COUNTY OF CHARLESTON	)	ASSOCIATION, INC (EXHIBIT C)

THIS Amendment to By-Laws of Brickyard Plantation Property Owners Association Inc. made and entered into this **20th day of December, 2006**, by Brickyard Plantation Property Owners Association, Inc., a South Carolina eleemosynary corporation (“Association”)

**WITNESSETH:**

WHEREAS, the By-Laws of Brickyard Plantation Property Owners Association, Inc. were recorded in the RMC Office for Charleston County in Book M-199, Page 708 (“By-Laws); and

WHEREAS, pursuant to Paragraph Nine (9) of the By-Laws, the By-Laws may be amended as proposed by a majority of the Board of Directors at a special joint meeting of the Board of Directors and Members of the Association upon the affirmative vote of a majority of the total votes at such meeting at which a quorum is present; and

WHEREAS, at a special joint meeting of the Board of Directors and members of the Association held December 20, 2006 at which a quorum was present, a majority of the total votes at such meeting voted affirmatively to amend the By-Laws as hereinafter set forth.

NOW, THEREFORE, the By-Laws are amended as follows:

By making certain changes to portions of Paragraph 13.3 of the By-Laws entitled “**Procedure**” such that subparagraphs 13.3.2 and 13.3.3 would read as follows:

**13.3.2 Alleged Violations Without Abatement**

If the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice of a hearing to be held by the Board in executive session. The notice shall contain:

- 13.3.2.1** The nature of the alleged violation;
- 13.3.2.2** The time and place of the hearing, which time shall be not less than ten (10) days from the giving of notice;
- 13.3.2.3** An invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and
- 13.3.2.4** The proposed sanction to be imposed.

**13.3 Hearing before the Board of Directors**

The hearing shall be held in executive session of the Board of Directors pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any. If, however, the same or similar violation occurs after the hearing, the Board may impose the sanction effective the date of Notice of the recurring violation. A second hearing will not be required in order to levy fines against the violator.

EXCEPT AS AMENDED HEREIN, all other terms and conditions of the By-Laws shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned President and Secretary of BRICKYARD PLANTATION PROPERTY OWNERS ASSOCIATION, INC. have set their hands and seals this 20th day of December, 2006.

WITNESSES:

BRICKYARD PLANTATION PROPERTY OWNERS ASSOCIATION, INC.

Joanna Hooper  
CYJ

By:

Stephen Wright  
Stephen Wright  
Its: President

Joanna Hooper  
CYJ

By:

Ed Langendorf  
Ed Langendorf  
Its: Secretary

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

BK A 615PG799

PERSONALLY appeared before me, the undersigned witness, and made oath that (s)he saw the within named BRICKYARD PLANTATION PROPERTY OWNERS ASSOCIATION, INC. by Stephen Wright, its President, and Ed Langendorfer, its Secretary, sign, seal and as its act and deed, deliver the within written instrument, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Joanna Hayes

SWORN to before me this  
20th day of December, 2006.

CKJ  
Notary Public for South Carolina  
My Commission Expires: May 8, 2016

CHASITY N. KIRBY  
NOTARY PUBLIC  
SOUTH CAROLINA  
MY COMM. EXPIRES MAY 8, 2016



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

CERTIFICATION

We, the undersigned Stephen Wright, as President, and Ed Langendorfer, as Secretary, of Brickyard Plantation Property Owners Association, Inc., respectively, do hereby certify that at least a majority of the total votes at a special meeting of the Board of Directors and members of the Association held December 20, 2006, at which a quorum was present, voted in favor of the foregoing amendment.

BRICKYARD PLANTATION PROPERTY OWNERS ASSOCIATION, INC.

Joanna Hayes  
CKJ

BY: [Signature]  
Stephen Wright  
Its: President

Joanna Hayes  
CKJ

BY: [Signature]  
Ed Langendorfer  
Its: Secretary

BK A 615PG800

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON) PROBATE

PERSONALLY appeared before me, the undersigned witness, and made oath that (s)he saw the within named BRICKYARD PLANTATION PROPERTY OWNERS ASSOCIATION, INC., by and through Stephen Wright, its President, and Ed Langendorfer, its Secretary, sign, seal and as its act and deed, sign the within Certification; and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

*Joanna Hayes*  
\_\_\_\_\_

SWORN to before me this  
20th day of December, 2006.

*CKJ*  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: *May 8, 2016*

CHASITY N. KIRBY  
NOTARY PUBLIC  
SOUTH CAROLINA  
MY COMM. EXPIRES MAY 8, 2016

