
MASTER DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS

FOR

AVERY LAKE COMMUNITY

Return to:
Stephen R. McCrae, Jr.
Kennedy Covington Lobdell & Hickman, L.L.P.
P.O. Box 11429
Rock Hill, SC 29731

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1	2
1.01. <u>Additional Land</u>	2
1.02. <u>Appraisal</u>	2
1.03. <u>Articles</u>	2
1.04. <u>Association</u>	2
1.05. <u>Board</u>	3
1.06. <u>Bylaws</u>	3
1.07. <u>City</u>	3
1.08. <u>Common Area</u>	3
1.09. <u>Completion of Sales</u>	3
1.10. <u>Condominium Unit</u>	3
1.11. <u>County</u>	3
1.12. <u>Declarant</u>	3
1.13. <u>Declaration</u>	3
1.14. <u>Insurance Trustee</u>	3
1.15. <u>Lot</u>	4
1.16. <u>Member</u>	4
1.17. <u>Mortgage</u>	4
1.18. <u>Mortgagee</u>	4
1.20. <u>Notice and Opportunity for Hearing</u>	4
1.21. <u>Owner</u>	4
1.22. <u>Person</u>	4
1.23. <u>Phase</u>	4
1.24. <u>Phase 1</u>	4
1.26. <u>Project</u>	5
1.27. <u>Property</u>	5
1.29. <u>Rules and Regulations</u>	5
1.31. <u>Supplemental Declaration</u>	5
1.32. <u>Voting Power</u>	5
 ARTICLE 2	 6
2.01. <u>Submission</u>	6
2.02. <u>Incorporation of Declaration Into Instruments</u>	6
2.03. <u>Term</u>	6
 ARTICLE 3	 6
3.01. <u>Compliance with Declaration and Other Documents</u>	6

3.02. <u>Resolution of Conflicts Between Documents</u>	6
ARTICLE 4	7
4.01. <u>Common Area Easements</u>	7
4.02. <u>Delegation</u>	7
4.03. <u>Tenants</u>	8
4.04. <u>Reciprocal Easements</u>	8
4.05. <u>Utility Easements</u>	9
4.06. <u>No Subdivision of Lots; No Time-Sharing</u>	9
4.07. <u>Sale of Common Area</u>	9
4.08. <u>Rules and Regulations</u>	9
4.09. <u>Enforcement</u>	10
ARTICLE 5	10
5.01. <u>Dedications</u>	10
ARTICLE 6	11
6.01. <u>Maintenance by Association</u>	11
6.02. <u>Maintenance by Owners</u>	11
ARTICLE 7	12
7.01. <u>Use</u>	12
7.02. <u>Unlawful Activity</u>	13
7.03. <u>Parking</u>	13
7.04. <u>Signs and Curtains</u>	13
7.05. <u>Antennas</u>	14
7.06. <u>Laundry</u>	14
7.07. <u>Fences</u>	14
7.08. <u>Pets</u>	14
7.09. <u>Trash and Vegetation</u>	15
7.10. <u>Wells</u>	15
7.11. <u>Nuisance</u>	15
7.12. <u>Building Setbacks</u>	15
7.13. <u>Temporary Structures</u>	15
7.14. <u>Floor Space</u>	15
7.15. <u>Accessory Structures</u>	16
7.16. <u>Unintentional Violations</u>	16
7.17. <u>Above Ground Pools</u>	16
7.18. <u>Architectural Requirements</u>	16
7.19. <u>Exercise Equipment</u>	16
7.20. <u>Declarant's Rights</u>	16
7.21. <u>Right to Enter</u>	17

ARTICLE 8	17
8.01. <u>Governing Body</u>	17
8.02. <u>Membership</u>	17
8.03. <u>Voting</u>	17
8.04. <u>Commencement of Voting Rights</u>	18
8.05. <u>Declarant's Voting Rights</u>	18
 ARTICLE 9	18
9.01. <u>Covenant to Pay Assessments; Lien</u>	18
9.02. <u>Personal Obligation</u>	19
9.03. <u>Use of Assessments</u>	19
9.04. <u>Reserve Funds</u>	20
9.05. <u>Regular Assessments</u>	21
9.06. <u>Special Assessments</u>	21
9.07. <u>Assessment as Remedy</u>	22
9.08. <u>Allocation of Assessments</u>	22
9.09. <u>Commencement of Assessments</u>	22
9.10. <u>Revised Assessments</u>	22
9.11. <u>Delinquent Assessments; Fines</u>	22
 ARTICLE 10	23
10.01. <u>Duty to Maintain Insurance</u>	23
10.02. <u>Proceeds of Insurance</u>	24
 ARTICLE 11	24
 ARTICLE 12	26
12.01. <u>Eminent Domain</u>	26
12.02. <u>Repair, Restoration, Reconstruction</u>	27
 ARTICLE 13	27
13.01. <u>Inspection of Improvements</u>	27
 ARTICLE 14	28
14.01. <u>Architectural Control</u>	28
14.02. <u>Reconstruction of Residences</u>	28
14.03. <u>Declarant's Rights May be Assigned</u>	29

EXHIBITS

- A Description of Phase 1
- B Description of Additional Land
- C Description of Phase 1A

ARTICLE 15	29
15.01. <u>Interpretation</u>	29
15.02. <u>Notices</u>	29
15.03. <u>Mortgagee's Right to Information</u>	29
15.04. <u>Damage and Destruction Rights</u>	29
15.05. <u>Condemnation Rights</u>	30
15.06. <u>Right of First Refusal</u>	30
15.07. <u>Subordination</u>	30
15.08. <u>Payments by Mortgagees</u>	30
15.09. <u>Professional Management</u>	31
 ARTICLE 16	 31
16.01. <u>Right to Annex</u>	31
16.02. <u>Procedure for Annexation</u>	31
16.03. <u>Annexed Property</u>	31
 ARTICLE 17	 32
17.01. <u>Power to Settle Claims</u>	32
17.02. <u>Independence of Provisions</u>	32
17.03. <u>Notices</u>	32
17.04. <u>Headings</u>	33
17.05. <u>Enforcement</u>	33
17.06. <u>Equal Opportunity Housing</u>	33
17.07. <u>HUD and VA Approval</u>	33
17.08. <u>Exhibit</u>	33
17.09. <u>Amendments</u>	33

MASTER DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
 AVERY LAKE COMMUNITY

This Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community (this "Declaration") is made as of the _____ day of _____, 1996 by COMMUNITY HOUSING, INC., a South Carolina public purpose nonprofit corporation ("Declarant") with reference to the following facts:

RECITALS

A. Declarant is the owner of certain real property ("Phase 1") in York County, South Carolina, which is described in Exhibit A attached hereto and made a part hereof.

B. Declarant plans to acquire from Close Family Real Estate Partnership No. 1 certain real property (the "Additional Land") in York County, South Carolina, located adjacent to Phase 1 and described in Exhibit B attached hereto and made a part hereof. After acquisition of any portion of such Additional Land, Declarant may, in its sole discretion and without obligation, by one or more supplemental filings pursuant to Article 16 hereof, make all or any portion of the Additional Land subject to this Declaration and part of this Project (as defined in Section 1.26 hereof). Declarant intends to improve the Project as a planned affordable housing community by developing the Project in a number of Phases. In accordance with that plan of development, portions of the Project will be divided into lots appropriate for single-family dwellings, including townhouses, zero-lotline houses and patio homes, and other portions of the Project will be divided into sites for multi-family housing, including apartments and condominiums. Also, the Declarant intends to set aside certain portions of the Project for recreational, community, and other common use, and at least one site for a neighborhood retail store for the convenience of the residents of the Project.

C. Declarant acquired from Close Family Real Estate Partnership No. 1 two adjoining tracts comprised of a parcel of 4.748 acres and an access parcel of 1.867 acres lying on Steele Road ("Phase 1A"), also located adjacent to Phase 1 and described in Exhibit C attached hereto and made a part hereof. Declarant conveyed Phase 1A to Avery Lake Limited Partnership, a South Carolina limited partnership of which Declarant is general partner, for the purpose of its development into an affordable housing 48-unit apartment complex ("Avery Lake Apartments").

D. Declarant intends (i) to develop Phase 1 under a common scheme and general plan for the improvement and maintenance of Phase 1, (ii) to incorporate Phase 1A into that common scheme and general plan with the consent of Avery Lake Limited Partnership, and (iii) to the extent determined by Declarant from time to time in the future, to develop and incorporate all or any part of the Additional Land, all as part of an affordable housing community.

E. For this purpose Declarant intends to subject Phase 1 (and so much of the Additional Land as shall, from time to time, be annexed to the Project in accordance with the provisions of this Declaration) to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in this Declaration, for the benefit of the Project and the future owners and dwellers thereof.

F. Avery Lake Limited Partnership also intends to subject Phase 1A to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in this Declaration, for the benefit of the Project and the future owners and dwellers thereof, by executing the attached Consent to Imposition of Declaration.

G. Declarant deems it desirable for the management and administration of the planned affordable housing development and for the preservation of the values and amenities of the planned development to incorporate the Avery Lake Community Association, Inc. as a nonprofit corporation under the laws of the State of South Carolina for the purposes of administering and enforcing the limitations, covenants, conditions, restrictions, easements, liens and equitable servitudes created by or imposed in accordance with the provisions hereof, collecting and disbursing the assessments and charges imposed in accordance with the provisions hereof, and exercising such other powers as may be authorized by this Declaration, by law, or by its Articles of Incorporation and Bylaws.

NOW, THEREFORE, Declarant hereby declares as follows:

ARTICLE 1 DEFINITIONS

The following terms shall have the following meanings when used in this Declaration:

1.01. Additional Land. "Additional Land" means the real property described in Exhibit B attached hereto, all or any portion of which may from time to time be made subject to this Declaration pursuant to the provisions of Article 16 hereof.

1.02. Appraisal. "Appraisal" means an appraisal by a member of the Appraisal Institute of the National Association of Real Estate Boards (or, if such Institute is not then in existence, a like organization).

1.03. Articles. "Articles" means the Articles of Incorporation of the Association, including any amendments thereto.

1.04. Association. "Association" means the Avery Lake Community Association, Inc., a South Carolina non-profit mutual benefit corporation, its successors and assigns.

1.05. Board. "Board" means the Board of Directors of the Association.

1.06. Bylaws. "Bylaws" means the Bylaws of the Association, including any amendments thereto.

1.07. City. "City" means the Town of Fort Mill in York County in the State of South Carolina.

1.08. Common Area. "Common Area" means all real property owned by or held in trust for the benefit of the Association for the common use and enjoyment of its members, but does not include real property over which the Association has only an easement.

1.09. Completion of Sales. "Completion of Sales", means the earlier of (1) conveyance of all Lots in the Project to purchasers other than a successor Declarant hereunder or (2) expiration of the later of (x) ten (10) years from the closing of the first sale of a Lot to a purchaser other than a successor Declarant hereunder or (y) two (2) years from the conveyance of the first Lot in the Phase most recently made subject to this Declaration to a purchaser other than a successor Declarant hereunder; provided, however, if Declarant is delayed in developing the Project, constructing improvements or selling Lots and dwellings due to strikes or work stoppages; shortages of materials, supplies, fuel, power, or energy; moratoria or suspensions on issuance of land use permits and approvals or affecting the availability of water, sewer, power or other utilities or necessary services; inclement weather; civil strife; major disaster or other cause beyond Declarant's reasonable control, said ten (10) year period shall be extended by the period of any such delay.

1.10. Condominium Unit. "Condominium Unit" means each completed Residential Unit of any horizontal property regime established by Master Deed pursuant to the South Carolina Horizontal Property Act, as may be amended, or any successor or similar statutory scheme thereto.

1.11. County. "County" means York County in the State of South Carolina.

1.12. Declarant. "Declarant" means Community Housing Inc., a South Carolina public purpose nonprofit corporation, and any successor or assign to whom Community Housing, Inc. assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the official records of the County.

1.13. Declaration. "Declaration" means this Declaration and all amendments or supplements hereto.

1.14. Insurance Trustee. "Insurance Trustee" means a national banking association or title company licensed to do business in South Carolina as may be designated by the Association to hold and disburse funds as trustee for the Association and the Owners, as provided in this Declaration.

1.15. Lot. "Lot" means any numbered lot and any other unnumbered parcel or plot of land, including the parcel of 4.748 acres comprising a part of Phase 1A as described on

Exhibit C, together with any improvements thereon, as shown upon any recorded final subdivision map covering the Project or a part thereof, which is not a dedicated street or Common Area.

1.16. Member. "Member" means a member of the Association.

1.17. Mortgage. "Mortgage" means a mortgage or deed of trust which constitutes a first lien upon a Lot or a Residential Unit given to a bank, savings and loan association or other institutional lender for the purpose of securing indebtedness incurred to purchase or improve a Lot or Residential Unit.

1.18. Mortgagee. "Mortgagee" means the holder of the beneficial interest in any Mortgage.

1.19. Multi-Family Lot. "Multi-Family Lot" means a Lot designated on any recorded final subdivision map covering the Project or a part thereof for multi-family residential use only, including apartments and condominiums.

1.20. Notice and Opportunity for Hearing. "Notice and Opportunity for Hearing" means giving at least fifteen (15) days' prior notice of a proposed action and the reasons therefor, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the proposed action.

1.21. Owner. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot or Residential Unit, and shall include Declarant as to any Lot or Residential Unit owned by Declarant and the contract vendee (buyer) under a contract of sale. "Owner" shall not include any person or entity who holds an interest in a Residential Unit merely as security for the performance of an obligation or as a tenant.

1.22. Person. "Person" means an individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.23. Phase. "Phase" means each of Phase 1, Phase 1A and all the real property covered by a Supplemental Declaration actually recorded pursuant to Section 16.02 of this Declaration.

1.24. Phase 1. "Phase 1" means the real estate described on Exhibit A hereto, which comprises 30.871 acres.

1.25. Phase 1A. "Phase 1A" means the real estate described on Exhibit C hereto, which comprises the adjoining parcels of 4.748 acres and 1.867 acres, respectively.

1.26. Project. "Project" means the planned development of mixed uses providing affordable housing and certain amenities, known as "Avery Lake Community", which shall be or is developed and constructed or is in the process of being developed and constructed on part or all of the Property, consisting of Phase 1, Phase 1A and any additional Phases of real property

made subject to this Declaration by recordation of a Supplemental Declaration pursuant to Section 16.02 of this Declaration.

1.27. Property. "Property" means collectively Phase 1, Phase 1A and the real property described in Exhibit B attached hereto. Exhibit B describes the Additional Land.

1.28. Residential Unit. "Residential Unit" means, (i) with respect to a Single-Family Lot, the entire Single-Family Lot, (ii) with respect to a Multi-Family Lot upon which apartments or condominiums have not been constructed to completion, the entire Multi-Family Lot, and (iii) with respect to a Multi-Family Lot upon which apartments or condominiums have been constructed to completion, each single entire apartment or Condominium Unit thereon.

1.29. Rules and Regulations. "Rules and Regulations" means reasonable and nondiscriminatory rules and regulations as may be adopted from time to time by the Association, provided notice of such rules and regulations has been given to Owners in accordance with the requirements of this Declaration.

1.30 Single-Family Lot. "Single-Family Lot" means a Lot designated on any recorded final subdivision map covering the Project or a part thereof for single-family residential use only, including conventional single-family homes, townhouses, zero-lotline homes, and patio homes.

1.31. Supplemental Declaration. "Supplemental Declaration" means a supplemental declaration of covenants, conditions and restrictions which shall be recorded for the purposes of annexing additional property, including all or any portion of the Additional Land, to the Project and causing such property to be subject to the scheme of covenants, conditions and restrictions contained in this Declaration.

1.32. Voting Power. "Voting Power" means the total number of votes held by Members (in a class of Members of the Association, or of Members other than Declarant, as the case may be) whose membership at the time the determination of voting power is made has not been suspended in accordance with the provisions of this Declaration or the Rules and Regulations. Voting Power shall be computed by including all such Members whether or not such Members are present in person or by proxy at a meeting. All voting specifications and requirements shall apply to the entire Project.

ARTICLE 2 SUBMISSION AND TERM

2.01. Submission. The Project shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to each and all of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein, all of which are declared to be (i) in furtherance of a common scheme and general plan for the development, improvement and maintenance of the Project and (ii) for the purpose of enhancing, maintaining and protecting the value, desirability

and attractiveness of the Project. All of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein shall run with, be binding upon and inure to the benefit of the Project, shall be binding on and inure to the benefit of each and every person having or acquiring any right, title or interest in the Project, shall be binding upon and inure to the benefit of the successors in interest of such persons, and shall inure to the benefit of the Association, its successors and assigns.

2.02. Incorporation of Declaration Into Instruments. Any deed or other instrument by which a Lot is conveyed shall be subject to the provisions of this Declaration and shall be deemed to incorporate the provisions of this Declaration, whether or not the deed makes reference hereto.

2.03. Term. This Declaration shall remain in force for a term of twenty (20) years from the date this Declaration is recorded, after which time it shall be automatically extended for successive periods of ten (10) years, unless sooner terminated by the affirmative vote of seventy-five percent (75%) of the total Voting Power of the Association and the written consent of seventy-five percent (75%) of the Mortgagees.

ARTICLE 3 COMPLIANCE WITH MANAGEMENT DOCUMENTS

3.01. Compliance with Declaration and Other Documents. Each Owner, resident or tenant of a Lot or a Residential Unit, as the case may be, shall comply with the provisions of this Declaration, the Bylaws, Rules and Regulations duly adopted by the Association, decisions and resolutions of the Association and its duly authorized representative, all as may be amended from time to time, and failure to comply with any such provisions, decisions or resolutions, shall be grounds for an action to recover sums due for damages or for injunctive relief.

3.02. Resolution of Conflicts Between Documents. Each Owner covenants and agrees that the administration of the Project shall be in accordance with the provisions of this Declaration. the Articles, the Bylaws and Rules and Regulations duly adopted by the Association. If there are any matters of conflict or inconsistencies in the Bylaws, Articles and this Declaration, then the provisions of the Declaration shall prevail. In the event that anything shown on a recorded final subdivision map for all or any portion of the Project is in any way inconsistent with provisions of this Declaration, then the provisions of this Declaration shall prevail. If a dispute arises among Owners in regard to the administration of the Project, then the provisions of this Declaration shall prevail.

ARTICLE 4 PROPERTY RIGHTS

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

(A) The right of the Association, after Notice and Opportunity for Hearing, to limit the number of guests of an Owner;

(B) The right of the Association to grant easements and to dedicate or otherwise convey all or any part of the Common Area as provided in this Declaration;

(C) The right of the Association to borrow money to improve, repair, restore and reconstruct the Common Area and to place liens on the Common Area and otherwise encumber the Common Area for such purposes, subject to the approval of Members and Mortgagees as otherwise provided in this Declaration;

(D) The right of the Association to adopt Rules and Regulations governing use and enjoyment of the Common Area; and

(E) Easements for ingress, egress, use and enjoyment over, in, to and throughout the Common Area for the benefit of Declarant, as more fully set forth hereinbelow.

4.02. Delegation. Any Owner may delegate his rights of use and enjoyment of the Common Area and any facilities thereon to the members of his family or household residing in any Residential Unit owned by Owner and to his guests and invitees while he is in possession of such Residential Unit, subject, however, to reasonable restrictions imposed by the provisions of this Declaration, the Bylaws and the Rules and Regulations. Provided the notice required by section 4.03 of this Declaration has first been given to the Association, a tenant of an Owner, while residing in such Owner's Residential Unit, shall be entitled to use and enjoy the Common Area and any facilities thereon and to delegate rights of use and enjoyment in the same manner as if such tenant were the Owner of such Residential Unit. No such delegation shall release an Owner from his obligations hereunder, including, without limitation, the obligation to pay regular and special assessments.

Upon request, each Owner or tenant shall notify the Secretary of the Association of the names of all persons to whom such Owner or tenant has delegated any rights of use and enjoyment of the Common Area and the relationship that each such person bears to such Owner or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as the rights of Owners.

4.03. Tenants.

(A) Any Owner who rents or leases his Single-Family Lot or his Condominium Unit to a tenant shall not be entitled to use and enjoy any facilities on the Common Area during the period such Single-Family Lot or Condominium Unit is occupied by such tenant. Any Owner of a Multi-Family Lot shall continue to be entitled to use and enjoy the facilities on the Common Area during the occupancy of a tenant of any Residential Unit, other than a Condominium Unit, upon such Multi-Family Lot.

(B) No Owner shall lease or rent less than an entire Residential Unit and no more than one family shall live in any one Residential Unit. Except as provided in section 7.19, the Residential Units shall not be leased or rented for hotel or transient purposes and no rental agreement or lease shall be made for a period of less than sixty (60) days. Subject to the foregoing restrictions, Owners shall have the right to lease or rent their Residential Units, provided that any lease or rental agreement between an Owner and a tenant shall be in writing and shall provide that it is in all respects subject to the provisions of this Declaration, the Bylaws, and the Rules and Regulations and that any failure by the tenant to comply with such provisions shall be a default under the rental agreement or lease. However, the failure of any lease or rental agreement to so provide shall not excuse any person from complying with the provisions of this Declaration, the Bylaws, and the Rules and Regulations.

(C) In the event an Owner shall rent or lease his Residential Unit such Owner shall immediately give to the Association in writing:

- (1) the name of the tenant and the Residential Unit rented or leased;
- (2) the current address of such Owner;
- (3) a true and complete copy of the lease or rental agreement; and
- (4) the certification of the Owner that the tenant has been given a copy of this Declaration, any applicable amendments, the Bylaws and the Rules and Regulations and that such tenant has been advised of any obligations he may have thereunder as a tenant.

(D) In no event shall any lease or rental agreement release or relieve an Owner from the obligation to pay regular and special assessments to the Association, regardless of whether the obligation to pay assessments has been assumed by the tenant in such lease or rental agreement.

4.04. Reciprocal Easements. There shall be reciprocal appurtenant easements between each Lot and such portion or portions of the Common Area as may be adjacent thereto and between adjacent Lots for the flow of rainwater from gutters and downspouts; provided, however, that no such easement shall unreasonably interfere with the use and enjoyment of the Common Area or any adjacent Lot. If any Common Area or Lot encroaches upon a Lot because of the placement, construction, reconstruction, repair, movement, settling or shifting of the improvements constructed, reconstructed or repaired in accordance with the provisions of this Declaration, an easement for the encroachment and for its maintenance shall exist to a distance of not more than one (1) foot as measured from any point on the common boundary between the Common Area and the Lot or between Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, that in no event shall such an easement exist for willful encroachments. If any Lot encroaches upon the Common Area as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Project, an easement for the encroachment and for its maintenance shall exist so long as it remains.

4.05. Utility Easements. Any easements for installation, maintenance, use or repair of public utilities, cable television or drainage facilities which are dedicated on any final subdivision map of the Project or created in some other way shall be kept free of buildings, and within such easements as so indicated no structure shall be placed or permitted to remain which may damage or interfere with the installation, maintenance, use or repair of such public utilities, cable television or drainage facilities, or which may damage, interfere, or change the direction or flow of drainage in the easements. All such easements at all times shall be accessible to Declarant until the Project is completed and at all times shall be accessible to all persons installing, repairing, using or maintaining such utilities, cable television and drainage facilities. The easement area for each Lot and all improvements in it shall be maintained continuously by the Owner of such Lot, except for those improvements for which a public authority or utility company is responsible. Declarant reserves the right to create and impose additional easements or right-of-ways over unsold Lot(s) for street, drainage, and utility installation purposes by the recording of appropriate instruments and such shall not be construed to invalidate any of these covenants.

4.06. No Subdivision of Lots; No Time-Sharing. There shall be no further subdivision or partition of any Lot nor shall any Owner or any other person acquiring any interest in a Lot seek any partition or subdivision thereof. There shall be no time-sharing or other co-ownership which allows multiple Owners sequential possessory interests in a Residential Unit.

4.07. Sale of Common Area. Except as otherwise provided in this Declaration, no sale, transfer, dedication, hypothecation, partition, subdivision, abandonment, release or alienation of the Common Area shall occur or be valid, whether by act or omission of the Association, without the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Members other than the Declarant.

4.08. Rules and Regulations. The Association shall have the right to adopt, publish and enforce Rules and Regulations governing the Project, the use and enjoyment of the Common Area and the personal conduct thereon of the Owners, their guests, invitees, members of their families or households and tenants, provided the Rules and Regulations are approved (i) if a two-class voting structure is in effect, by the vote or written consent of a majority of the total Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of the total Voting Power of the Association. The Members may amend any such Rules and Regulations adopted by the Board at any regular or special meeting of Members called for such purpose by (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association. Such Rules and Regulations shall be reasonable, shall not discriminate against Declarant (or have an adverse impact on Declarant or upon the sale of Lots or the construction of improvements thereon), and must be consistent with this Declaration, the Articles and the Bylaws. Rules and Regulations shall not be effective until written notice thereof has been given by mailing a copy of the Rules and Regulations, postage prepaid, at least ten (10) days before the effective date of the Rules and Regulations, to each Owner addressed to the Owner's address last appearing in the books of the Association.

4.09. Enforcement. The Association shall have the right, after Notice and Opportunity for Hearing, to levy fines for infraction of the provisions of this Declaration or the Rules and Regulations, provided (i) the Member shall have been warned in writing of a previous infraction within the preceding one (1) year, and (ii) the fine conforms to the provisions of section 9.11.

ARTICLE 5

COMMON AREA EASEMENTS AND RIGHTS OF WAY; ENCUMBRANCES

5.01. Dedications. The Association shall have the power to grant easements in, on, over, through and across the Common Area for any public or quasi-public improvements or facilities and their appurtenances, including, without limitation, street, sewer, drainage, water, gas and sprinkler improvements and facilities, provided (i) any such easement does not unreasonably interfere with the use and enjoyment of the Common Area or any Lot and (ii) the prior written consent of Declarant shall be obtained so long as Declarant owns any Lot. If ingress or egress to any Lot is through the Common Area, any conveyance or encumbrance of such Common Area is subject to said Lot Owner's easement. Each Owner, by accepting a deed to a Lot, expressly grants to the Association an irrevocable power of attorney for the purpose of granting such easements in, on, over, through and across the Common Area. The President or other duly designated officer of the Association may execute, acknowledge and record in the official records of the County a certificate stating that the Board is the attorney-in-fact for the Owners for the purpose of such grant and that such power of attorney is properly exercisable in accordance with this Declaration. The acts of the Board in exercising its power of attorney shall be conclusively binding on all Owners. The power of attorney herein granted shall include authority to do such acts incidental to such grant and to incur such expenses as may be necessary or convenient in connection therewith. The Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his interest may appear, any and all instruments, certificates and documents, including but not limited to, releases, waivers, deeds, escrow instructions and conveyances of every kind and nature, as may be deemed necessary or convenient for such dedication or grant.

5.02. Encumbrances. The Association shall have the right to borrow money to improve, repair, restore and reconstruct the Common Area for such purposes upon the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Members other than the Declarant.

ARTICLE 6

COMMON AREA AND LOT MAINTENANCE

6.01. Maintenance by Association. The Association shall repair and maintain the Common Area and any improvements, utilities and facilities located on the Common Area and the entrance monument which is to be located partially on Common Area and partially on an easement over one or more Lots, which easement will be in favor of the Association. The Association's maintenance obligation shall arise upon the filing with the Association by

Declarant of a notice of completion of Common Area improvements, or any portion thereof, and the commencement of annual assessments against the Owners.

6.02. Maintenance by Owners. Each Owner, at all times, shall maintain, repair and otherwise be responsible for his Lot and the improvements thereon. Without limiting the generality of the foregoing, and subject to the requirements of section 14.02 of this Declaration, an Owner shall be responsible for replacement and reconstruction of improvements on his Lot required because of damage or destruction by fire or other casualty, and each Owner shall maintain, repair and replace the surface and subsurface drainage facilities and appurtenances located on his Lot as may be necessary to maintain good and proper drainage of the property and other real property in the vicinity, except for such facilities the maintenance of which has been assumed by the City or other governmental entity. If any Owner, after Notice and Opportunity for Hearing, fails to maintain, repair and replace such drainage facilities and appurtenances as required herein, the Association, at the expense of such Owner, shall maintain, repair or replace such drainage facilities and appurtenances at the sole cost and expense of such Owner, and the Board, without the vote or written consent of Members, may levy a special assessment against such Owner to obtain reimbursement therefor as provided in section 9.07.

No building or other structure shall be placed or permitted to remain on any Lot which may damage or interfere with the use, maintenance, repair or replacement of such drainage facilities and appurtenances and no Owner shall do any work, construct any improvements, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Lots or Common Area as established in connection with the approval of the subdivision map or maps applicable to the Project by the City or other governmental agency having jurisdiction, except to the extent such alteration in drainage pattern is approved in writing by the Association and all public authorities having jurisdiction. All such drainage facilities and appurtenances shall at all times be accessible to Declarant until the Project is completed and at all times shall be accessible to the Association and all persons installing, using, maintaining, repairing or replacing such drainage facilities and appurtenances. Declarant may from time to time present for recordation in the official records of the County instruments showing approximate locations of subsurface storm drainage facilities and of subsurface groundwater drainage facilities. If for any reason any such instrument is not accepted for recording, Declarant may deliver such instrument to the Association, and the Association shall maintain the same as part of its permanent records. In either event, each Owner shall be deemed to have notice of the location of such drainage facilities as may be shown in such instrument.

6.03. Negligence. The cost of repair or replacement of any improvement to be maintained and kept in repair by the Association, which repair or replacement is required because of the act or omission of any Owner, shall be the responsibility of and paid for by such Owner.

6.04. Right to Enter. After reasonable notice to the Owner of the occupant, the Association or its agents shall have access over and upon any Lot when necessary in connection with any repair, maintenance, or replacement of improvements for which the Association is responsible or for the enforcement of this Declaration, and each Owner shall accept title to his Lot subject to such right of access of the Association or its agents.

ARTICLE 7
USE RESTRICTIONS

In addition to the restrictions set forth in Article XIV below, the following apply to the Project:

7.01. Use. Except as otherwise provided in this Declaration, each Lot shall be used solely as follows:

(A) Any Lot designated on any recorded final subdivision map of the Project or a part thereof as a Single-Family Lot shall be used exclusively for the construction and occupancy of a residence for a single family, including a conventional single family home, townhouse, zero-lotline home and patio home, and for no other purpose. No structure shall be erected, altered, placed or permitted to remain on any Single-Family Lot exceeding two and one-half (2-1/2) stories in height, and a private garage for not more than three (3) cars and other out buildings incidental to residential use of the Single-Family Lot.

(B) Any Lot designated on any recorded final subdivision map of the Project or a part thereof as a Multi-Family Lot shall be used exclusively for multi-family residences, including apartments and condominiums, and for no other purpose.

(C) Any Lot designated on any recorded final subdivision map of the Project or a part thereof for commercial use shall be used exclusively for retail commercial purposes which are designed primarily for the convenience of the residents of the Project, and shall include, but not be limited to, a convenience or country store with automobile gasoline dispensers; provided, however, that any such Lot designated for commercial use as aforesaid must front on and have direct vehicular access to Steele Road.

(D) Except as provided in Paragraph (C) of the Section and section 7.20 below, no Owner shall use or cause or permit his Lot to be used for any business, commercial, manufacturing or mercantile use or purpose, or for any other nonresidential use or purpose. The foregoing notwithstanding, it shall be expressly permissible for Owners to conduct certain business or commercial activities within their residence which do not conflict with local zoning ordinances, restrictions and regulations. No such activity shall be conducted which shall unduly burden traffic flows within the Property or cause the parking of non-resident vehicles upon the street for unreasonable or excessive periods of time. By way of example but not limitation, the following uses shall, so long as they conform to the foregoing criteria, be considered acceptable: home day care for a reasonable number of children, infrequent garage sales, music lessons, tutoring, telemarketing, various other telephone related activities, crafts and hobbies that do not create an unusual noise nuisance. It shall be within the discretion of the Board to determine, on a case-by-case basis, which commercial and business related activities will be compatible with the residential nature of the subdivision.

7.02. Unlawful Activity. No unlawful activity shall be conducted on any Lot or in any other part of the Project. Nothing shall be done within the Project that is an unreasonable annoyance, inconvenience or nuisance to the residents of the Project, or that unreasonably interferes with the quiet enjoyment of occupants of Lots. No doorways, walkways or streets shall be obstructed in any manner which would interfere with their use for ingress or egress in the event of fire, earthquake or other emergency.

7.03. Parking. Unless otherwise permitted by the Rules and Regulations no boat, trailer, recreational vehicle, camper, camper truck or commercial vehicle shall be parked, stored or left on any part of the Common Area. Each home on a Lot will provide at least one (1) parking space at or behind the building lines. Additional parking spaces will be provided within the paved driveways on a Lot. Any automobile, motorcycle or truck shall be parked, stored or left in the parking spaces as provided or within the paved driveways wholly within the garage located upon the Lot, except to the extent same is already occupied to capacity, in which case such vehicle may be parked temporarily in the street but no more than 48 consecutive hours. This restriction shall not apply to sales trailers, construction trailers, or other vehicles which may be used by Declarant and its agents and contractors in the conduct of their business prior to Completion of Sales. No boat, truck, trailer, pre-manufactured home, camper, recreational vehicle or tent shall be used as a living or dwelling area within the Project. No repairs to or maintenance of any automobile or other vehicle shall be made or performed on any driveway or in any garage within the Project, except in the case of emergency and except as may be permitted by the Rules and Regulations. No unlicensed vehicles may be left on a Lot.

7.04. Signs and Curtains. No Owner or tenant of a Residential Unit shall place on or about any window any metallic foil or other coating, substance or material which acts as a reflector of light and no Owner shall display, hang, store or use any signs, curtains, draperies, shades, stained glass or other articles whatsoever outside of the dwelling on any Lot so as to be visible from outside the Lot, excluding seasonal decorations and as may be permitted by the Rules and Regulations. Notwithstanding the foregoing, one professional sign of not more than one (1) square foot or one sign of not more than five (5) square feet advertising a Lot for sale or rent may be placed by the Owner on his Lot in such manner that it will be visible from outside the Lot. The prohibitions in this section shall not apply to Declarant or its agents, who may erect such signs as Declarant deems desirable to promote the sale of Lots.

7.05. Antennas. Except as may be permitted by the Board or the architectural control committee, no Owner shall construct, install, erect or maintain any television or radio pole, antenna, aerial, dish, tower or support thereof upon any Lot or Improvement thereon other than a customary antenna which shall not exceed ten (10) feet above top roof line ridge of the house.

7.06. Laundry. No laundry or wash shall be dried or hung upon the exterior of any Residential Unit or any place visible within the Project from outside such Residential Unit.

7.07. Fences. No fence or wall shall be erected on any Single-Family Lot closer to the street than the side street setback or the front of the building facade except for temporary decorative fencing installed by the Declarant or its builder on a model home. Perimeter fencing

and privacy fencing around patios, decks, or pools on any Lot may not exceed six (6) feet in height. Perimeter fencing, unless constructed of brick or stone masonry, shall not have more than 50% of any of its surface closed as viewed from a point on a line of sight perpendicular to the line formed by the line of the fence. Chain link or other metal fencing is expressly prohibited on any Lot, except that 2" x 4" mesh may be used with split rail fencing to contain animals within the yard on a Single-Family Lot.

7.08. Pets.

(A) No animals shall be raised, bred or kept on any Lot or the Common Area, except that dogs, cats, or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. The number of household pets generally considered to be outdoor pets, such as dogs, cats, et cetera, shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months of age. No animal shall be allowed if such animal constitutes an unreasonable annoyance, inconvenience or nuisance to any other Owner. If the Board receives any complaint that an animal constitutes an unreasonable annoyance, inconvenience or nuisance, the Board shall afford the Owner of such animal Notice and Opportunity for Hearing, and if the Board finds that such animal constitutes an unreasonable annoyance, inconvenience or nuisance, the Board may require that such animal be removed from the Project.

(B) The Board may adopt Rules and Regulations concerning animals which are more restrictive than the provisions of this Declaration, including rules requiring that all animals be kept on a leash when in the Common Area and that animals be restricted to designated areas within the Common Area and that Owners are responsible for cleaning up any mess that a pet creates within the Common Area. The Board may adopt a rule prohibiting certain pets, which is more restrictive than the provisions of this Declaration, except that such rule shall not apply to animals residing in the Project at the time such rule is adopted. In any event, the Board at any time may require that any animal found to be an unreasonable annoyance, inconvenience or nuisance be removed as provided in section 7.08(A).

7.09. Trash and Vegetation. No trash, rubbish, garbage or other waste material shall be kept or permitted upon any Lot or the Common Area, except in sanitary containers located in an appropriate area screened and concealed from view. No weeds, vegetation, rubbish, debris, garbage, waste materials or materials of any kind whatsoever shall be placed or permitted to accumulate on any Lot or any portion of the Project which would render it unsanitary, unsightly, offensive, or detrimental to any property in the vicinity thereof or to the occupants of any property in such vicinity. Grass, hedges, shrubs, vines and mass planting of any type on any Lot or any portion of the Project shall be kept trimmed and shall at regular intervals be mowed, trimmed and cut so as to appear neat and attractive. Trees, shrubs, vines and plants which die shall be promptly removed. This Section 7.09 shall be applicable only to Lots conveyed to Owners other than Declarant. Declarant, Home Builder shall be exempt from the provisions of this Section but shall have the obligation to take such steps as are reasonable and practical during the course of construction in order to maintain the cleanliness of the area.

7.10. Wells. No well for the production of, or from which there is produced, water, oil, gas or other substance shall be dug or operated anywhere within the Project, except upon the direction and under the authority of the Association. Provided, however, any well(s) dug or operated within the Project in connection with the supply of water pursuant to a community well system by Declarant, its successors and assigns, is hereby excepted from the provisions of this Section 7.10.

7.11. Nuisance. No noxious or offensive activity shall be carried on in or upon any Lot or in any Residential Unit or on the Common Area nor shall anything be done thereon which may be or become an unreasonable annoyance, inconvenience or nuisance to the residents of the Project or unreasonably interferes with the quiet enjoyment of occupants of Lots. No Owner shall permit anything to be done or kept on his Lot or any of his Residential Units which would result in the cancellation of insurance on any other residence or any part of the Common Area or which would be in violation of any law.

7.12. Building Setbacks. No building shall be erected on any Lot nearer to any street line than the building setback lines shown on the recorded final subdivision map of the Project or any part thereof, and with respect to a corner Single-Family Lot no residence or other building shall be located nearer than the distance shown on the recorded map to the side street line. With respect to corner Single-Family Lots, the front lot line shall be deemed the street line having the shorter frontage, and any residence erected on such corner Single-Family Lot shall face the front lot line.

7.13. Temporary Structures. Except as provided in Section no residence of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, shack, tent, barn, detached garage, or any other building of a similar nature shall be used as a residence on any Lot, either temporarily or permanently.

7.14. Floor Space. The floor area of each home constructed upon a Single-Family Lot shall be not less than eleven hundred (1,100) heated square feet. The floor area of each Residential Unit on a Multi-Family Lot shall be not less than six hundred (600) heated square feet. PROVIDED, HOWEVER, that the aforesaid square footage requirement shall be based on interior floor space, exclusive of basements, garages, porches, decks, balconies and overhangs.

7.15. Accessory Structures. No metal carport, free standing metal garage, free standing metal utility building or other accessory structure shall be erected on any Lot or attached to any residence located on the Lot. However, one (1) wooden utility building or noncommercial greenhouse may be located in the rear one quarter (1/4) of any Single-Family Lot so that it is directly behind the residence as viewed from a point on a line of sight perpendicular to the street. Such structure shall not exceed 600 square feet.

7.16. Unintentional Violations. In the event of the unintentional violation of any of the building line restrictions set forth herein, Declarant reserves the right, by and with the mutual written consent of the Owner of such Single-Family Lot, to change the building line

restriction set forth in the instrument, provided however, that such changes shall not be in violation of any provisions of the zoning provisions of the appropriate governmental authority.

7.17. Above Ground Pools. No above ground pools shall be erected or installed on a Lot.

7.18. Architectural Requirements. The driveway and sidewalks on a Lot shall be constructed of concrete. The mail box and paper box on a Single-Family Lot shall be constructed of a standard post with two boxes attached. Lots shall be planted with standard size plantings along the front of the dwelling to screen the foundation. No above ground storage tanks shall be erected or installed on a Lot.

7.19. Exercise Equipment. All swing sets, skateboard ramps, basketball goals and similar equipment must be located within the building setback lines.

7.20. Declarant's Rights. Notwithstanding anything to the contrary contained in this Article or elsewhere in this Declaration, the Declarant, its agents, employees and contractors shall not be restricted or prevented by this Declaration from doing, and the Declarant, its agents, employees and contractors shall have the right to do such things or take such actions as they deem necessary, advisable or convenient for completion and improvement of the Project as an affordable housing community and for the sale, rental or other disposition of Lots in the Project.

(A) The right and easement of ingress in, over and upon the Common Area for the purpose of performing on any part or parts of the Project acts deemed necessary, advisable or convenient for the completion and improvement of the Project as a residential community and for the sale, rental or other disposition of Lots;

(B) The right to erect, construct, maintain, demolish or remove structures and other improvements on any common Area as they deem necessary, advisable or convenient for the completion and improvement of the Project as an affordable housing community and for the sale, rental or other disposition of Lots; and

(C) The right to use Lots and improvements owned by Declarant as models, sales offices and contractor's offices and to construct and display promotional, informational and directional signs and other sales aids on or about any portion of the Project.

The rights of Declarant under this section shall terminate one (1) year after the Completion of Sales. Amendment of this section shall require (i) if a two-class voting structure is in effect, the vote or written consent of seventy-five percent (75%) of the Voting Power of each class of Members of the Association, or (ii) if a two-class voting structure is not in effect, the vote or written consent of seventy-five percent (75%) of the total Voting Power of the Association. Further, no amendment of this section can be made without the written approval of Declarant.

7.21. Right to Enter. Any governmental agency, including, but not limited to the City, its agents, and employees, shall have the right of immediate access to the Common Area at all times if necessary for the preservation of public health, safety and welfare.

ARTICLE 8 MEMBERSHIP AND VOTING RIGHTS

8.01. Governing Body. The Association shall be the governing body for all Owners with respect to the management, administration, maintenance, repair and replacement of the Project, as provided by this Declaration and the Bylaws.

8.02. Membership. Membership in the Association shall be composed of and limited to Owners. Each Owner, including Declarant, shall automatically be a Member of the Association and entitled to vote as set forth below. Membership shall be appurtenant to and may not be separated from ownership of a Residential Unit. Upon termination of ownership, an Owner's membership shall automatically terminate and be automatically transferred to the new Owner of the Lot.

8.03. Voting. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of Declarant; provided, however, that Declarant shall become a Class A Member when its Class B membership ceases as provided hereinafter. Class A Members shall be entitled to one (1) vote for each separate Residential Unit, or if there is no Residential Unit located on a Lot, for each Lot of that kind, owned; provided, however, votes for Residential Units within an apartment building or which constitute rental apartments on Multi-Family Lots shall be cast as follows: on economic issues and assessments, the votes shall be cast by the Owner of the Multi-Family Lot upon which the Residential Units are located; on Board elections and issues concerning the use and enjoyment of the Common Area, the votes shall be cast by the tenants residing in the Residential Units upon such Multi-Family Lot. When more than one person holds an ownership interest in any Residential Unit, or Lot, as the case may be, all such persons shall be Members, but no more than one vote shall be cast with respect to any Residential Unit or Lot, as the case may be. The vote for any such Residential Unit or Lot, as the case may be, shall be exercised as the Members holding an interest in such Residential Unit or Lot, as the case may be, determine among themselves. In the event of disagreement, the decision of Members holding a majority of interest in such Residential Unit or Lot, as the case may be, shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of any co-owner shall be conclusively presumed to be the majority vote of the Owners of that Residential Unit or Lot, as the case may be.

Class B. Class B Member shall be Declarant and shall be entitled to three (3) votes for each separate Residential Unit, or if there is no Residential Unit located on a Lot, for each Lot of that kind, owned; provided that Declarant's Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever

occurs earlier: (i) the conveyance by Declarant of ninety percent (90%) of all Lots in the Project, or (ii) ten (10) years after the first Lot is conveyed to an Owner for use as a residence.

8.04. Commencement of Voting Rights. Voting rights attributable to an ownership interest shall not vest until the assessment against that interest has been levied by the Association as provided in Article 9; provided, however, that voting rights shall be immediately vested with respect to amendments to this Declaration pursuant to section 17.09.

8.05. Declarant's Voting Rights. No requirement for the approval of a prescribed majority of the Voting Power of Members of the Association other than Declarant for action to be taken by the Association is intended to preclude Declarant from casting votes attributable to Lots owned by Declarant.

ARTICLE 9 COVENANTS FOR ASSESSMENTS

9.01. Covenant to Pay Assessments; Lien. Declarant, for each Lot owned by Declarant, hereby covenants to pay, and every Owner of any Lot or Residential Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay, to the Association such regular annual assessments or charges and such special assessments or charges as may be levied by the Association pursuant to the provisions of this Declaration. The amount of any such annual or special assessment plus any other charges thereon, such as interest, late charges and costs (including attorneys' fees), as such may be provided in this Declaration, shall be and become a lien upon the Lot or Residential Unit assessed when the Association causes to be recorded in the official records of the County a notice of assessment, which notice shall state:

(A) The amount of such assessment and such other charges thereon as may be authorized by this Declaration;

(B) A description of the Lot or Residential Unit against which the same has been assessed; and

(C) The name of the record owner of the Lot or Residential Unit assessed.

Such notice shall be signed by an authorized representative of the Association. Upon payment of such assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the Association, at the Owner's cost and expense, shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. The lien provided for herein shall be prior to all other liens recorded subsequent to the recordation of such notice of assessment. Unless sooner satisfied and released or the enforcement thereof initiated as hereinafter provided, the lien shall expire and be of no further force or effect one (1) year from the date of recordation of the notice of assessment. The one-year period may be extended by the Association for a period not to exceed one (1) additional year by recordation of a written extension thereof. The lien may be enforced by foreclosure in accordance with South Carolina law, or in any other manner permitted by law. The Association

shall have power to purchase the Lot or Residential Unit at a foreclosure sale and to hold, lease, mortgage and convey the same.

9.02. Personal Obligation. Each regular annual or special assessment, together with any late charges, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of each person or entity, other than any Mortgagee, who held an ownership interest in the Lot or Residential Unit at the time such assessment was levied. If more than one person or entity held an ownership interest in the Lot or Residential Unit at such time, the personal obligation to pay such assessment or installment respecting such Lot or Residential Unit shall be both joint and several. No Owner may exempt himself from payment of assessments, or installments, by waiver of the use or non-use of common facilities within the area or of any other portion of the Common Area or by abandonment or leasing of his Lot or Residential Unit.

9.03. Use of Assessments. Regular annual or special assessments paid by Declarant and other Owners shall be used to pay for operation, maintenance, preservation, enhancement, repair and improvement of the Common Area, other purposes reasonably related to the foregoing, and to promote the recreation, health, safety and welfare of the Owners. In addition, such assessments shall be used to pay the cost of administration of the affairs of the Association, including payment of applicable taxes, and for the preservation of the Association's existence, to the extent properly allocable to the performance and exercise of the Association's duties and powers under this Declaration. The foregoing is intended as an authorization to the Association and shall not be construed to require expenditure of Association funds for any particular purpose.

9.04. Reserve Funds. The Board shall establish and maintain reserves in accordance with standard accounting practices and procedures for Common Area replacements and maintenance and the initial budget of the Association. Each budget subsequently adopted by the Board shall provide for funds to be placed in reserves in at least the amount of reserves established in the initial budget unless a lower level of reserves is approved by the vote or written consent of a majority of the Voting Power of (i) if a two-class voting structure is in effect, by the vote or written consent of a majority of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, by the vote or written consent of a majority of the total Voting Power of the Association. Funds deposited in reserve for a particular purpose shall be held for that purpose and shall not be expended for any other purpose without (i) if a two-class voting structure is in effect, the vote or written consent of a majority of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of the total Voting Power of the Association, except that if the Board determines that funds held in reserve for a particular purpose exceed an amount reasonably required as a prudent reserve for that purpose, then, without the vote or written consent of Members, the excess may be allocated to any other reserve fund established by the initial budget of the Association and expended for the purpose for which such other reserve fund has been established.

9.05. Regular Assessments. *10.00 a month could increase 10% ea. yr.*

The regular annual assessment for each Lot or Residential Unit for the first assessment year shall be a maximum of \$__ per Lot or Residential Unit owned by a Class A Member and \$____ per Lot or Residential Unit owned by a Class B Member; provided, however, that if the first assessment year shall have fewer than twelve months, the foregoing amounts shall be proportionately reduced. The regular annual assessment (prorated for the number of months remaining in such assessment year) may be increased by the Board to an amount, not to exceed the stated maximum (plus the ten percent (1) as provided in the following paragraph if the increase is not in the first assessment year), to offset the expected increase in expenses of operation. All Lots or Residential Units remaining under the ownership of Declarant shall be required to pay \$ 0 per year.

The Board shall fix the amount and due date of the regular annual assessment on a yearly basis at least fifteen (15) days in advance of each assessment year; provided, however, that the ratio of the assessment established for Lots or Residential Units owned by Class A Members to the assessment established for Lots or Residential Units owned by Class B Members shall always be three (3) to one (1), prorated for partial years due to ownership changes during the year, and further provided that the Board may not impose a regular annual assessment which is more than ten percent (10%) greater than the regular assessment for the immediately preceding fiscal year without (i) if a two-class voting structure is in effect, the vote or written consent of a majority of the Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of the voting Power of the Association. Written notice of the regular annual assessment shall be sent to every Owner who is not present at the time the regular annual assessment is so fixed. If the Board fails to so fix the regular annual assessment, the assessment applicable for the previous assessment year shall remain in effect until the Board shall fix a new regular annual assessment. Regular annual assessments shall be payable annually on the first day of each January or at such other time as the Board may fix. The Association shall, upon demand, and for a reasonable charge, furnish to any person having a legitimate interest a certificate signed by an officer of the Association stating whether the regular annual assessment and special assessments, if any, on a specified Lot or Residential Unit have been paid and, if not, the amount due. *pay monthly*

9.06. Special Assessments. In addition to the regular annual assessments authorized herein, the Board may levy, in any assessment year, a special assessment against all Owners 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 capital improvements and related fixtures and personal property on or comprising a part of the Common Area; provided, however, any such assessment shall be in the ratio of three (3) to one (1) for Lots owned by Class A Members and Class B Members, respectively, as provided in section 9.05 above, and further provided in any fiscal year, special assessments which exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year may not be levied without (i) if a two-class voting structure is in effect, the vote or written consent of a majority of the Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of the total Voting Power of the Association.

9.07. Assessment as Remedy. After Notice and Opportunity for Hearing, the Board, without the vote or written consent of Members, may levy a special assessment against an Owner as a remedy to reimburse the Association for costs (including attorneys' fees) incurred in bringing the Owner, his Lot or his Residential Unit into compliance with the provisions of this Declaration, the Bylaws or the Rules and Regulations.

9.08. Allocation of Assessments. Except as otherwise provided in this Declaration and except for the reduced assessments on Lots or Residential Units owned by Class B Members, all regular and special assessments shall be levied equally against all Owners.

9.09. Commencement of Assessments. The regular annual assessments provided for herein shall commence as to Phase 1A on the first day of the month next following 100% occupancy of the apartment units constructed hereon. The regular annual assessments provided for herein shall commence as to all Lots and Residential Units in Phase 1 on the first day of the month next following the conveyance of the first Lot with a dwelling to a purchaser, other than a successor Declarant, for use as a Residential Unit. The first assessment year shall be the period commencing on the date regular annual assessments commence and ending on the December 31 next following. The regular annual assessment for the first assessment year shall be prorated from the amounts fixed by the Board for a full twelve-month year, based on the number of months to be contained in the first assessment year. Subsequent assessment years shall be each successive calendar year; provided, however, that at any time the Board may change the assessment year to correspond to a fiscal year selected by the Board. Assessments of Lots or Residential Units within each Phase of the Project which is annexed in accordance with the provisions of Article 16 below shall commence on the first day of the month next following the conveyance of the first Lot with a dwelling to a purchaser, other than a successor Declarant, for use as a residence.

9.10. Revised Assessments. Subject to the provisions of section 9.05, if at any time during the course of any year the Board shall deem the amount of the regular annual assessment to be inadequate or overadequate by reason of a revision of its estimate of either expenses or income or otherwise, the Board shall have the right, at a regular or special meeting, to revise the regular annual assessment for the balance of the assessment year. Any such revised assessment shall become effective on the first day of the month next following the date of adoption, and additional amounts payable shall be due (or refunds of overages shall be made by the Association) at such time as determined by the Board.

9.11. Delinquent Assessments; Fines. Any assessment not paid within ten (10) days after the due date shall be delinquent. The Board may require that any delinquent assessment bear a late charge to cover administrative expenses incurred as a result of the late payment of the assessment. Late charges on delinquent assessments and fines levied as provided in section 4.09 shall not exceed the following rates computed on the outstanding balance, which shall include any late charges previously assessed and unpaid, from month to month:

(A) On so much of the outstanding balance as does not exceed one thousand dollars (\$1,000), one and one-half percent (1.50%).

(B) If the outstanding balance is more than one thousand dollars (\$1,000), one percent (1%) on the excess over one thousand dollars (\$1,000) of the outstanding balance.

(C) If the late charge so computed is less than ten dollars (\$10) for any month, ten dollars (\$10).

No charge may be imposed more than once each month for the delinquency of the same payment, provided, however, that the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. When an assessment is paid more than ten (10) days after the due date of the assessment, late charges shall accrue from the first day following the due date of the assessment. All late charges shall be non-cumulative. The Association may bring legal action against the Owner personally obligated to pay a delinquent assessment or fine and, after Notice and Opportunity for Hearing, the Association may suspend a delinquent Owner's membership rights in the Association while the assessment or fine remains unpaid. In any legal action to enforce payment of an assessment or fine, the Association shall be entitled to recover interest, costs and reasonable attorneys' fees.

ARTICLE 10 INSURANCE

10.01. Duty to Maintain Insurance.

(A) The Association shall have the duty and the authority to maintain fire and extended coverage casualty insurance on the Common Area in an amount not less than the full insurable value thereof (based upon current replacement cost), and liability insurance with limits in and amounts adequate, under standards in the insurance industry existing from time to time, to protect the Association and the Owners in the event of property damage, personal injury or death occurring in or about the Project. The Board shall have the authority to settle or enforce on behalf of the Association and on behalf of the Owners, by legal action or otherwise, any claim arising under any insurance carried by the Association.

(B) Each Owner shall maintain casualty and personal liability insurance pertaining to his Lot, in such form and in such amounts as the Rules and Regulations may require.

(C) All policies of insurance carried by the Association or the Owners shall include a waiver of subrogation if such waiver can be obtained, unless otherwise provided in the Rules and Regulations.

(D) Notwithstanding any other provisions contained herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance meeting the insurance requirements for planned unit development projects established by the Federal National Mortgage Association and Government National Mortgage Association, so long as either is a Mortgagee or Owner of a Lot within the Project, except to the extent such coverage is not available or has been waived in writing by the Federal National Mortgage Association or Government National Mortgage Association.

10.02. Proceeds of Insurance. The proceeds of casualty insurance carried by the Association shall be paid as follows:

(A) If such proceeds do not exceed Fifty Thousand Dollars (\$50,000), the proceeds shall be paid to and held by the Association as trustee for the Owners, Declarant and Mortgagees for disbursement in accordance with the provisions of this Declaration; and

(B) If such proceeds exceed Fifty Thousand Dollars (\$50,000), the proceeds shall be paid to and held by the Insurance Trustee in trust for the Association, Owners, Declarant and Mortgagees, for disbursement in accordance with the provisions of this Declaration.

Except as otherwise provided herein, casualty insurance proceeds shall be used for repair, replacement or reconstruction to the extent required to effectuate repair, replacement or reconstruction.

ARTICLE 11 DAMAGE AND DESTRUCTION

11.01. Damage to Lots. Restoration and repair of damage to any Lot or Residential Unit and improvements thereon shall be made by and at the expense of the Owner thereof.

11.02. Minor Damage and Major Damage Defined. Damage or destruction to the Common Area where the estimated cost of repair, restoration or reconstruction does not exceed Fifty Thousand Dollars (\$50,000) is referred to in this Declaration as "Minor Damage." Damage or destruction to the Common Area where the estimated cost of repair, restoration or reconstruction exceeds Fifty Thousand Dollars (\$50,000) is referred to in this Declaration as "Major Damage."

11.03. Minor Damage. If Minor Damage occurs, the Association shall promptly contract for the repair, restoration or reconstruction of the Common Area or improvements which have been damaged or destroyed and, if necessary, collect from the Insurance Trustee any proceeds of insurance as received in accordance with section 10.02. The difference, if any, between the insurance proceeds payable by reason of such Minor Damage and the cost of such repair, restoration and reconstruction may be recovered by one or more special assessments levied by the Board equally against all Owners.

11.04. Major Damage. In the event of any Major Damage to or destruction of any portion of the Common Area by fire or other casualty:

(A) The Board shall as soon as reasonably practicable obtain such information as it deems necessary to make an informed judgment about whether to proceed with the repair, restoration or reconstruction of the Common Area so damaged or destroyed, which information may include: (i) obtaining firm bids from two (2) or more responsible and licensed general contractors for the repair, restoration and reconstruction of the Common Area so damaged or

approved by the Members and to do such acts incidental to the sale and to incur such expense as in its opinion will increase the value of the Common Area for the purpose of sale or as may be deemed necessary or convenient in connection with the sale, including but not limited to, the razing of any or all improvements. The acts of the Board in exercising its power of attorney shall be conclusively binding on all Owners. In connection with the sale of the Common Area or any portion thereof, the Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his interest may appear, any and all instruments, certificates and documents, including, but not limited to, maps, plans, releases, waivers, deeds, escrow instructions and conveyances of every kind and nature, as may be necessary or convenient for the sale. The Board shall be authorized to incur fees for legal and accounting services, appraisals, engineering, examination of title and other expenses reasonably related to the sale.

(F) After payment of expenses directly relating to the sale of the Common Area and properly payable out of the escrow at the closing of the sale, the Insurance Trustee shall receive the remaining sale proceeds and shall disburse such proceeds, together with any insurance proceeds it holds, as follows:

(1) To pay any outstanding expenses of the Association or of the Insurance Trustee relating to the sale of the Common Area, including but not limited to, costs of Appraisal, collection of insurance proceeds, compensation of the Insurance Trustee, engineering, legal and accounting expenses, costs of preparing the Common Area for sale and other related expenses; and

(2) To pay equally to the respective Owners in the Project; provided, however, that an equitable adjustment shall be made in the distribution to provide for any Owner's liability to the Association, including but not limited to, liability for unpaid assessments and charges.

ARTICLE 12 EMINENT DOMAIN

12.01. Eminent Domain. If all or any portion of the Common Area is taken by action in eminent domain (hereinafter called a "taking"), the Association shall give written notice of the proceedings to all Owners and Mortgagees, and the condemnation award shall be fairly and equitably apportioned among the Owners, Mortgagees and the Association as the court may determine. A condemnation award which is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each affected Owner shall be allocated first to the repair, restoration and reconstruction of any remaining portion of the Common Area and then any excess shall be distributed equally among the affected Owners (or any Mortgagee of an Owner to the extent such Mortgagee is entitled to such Owner's share of the proceeds). If requested by the court, an Insurance Trustee shall be employed to make disbursement of the award.

12.02. Repair, Restoration, Reconstruction. If only a portion of a Common Area facility is taken, the Board shall promptly contract for the repair, restoration or reconstruction of

the Common Area facility to a complete architectural unit, to the extent such repair, restoration and reconstruction is reasonably necessary and practical. If the cost of repair, restoration and reconstruction of the Common Area exceeds the amount awarded by the court for such purposes, the difference may be recovered by a special assessment levied equally against all Owners.

ARTICLE 13 INSPECTION OF IMPROVEMENTS

13.01. Inspection of Improvements.

(A) Declarant may notify the Board when the Common Area improvements (including landscaping) have been completed for a particular Phase or some portion thereof. Declarant shall request that the architect who designed the Common Area improvements or other qualified engineers or architects inspect the Common Area improvements as to which Declarant has given such notice. The person(s) selected by Declarant is (are) referred to herein as the "Expert" (whether one or more). Declarant shall pay the reasonable compensation of the Expert.

(B) The Expert shall inspect the Common Area improvements as to which Declarant has given notice of completion and requested inspection. Declarant and the Board may accompany the Expert during the inspection. The inspection shall be limited to a visual inspection, and improvements shall not be uncovered. The Expert shall not be responsible for identifying latent defects. Promptly after the inspection is completed, the Expert shall submit a written report (the "Report") to Declarant and the Board specifying the respects, if any, in which the improvements do not conform to the plans and specifications therefor and are defective, and if there are no such defects, the Report shall state that the improvements conform to the plans and specifications therefor. The Report shall constitute conclusive and binding evidence that, except as otherwise provided therein and except for latent defects, if any, the improvements have been constructed in accordance with the plans and specifications therefor, and thereafter Declarant shall have no further liability, duty or obligation with respect to such improvements, except to remedy any defects specified in the Report and except with respect to latent defects, if any, and the separate repair obligations of Declarant under express written warranty, if any.

(C) Declarant shall correct any defects specified in the Report, and the Expert shall reinspect such improvements within thirty (30) days after Declarant's request. Such reinspection shall be performed in the same manner as provided for the first inspection. Promptly after the reinspection is completed, the Expert shall submit another written report (the "Reinspection Report") to Declarant and the Board specifying the defects specified in the Report which have not been corrected, if any, and if all such defects have been corrected the Reinspection Report shall state that the improvements conform to the plans and specifications therefor. The Reinspection Report shall constitute conclusive and binding evidence that, except as otherwise provided therein and except for latent defects, if any, the improvements have been constructed in accordance with the plans and specifications therefor, and thereafter Declarant shall have no further liability, duty or obligation with respect to such improvements, except to remedy any defects specified in the Reinspection Report, and except with respect to latent defects, if any, and the separate repair obligations of Declarant under express written warranty, if any.

(D) Additional inspections and Reinspection Reports shall be made, if necessary, all in accordance with and with the same effect as provided hereinabove.

(E) If the improvements to be inspected are landscaping improvements, then notwithstanding anything to the contrary contained herein the Expert shall be a horticulturist or landscape architect. In all other respects, the provisions of this section shall apply to the inspection of landscaping improvements.

(F) Within ten (10) days after all defects have been corrected, as evidenced by a Report or Reinspection Report, the Board shall accept the improvements in writing.

ARTICLE 14 ARCHITECTURAL CONTROL

14.01. Architectural Control. NO BUILDING, POOL, FENCE, HALL, SOLAR PANEL, ANTENNA OR OTHER STRUCTURE OR IMPROVEMENT ON ANY LOT SHALL BE ERECTED, CONSTRUCTED, DEMOLISHED, OR ALTERED UNTIL AN APPLICATION, INCLUDING PLANS AND SPECIFICATIONS SHOWING THE NATURE, KIND, SHAPE, HEIGHT, MATERIALS, AND LOCATION OF THE SAME, SHALL HAVE BEEN SUBMITTED TO AND APPROVED IN WRITING BY THE DECLARANT OR AN ARCHITECTURAL CONTROL COMMITTEE which has been empowered by the Declarant to approve such applications and comprised of three (3) members who have been appointed by the Declarant; provided, however, that no such approval shall be required for alterations to the interior of any residential structure. The Declarant may require a reasonable fee to accompany each application for approval. If the Declarant or such architectural control committee, having not theretofore approved or disapproved an application, fails to approve or disapprove an application within ten (10) days following receipt of written notice of failure to act, which written notice is given at least thirty (30) days following receipt of the initial application, the application shall be deemed approved. The restrictions herein contained shall have no application to the development, improvement, maintenance and repair of the Property by Declarant or by the Association, and neither the Declarant nor the architectural control committee shall have any power or authority to review or require modifications in plans and specifications for construction or installation of improvements by Declarant. *put in min. for Arch. Control Committee*

14.02. Reconstruction of Residences. In the event of damage or destruction to a residence by fire or other casualty, the Owner shall within four (4) months diligently commence to reconstruct such residence as soon as reasonably possible and substantially in accordance with the original plans and specifications thereof; provided, however, that such residence shall be restored so that the exterior appearances thereof substantially resemble their appearances in form and in color prior to such damage or destruction. Notwithstanding the foregoing, however, any Owner of a damaged residence may request permission from the Declarant or duly authorized architectural control committee to reconstruct or repair his residence in accordance with revisions in the plans and specifications. The Board or said committee shall grant such requests only in the event that the proposed change or deviation will materially benefit and enhance the entire Project in a manner generally consistent with the plan and development thereof.

14.03. Declarant's Rights May be Assigned. Notwithstanding anything to the contrary stated hereinabove, the Declarant may, in its sole discretion, assign all of its rights under this Article 14 to the Board, who shall at that time assume all responsibilities of Declarant under this Article 14.

ARTICLE 15 MORTGAGEE PROTECTION

15.01. Interpretation. In the event any provision of this Article 15 is inconsistent with or contrary to any other provision of this Declaration, the provisions of this Article 15 shall control.

15.02. Notices. Any Mortgagee of any Lot or Residential Unit, by written notice to the Association setting forth the Lot or Residential Unit encumbered, the Owner thereof and the address to which notices may be sent, may request and thereby be entitled to receive written notice from the Association of (i) any default which is outstanding for sixty (60) days or longer by the Owner of such Lot or Residential Unit in the performance of his obligations under or in compliance with the provisions of this Declaration, the Bylaws or the Rules and Regulations, (ii) any substantial damage to or destruction of the Common Area, including the improvements located thereon, or, if known to the Association, any substantial damage to or destruction of a Lot or Residential Lot, including the improvements located thereon, and (iii) any proposed or threatened taking by power of eminent domain of the Common Area or any portion thereof or of any Lot or Residential Unit or portion thereof.

15.03. Mortgagee's Right to Information. Upon written request to the Association, a Mortgagee is entitled to: (1) inspect the books and records of the Association during normal business hours; and (2) receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Project; and (3) receive written notice of all meetings of the Association and to designate a representative to attend all such meetings.

15.04. Damage and Destruction Rights. In the event of substantial damage to or destruction of any Lot or Residential Unit or improvements to a Lot or Residential Unit or any part of the Common Area no provision of any document establishing the Project shall entitle the Owner of a Lot or Residential Unit or other party to priority over such Mortgagee with respect to the distribution to such Owner of any insurance proceeds.

15.05. Condemnation Rights. If any Lot or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation proceedings or is otherwise sought to be acquired by a condemning authority, no provision of any document establishing the Project shall entitle the Owner of a Lot or Residential Unit or other party to priority over such Mortgagee with respect to the distribution to such Owner of the proceeds of any award or settlement.

15.06. Right of First Refusal. Any right given by an Owner of a Lot to any third person to purchase such Lot before it is offered for sale or sold to any other person (such right commonly known as a "right of first refusal") shall not be binding upon or enforceable against any Mortgagee acquiring such Lot pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, or by acceptance of & deed or assignment in lieu of foreclosure.

15.07. Subordination. No provisions contained in this Declaration shall defeat or render invalid the lien of any Mortgage which is made in good faith and for value. The lien of the assessments provided for herein shall be subordinate to the lien of any Mortgage recorded prior to the date any such assessment becomes due. This subordination shall apply only to assessments on a Lot or Residential Unit which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or exercise of power of sale. Any Mortgagee who acquires title to or comes into possession of a Lot or Residential Unit pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, and any purchaser at a foreclosure sale, shall take the Lot or Residential Unit free of any claims for unpaid assessments or charges against the Lot which have accrued prior to the time such Mortgagee or purchaser acquires title to or comes into possession of the Lot or Residential Unit; provided, however, this exception shall not be applicable to any claim for assessments or charges levied by the Association against all Lots or Residential Units for the purpose of recovering any revenue lost by reason of the nonpayment of past due assessments upon such Lot or Residential Unit; and provided further, that except as otherwise provided in this section, all of the limitations, restrictions, covenants, conditions, easements, liens, charges, assessments, and equitable servitudes contained herein shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. Except as provided above, the sale, transfer or conveyance of title to a Lot or Residential Unit shall not relieve a selling Owner from personal liability for any assessments which became due and payable prior to such sale, transfer or conveyance, nor relieve such Lot or Residential Unit from a duly recorded lien for any such prior unpaid assessment.

15.08. Payments by Mortgagees. Any Mortgagee, after at least ten (10) days' prior written notification to the Association of the items to be paid and the failure of the Association within such time to make payment, may pay, alone or in conjunction with other Mortgagees, delinquent taxes, liens or assessments which may be or become a charge against the Common Area, or any portion thereof, and any overdue premiums on policies of fire and extended coverage insurance for the Common Area and in the event of a lapse of such a policy of insurance, may pay premiums to secure a new policy. In the event such payments are made, the Mortgagee making such payment shall be entitled to immediate reimbursement from the Association to the extent of the payment made.

15.09. Professional Management. In the event that Declarant or the Association enters into any contract with any person or entity to provide management or maintenance services to the Project, such contract shall not exceed one (1) year and shall provide that the Association shall have the right to terminate the contract for cause upon thirty (30) days' written notice and without cause upon ninety (90) days' written notice, without payment of a termination fee.

ARTICLE 16
ANNEXATION

16.01. Right to Annex. Declarant shall have the right to annex to Phase 1 and Phase 1A, and thereby bring within the scheme of this Declaration and subject to the jurisdiction of the Association part or all of the Additional Land. Annexation of Phase 1A shall be automatic upon the submission by Avery Lake Limited Partnership of Phase 1A to the scheme of this Declaration by execution of the attached Consent to Imposition of Declaration. Annexation of any other real property shall require the vote or written consent of not less than sixty-seven percent (67%) of the total voting power of the Association residing in Members other than Declarant. Annexation of additional property may be accomplished in Phases.

16.02. Procedure for Annexation. Any annexation shall be made by recordation of a Supplemental Declaration covering the real property to be annexed. The Supplemental Declaration shall describe the real property to be annexed and state that annexation is being made pursuant to this Declaration for the purpose of extending the jurisdiction of the Association to cover the Phase of the Project being annexed. The Supplemental Declaration may contain such complementary additions and modifications to the terms of this Declaration as may be necessary or desirable to reflect the different character, if any of the Phase being annexed and as are not inconsistent with the general scheme of this Declaration. Annexation shall be effective upon recordation of the Supplemental Declaration and thereupon the real property described therein shall be subject to all of the provisions of this Declaration, to the extent made applicable by the Supplemental Declaration, and to the jurisdiction of the Association pursuant to the terms of this Declaration, the Articles and Bylaws.

16.03. Annexed Property. Each Owner of a Lot or Residential Unit in an annexed Phase automatically shall be a Member of the Association and such Owners and annexed real property shall be subject to assessment by the Association for the benefit of the Project or any part thereof. Assessments of Lots or Residential Units in an annexed Phase shall commence upon the last to occur of: (a) commencement of regular annual assessments for the Project, and (b) the first day of the month next following the first conveyance of a Lot in such Phase to a purchaser, as provided in section 9.09. The Association shall have the duties, responsibilities and powers set forth in this Declaration, the Articles and Bylaws with respect to annexed real property. Except as may otherwise be expressly provided in this Declaration or any Supplemental Declaration, the Project shall be managed and governed by the Association as an entirety. Assessments collected from Owners in the Project maybe expended by the Association anywhere in the Project without regard to the particular Phase, area or subdivision from which such assessments came. All Owners shall have ingress and egress to and from all the Common Area throughout the Project and any Phase thereof and shall have use and enjoyment of any recreational facilities and other amenities contained within the Common Area throughout the Project, provided that any such use shall be subject to the provisions of this Declaration, any Supplemental Declaration, the Bylaws and the Rules and Regulations.

17.01. Power to Settle Claims. The Board shall have the power and authority to compromise, settle, release and otherwise adjust claims, demands, causes of action and liabilities in favor of the Association and the Owners, on behalf of the Association and Owners, as the case may be, provided any such claim, demand, cause of action or liability arises out of or relates to a condition or defect common to all or a majority of the Lots or improvements constructed thereon, or to the development, design, construction, condition, repair or maintenance of or damage or injury to or defect in the Common Area or part thereof, and the Association shall have the right and the power to make and receive all payments or other consideration necessary therefor or in connection therewith. For such purposes, the Board shall be, and hereby is, irrevocably appointed attorney in fact to act on behalf of all Owners upon such terms and conditions and for such consideration as may be approved by a majority of the Board.

ARTICLE 17 MISCELLANEOUS PROVISIONS

17.02. Independence of Provisions. The provisions of this Declaration shall be deemed independent and severable. Invalidation or partial invalidation of any provision of this Declaration by Judgment or court order shall not affect any other provision of this Declaration, and the remaining provisions shall remain in full force and effect.

17.03. Notices. Notices shall be in writing and shall be addressed as follows: (i) if to an Owner, to the address of his Lot; (ii) if to Declarant, to Community Housing, Inc., c/o Community Research and Development Associates, Inc., 1201 Greenwood Cliff, Suite 310, Charlotte, NC 28204; and (iii) if to the Association, to the address of the Project. The Association may designate a different address for notices by giving written notice of such change of address to all Owners and to Declarant. Declarant may designate a different address for notices by giving written notice of such change of address to all Owners and to the Association. Any Owner may designate a different address for notices by giving written notice of such change of address to the Association and to Declarant.

17.04. Headings. The headings used in this Declaration are for convenience and reference only and the words contained therein shall not be held to expand, modify, or aid in the interpretation, construction, or meaning of this Declaration.

17.05. Enforcement. The failure of any Owner to comply with the provisions of this Declaration, the Bylaws or the Articles shall entitle the Association, any Owner, or any of them, to maintain an action for the recovery of damages or injunctive relief or both, and such persons or entities, or any of them, shall have the right to enforce all limitations, restrictions, covenants, conditions, easements, liens, charges, assessments and equitable servitudes imposed by or pursuant to the provisions of this Declaration. Failure to enforce the provisions of this Declaration shall not be deemed a waiver of the right to do so thereafter. All remedies provided in this Declaration shall be cumulative and in addition to any other remedies available under law.

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

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

17.08. Exhibit. Exhibits A, B and C which are attached to this Declaration, are incorporated herein and made a part hereof by this reference.

17.09. Amendments. During any period in which a two-class voting structure is in effect, Declarant may amend this Declaration without the approval of any Member or Mortgagee provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Area as set forth in this Declaration and the amendment does not adversely affect the title to any Lot. In the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each mortgage owned).

Should the Veterans' Administration, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Declaration or make such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Declaration to be recorded to reflect such changes.

Any other amendments of this Declaration shall require (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members of the Association as such classes are set forth in the Bylaws and this Declaration; or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association; provided, however, that the percentage of the Voting Power (of each class of Members, of the Association, and of Members other than Declarant) necessary to amend a specific provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision.

Notwithstanding anything to the contrary contained in this Declaration, any amendment which establishes, governs, provides for or regulates any one of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Area; (iv) insurance or fidelity bonds; (v) right to use of the Common Area; (vi) responsibility for maintenance and repair of the Project; (vii) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (viii) the boundaries of any Lot; (ix) interests in the Common Area; (x)

leasing of ownership interests; (xi) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (xii) any provisions which are for the express benefit of Mortgagees; or (xiii) any other material amendment shall require (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association, and the written consent of sixty-seven percent (67%) of the Mortgagees. Any Mortgagee who does not respond within thirty (30) days request by the Association for consent to an amendment of this Declaration shall be deemed to have approved such request.

Any instrument amending this Declaration must contain a certification by the Secretary of the Association that the amendment has been correctly adopted in accordance with the provisions of this Declaration and be recorded in the official records of the County. Any such amendment shall be effective upon the date of recordation.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration as of the date first above set forth.

WITNESSES:

DECLARANT

COMMUNITY HOUSING, INC.
a South Carolina nonprofit
corporation

By: _____(SEAL)
James A. Kinard, Jr.
President

Attested: _____(SEAL)

[Printed Name and Title]

CONSENT TO IMPOSITION OF DECLARATION

KNOW ALL MEN BY THESE PRESENTS That Avery Lake Limited Partnership, a South Carolina limited partnership, does hereby consent to the imposition of the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community (the "Declaration") upon its real property described on Exhibit C attached to the within Declaration comprising two adjoining parcels of 4.748 acres and 1.867 acres, respectively, ("Phase 1A") and does affirmatively subject all of Phase 1A to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in the within Declaration, for the benefit of the Project and the future owners and dwellers thereof.

IN WITNESS WHEREOF, Avery Lake Limited Partnership has caused this Consent to Imposition of Declaration to be executed by its General Partner this ____ day of _____, 1996.

WITNESSES:

VERY LAKE LIMITED PARTNERSHIP

By Fort Mill Community Housing,
Inc., its General Partner

By: _____
James A. Kinard, Jr.
President

Attested: _____

[Printed Name and Title]

CONSENT TO IMPOSITION OF DECLARATION

KNOW ALL MEN BY THESE PRESENTS That First Union National Bank of North Carolina, does hereby consent to the imposition of the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community (the "Declaration") upon the real property described on Exhibit C attached to the within Declaration comprising two adjoining parcels of 4.748 acres and 1.867 acres, respectively, ("Phase 1A"), on which it holds a mortgage lien by virtue of Record Book 1651, Page 218, and Record Book 1651, Page 230, and UCC-1 File Book 96, Page 1348, Office of the Clerk of Court for York County, and does affirmatively subordinate the Mortgage Lien to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in the within Declaration, for the benefit of the Project and the future owners and dwellers thereof.

IN WITNESS WHEREOF, First Union National Bank of North Carolina has caused this Consent to Imposition of Declaration to be executed by its undersigned authorized officer this ____ day of _____, 1996.

WITNESSES:

FIRST UNION NATIONAL BANK
OF NORTH CAROLINA

By: _____

CONSENT TO IMPOSITION OF DECLARATION

KNOW ALL MEN BY THESE PRESENTS That NationsBank, N.A., does hereby consent to the imposition of the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community (the "Declaration") upon the real property described on Exhibit C attached to the within Declaration comprising two adjoining parcels of 4.748 acres and 1.867 acres, respectively, ("Phase 1A"), on which it holds a mortgage lien by virtue of Record Book 1374, Page 126, and Record Book 1374, Page 157, and UCC-1 File Book 94, Page 1241, Office of the Clerk of Court for York County, and does affirmatively subordinate the Mortgage Lien to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in the within Declaration, for the benefit of the Project and the future owners and dwellers thereof.

IN WITNESS WHEREOF, NationsBank, N.A. has caused this Consent to Imposition of Declaration to be executed by its undersigned authorized officer this ____ day of _____, 1996.

WITNESSES:

FIRST UNION NATIONAL BANK
OF NORTH CAROLINA

By: _____

CONSENT TO IMPOSITION OF DECLARATION

KNOW ALL MEN BY THESE PRESENTS That National Bank of York County, does hereby consent to the imposition of the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community (the "Declaration") upon the real property described on Exhibit A attached to the within Declaration, on a portion of which it holds a mortgage lien by virtue of Record Book____, Page ____, Office of the Clerk of Court for York County, South Carolina (the "Mortgage Lien") and does affirmatively subordinate the Mortgage Lien to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in the within Declaration, for the benefit of the Project and the future owners and dwellers thereof.

IN WITNESS WHEREOF, National Bank of York County has caused this Consent to Imposition of Declaration to be executed by its Undersigned Authorized Officer this ____ day of _____, 1996.

WITNESSES:

NATIONAL BANK OF YORK COUNTY

By:_____

CONSENT TO IMPOSITION OF DECLARATION

KNOW ALL MEN BY THESE PRESENTS That the Director of the South Carolina State Housing Finance and Development Authority, as Administrator of the South Carolina Housing Trust Fund, does hereby consent to the imposition of the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community (the "Declaration") upon the real property described on Exhibit C attached to the within Declaration comprising two adjoining parcels of 4.748 acres and 1.867 acres, respectively, ("Phase 1A"), on which he holds a mortgage lien by virtue of Record Book 1374, Page 104, Office of the Clerk of Court for York County, South Carolina (the "Mortgage Lien") and does affirmatively subordinate the Mortgage Lien to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in the within Declaration, for the benefit of the Project and the future owners and dwellers thereof.

IN WITNESS WHEREOF, the undersigned Director of the South Carolina State Housing Finance and Development Authority, as Administrator of the South Carolina Housing Trust Fund, has executed this Consent to Imposition of Declaration this ____ day of _____, 1996.

WITNESSES:

SOUTH CAROLINA STATE HOUSING
FINANCE AND DEVELOPMENT AUTHORITY,
AS ADMINISTRATOR OF THE SOUTH
CAROLINA HOUSING TRUST FUND

By: _____
Director

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

PROBATE

PERSONALLY appeared before me the undersigned witness who first being duly sworn states that (s)he saw the within-named Community Housing, Inc., a South Carolina public purpose nonprofit corporation, by and through its President, James A. Kinard, Jr., sign, seal, as attested by _____, its _____, and as the act and deed of the corporation, the said officers deliver for recording the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community, and that (s)he with the other witnesses whose signature appears above, was present at the execution thereof.

_____(L.S.)_____
Notary Public for South Carolina Affiant Witness' Signature
My Commission expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

PROBATE

PERSONALLY appeared before me the undersigned witness who first being duly sworn states that (s)he saw the within-named Avery Lake Limited Partnership, by and through its Sole General Partner, Fort Mill Community Housing, Inc., by and through its President, James A. Kinard, Jr., sign, seal, as attested by _____, its _____, and as the act and deed of the corporation, the said officers deliver for recording the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community, and that (s)he with the other witnesses whose signature appears above, was present at the execution thereof.

_____(L.S.)_____
Notary Public for South Carolina Affiant Witness' Signature
My Commission expires: _____

STATE OF NORTH CAROLINA)
)
COUNTY OF MECKLENBURG)

PROBATE

PERSONALLY appeared before me the undersigned witness who first being duly sworn states that (s)he saw the within-named First Union National Bank of North Carolina, sign, seal, and as the act and deed of the Bank, by _____, its _____, deliver for recording the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community, and that (s)he with the other witnesses whose signature appears above, was present at the execution thereof.

_____(L.S.)_____
Notary Public for North Carolina Affiant Witness' Signature
My Commission expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

PROBATE

PERSONALLY appeared before me the undersigned witness who first being duly sworn states that (s)he saw the within-named NationsBank, N.A., sign, seal, and as the act and deed of the Bank, by _____, its _____, deliver for recording the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community, and that (s)he with the other witnesses whose signature appears above, was present at the execution thereof.

_____(L.S.) _____
Notary Public for South Carolina Affiant Witness' Signature
My Commission expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PROBATE

PERSONALLY appeared before me the undersigned witness who first being duly sworn states that (s)he saw the within-named Director of the South Carolina State Housing Finance and Development Authority, Administrator of the South Carolina Housing Trust Fund, sign, seal, and as the act and deed of the South Carolina Housing Trust Fund, deliver for recording the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community, and that (s)he with the other witnesses whose signature appears above, was present at the execution thereof.

_____(L.S.)_____
Notary Public for South Carolina Affiant Witness' Signature
My Commission expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

PROBATE

PERSONALLY appeared before me the undersigned witness who first being duly sworn states that (s)he saw the within-named National Bank of York County, sign, seal, and as the act and deed of the said Bank, deliver for recording the within Master Declaration of Covenants, Conditions and Restrictions for Avery Lake Community, and that (s)he with the other witnesses whose signature appears above, was present at the execution thereof.

_____(L.S.)_____
Notary Public for South Carolina Affiant Witness' Signature
My Commission expires: _____

EXHIBIT A

All that certain piece, parcel, or tract of land, lying, being and situate in York County, State of South Carolina, being shown, described, and designated as Parcel 2, containing 30.871 acres, more or less, being more particularly shown and described on that certain plat of survey entitled, 'FINAL SUBDIVISION AVERY LAKE PHASE 1 Map 1 of 2 OWNED BY CLOSE FAMILY REAL ESTATE PARTNERSHIP NO. 1' made by Cardan International Ltd., dated October 25, 1995, recorded in the Office of the Clerk of Court for York County, South Carolina, in Plat Book A-79, Page 2, which plat is incorporated herein by reference and made a part hereof.

Being the same property conveyed by Close Family Real Estate Partnership No. 1 to Community Housing, Inc. by deed dated February 27, 1996, recorded February 29, 1996 in Record Book 1462, Page 205, Office of the Clerk of Court for York County, South Carolina.

EXHIBIT B

All that certain piece, parcel or tract of land, lying, being and situate in York County, South Carolina, lying between the center line of Steele Creek and the northern right of way of Steele Road, containing approximately 155 acres, more or less, adjoining Phase 1 of Avery Lake Community, as shown on drawing of Avery Lake preliminary plan prepared by Campo Engineering, Inc. for Community Housing, Inc., dated April 1, 1994, LESS, HOWEVER, a tract of 4.748 acres, more or less, and an adjoining access tract of 1.867 acres, more or less, as shown on plat recorded in Plat Book A-40, Page 4, conveyed to Avery Lake Limited Partnership by deed recorded in Record Book 1374, Page 123, AND ALSO LESS a tract of 30.871 acres, more or less, as shown on plat recorded in Plat Book A-79, Page 2, conveyed to Community Housing, Inc. by deed recorded in Record Book 1462, Page 205.

Being a portion of the property conveyed by Crandall C. Bowles, Trustee, Close Family Real Estate Trust, under agreement of Crandall C. Bowles, et al., dated September 4, 1980, to Close Family Real Estate Partnership No. 1 by deed dated December 20, 1989, recorded December 20, 1989, in Deed Book 1136, Page 315, Office of the Clerk of Court for York County, South Carolina.

EXHIBIT C

All that certain piece, parcel or tract of land, lying, being and situate in York County, State of South Carolina, containing 4.748 acres, more or less, being shown, described and designated as Parcel 1 as shown on that certain plat of survey entitled, "FINAL SUBDIVISION AVERY LAKE PHASE 1A OWNED BY CLOSE FAMILY REAL ESTATE PARTNERSHIP NO. 1" made by Cardan International Ltd., dated October 2, 1995, recorded in the Office of the Clerk of Court for York County, South Carolina, in Plat Book A-40, Page 4, which plat is incorporated herein by reference and made a part hereof.

ALSO: All that certain piece, parcel or tract of land, lying, being and situate in York County, State of South Carolina, containing 1.867 acres, more or less, being shown, described, and designated as Avery Lake Drive (90' right of way) as shown on that certain plat of survey entitled, 'FINAL SUBDIVISION AVERY LAKE PHASE 1A OWNED BY CLOSE FAMILY REAL ESTATE PARTNERSHIP NO. 1' made by Cardan International Ltd., dated October 2, 1995, recorded in the Office of the Clerk of Court for York County, South Carolina, in Plat Book A-40, Page 4, which plat is incorporated herein by reference and made a part hereof.

This being the identical property conveyed by Community Housing, Inc., a South Carolina public purpose nonprofit corporation, to Avery Lake Limited Partnership, a South Carolina limited partnership, dated October 30, 1995, and recorded October 31, 1995, in Record Book 1374, Page 123, Office of the Clerk of Court for York County, South Carolina.

TOGETHER with easement benefits afforded to the above-described property under Easement Agreement between Close Family Real Estate Partnership No. 1 and Community Housing, Inc. dated February 29, 1995, recorded March 5, 1995, in Record Book 1455, Page 106, re-recorded March 21, 1996, in Record Book 1480, Page 50, Office of the Clerk of Court for York County, South Carolina.

BYLAWS
OF
THE TOWNHOMES AT AVERY LAKE
COMMUNITY PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

The name of the corporation is The Townhomes at Avery Lake Community Property Owners Association, Inc., a South Carolina non-profit corporation. The principal office of the corporation shall be located in York County, South Carolina.

ARTICLE II
DEFINITIONS

As used in these Bylaws, the following capitalized terms shall have the following meanings:

“Additional Property” has the meaning set forth in the Declaration.

“Articles” means the Articles of Incorporation of the Association, including any amendments thereto.

“Association” means The Townhomes at Avery Lake Community Property Owners Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

“Board” means the Board of Directors of the Association.

“Common Area” has the meaning set forth in the Declaration.

“County” means York County, South Carolina.

“Declarant” means Community Housing, Inc., a South Carolina non-profit corporation, and any successor or assign to whom Community Housing, Inc. assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the official records of the County.

“Declaration” means the Declaration of Covenants, Conditions, and Restrictions for The Townhomes at Avery Lake Community recorded July 27, 2007, in Record Book 9296, Page 1, Office of the Clerk of Court for York County, South Carolina, as may be amended or supplemented.

"Lot" means any numbered townhome lot as described in Exhibit A to the Declaration or in any Supplemental Declaration, which is not a dedicated street or Common Area.

"Member" means a member of the Association.

"Mortgage" means any mortgage or deed of trust which constitutes a first lien upon a Lot or a Residential Unit given to a bank, savings and loan association or other institutional lender for the purpose of securing indebtedness incurred to purchase or improve a Lot or a Residential Unit.

"Mortgagee" means the holder of the beneficial interest in any Mortgage.

"Notice and Opportunity for Hearing" means giving at least ten (10) days' prior notice of a proposed action and the reasons therefor, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the proposed action.

"Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot or Residential Unit, and shall include Declarant as to any Lot or Residential Unit owned by Declarant. "Owner" shall not include any person or entity who holds an interest in a Lot merely as security for the performance of an obligation or as a tenant.

"Person" shall mean an individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

"Property" means the Property described in Exhibit A to the Declaration and any Additional Property described in any Supplemental Declaration recorded pursuant to Section 2.2 of the Declaration.

"Residential Unit" means each townhome Lot and each townhome constructed thereon.

"Rules and Regulations" means reasonable and nondiscriminatory rules and regulations as may be adopted from time to time by the Association, provided notice of such rules and regulations has been given to Owners in accordance with the requirements of the Declaration.

"Townhome Development" means the planned development of townhomes known as "The Townhomes at Avery Lake Community", which is located within a larger development known as Avery Lake Community in Fort Mill Township, York County, South Carolina, and which shall be or is developed and constructed or is in the process of being developed and constructed on part or all of the Property.

"Voting Power" means the total number of votes of Members (in a class of Members of the Association, or of Members other than Declarant, as the case may be) whose membership at the time the determination of voting power is made has not been suspended in accordance with the provisions of the Declaration. Voting Power shall be computed by including all such Members, whether or not such Members are present in person or by proxy at a meeting.

Unless otherwise specifically provided herein, the capitalized terms used in these Bylaws shall have the same meanings as are given to such terms in the Declaration.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Each Owner, including Declarant, shall automatically be a Member of the Association. No person or entity who is not an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot or Residential Unit, as the case may be. Upon termination of ownership, an Owner's membership shall automatically terminate and be automatically transferred to the new Owner of the Lot or Residential Unit, as the case may be.

Section 2. Voting. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of Declarant; provided, however, that Declarant shall become a Class A Member when its Class B membership ceases as provided in the Declaration. Class A Members shall be entitled to one (1) vote for each separate Residential Unit, or if there is no Residential Unit located on a Lot, for each Lot owned. When more than one person holds an ownership interest in any Residential Unit or Lot, as the case may be, all such persons shall be Members, but no more than one vote shall be cast with respect to any Residential Unit or Lot, as the case may be. The vote for any such Residential Unit or Lot, as the case may be, shall be exercised as the Members holding an interest in such Residential Unit or Lot, as the case may be, determine among themselves. In the event of disagreement, the decision of Members holding a majority of the interest in such Residential Unit or Lot, as the case may be, shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of any co-owner shall be conclusively presumed to be the majority vote of the Owners of that Residential Unit or Lot, as the case may be.

Class B. The Class B Member shall be Declarant. As the Class B Member, Declarant shall be entitled to (i) three (3) votes for each Lot or Residential Unit, or if there is no Residential Unit located on a Lot, for each Lot owned, and (ii) three (3) votes for each one-quarter (1/4) acre of the Property, if any, which has not yet been platted into Lots. Declarant's Class B membership shall cease and be converted to Class A membership as set forth in the Declaration.

ARTICLE IV MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within 45 days after the commencement of regular annual assessments as provided in Article VI of the Declaration, but in no event shall the meeting be held later than four (4) months after the conveyance by Declarant of ninety percent (90%) of all Lots in the Townhome Development to Owners other than a successor Declarant for use as a residence. Subsequent regular annual meetings of the Members shall be held not less frequently than once each calendar year, at a

date, time and place selected by the Board. If the day for the annual meeting of the Members is a legal or religious holiday, a Saturday or a Sunday, the meeting shall be held at the same hour on the first working day thereafter.

Section 2. Special Meetings. Special meetings of the Members shall be promptly scheduled in response to a majority vote of a quorum of the Board, or upon receipt of a written request signed by Members representing not less than thirty percent (30%) of the total Voting Power of the Association.

Section 3. Notice of Meetings. Written notice of annual and special meetings of Members shall be given by, or at the direction of, the Secretary of the Association or other person authorized to call the meeting, by mailing a copy of such notice, first-class postage prepaid, not less than ten (10) days nor more than sixty (60) days before such a meeting (or any more extensive notice as may be required by the Declaration), to each Member entitled to vote, addressed to the Member's Address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Notice of a meeting shall specify the place, date, and hour of the meeting, and, in the case of a special meeting, the general nature of the business to be undertaken. The notice of any meeting at which Directors are to be elected shall include the names of all those who are nominees at the time the notice is given to Members. Notice shall also be given to the Mortgagees on Lots at the address supplied by the Mortgagee to the Association and each Mortgagee shall have the right to designate a representative to attend any meeting. Waiver by a Member in writing of the notice required herein, signed by him, shall be equivalent to the giving of such notice.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxy holders entitled to cast, ten percent of the total Voting Power of the Association shall constitute a quorum for any action, except as may otherwise be provided in the Articles, the Declaration or these Bylaws. The Members present at any duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum. In the absence of a quorum, the Members entitled to vote at such meeting shall have the power to adjourn the meeting to another time without notice (other than announcement at the meeting). Any adjournment for lack of a quorum shall be to a date not less than five (5) days and not more than thirty (30) days from the original meeting date. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed herein for regular meetings.

Section 5. Proxies.

(a) At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association or other person designated at the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Residential Unit or Lot, as the case may be, or upon receipt by the Association of written notice of the death or incapacity of the Member who executed the

proxy. Any proxy shall be invalid after expiration of eleven (11) months from the date it is executed.

(b) Any form of proxy or written ballot distributed to ten (10) or more Members shall afford an opportunity on the proxy or form of written ballot to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy is solicited or by such written ballot, and shall provide, subject to reasonable specific conditions, that where the Member solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance therewith.

(c) Every form of proxy or written ballot, which provides an opportunity to specify approval or disapproval with respect to any proposal, shall also contain an appropriate space marked "abstain," whereby a Member may indicate a desire to abstain from voting on the proposal. A proxy marked "abstain" by the Member with respect to a particular proposal shall not be voted either for or against such proposal.

(d) In any election of Directors, any form of proxy or written ballot in which the Directors to be voted upon are named therein as candidates and which is marked by a Member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of Directors is withheld shall not be voted either for or against the election of a Director.

(e) Failure to comply with this section shall not invalidate any corporate action taken, but may be the basis for challenging any proxy at a meeting and the superior court may compel compliance therewith at the suit of any Member.

Section 6. Location. Meetings of Members shall be held within York County, South Carolina, or as close thereto as possible.

Section 7. Action Taken Without a Meeting. Any Action which may be taken by the vote of Members at a regular or special meeting, except the election of the Board, may be taken in the absence of a meeting by written consent.

ARTICLE V BOARD OF DIRECTORS

Section 1. Number. The affairs of the Association shall be managed and governed by a Board of at least three (3) but no more than seven (7) Directors, who shall, except for the initial Directors, be Members of the Association, except that a partner, employee, agent, member, manager, officer or director of any partnership, corporation, limited liability company, association or other entity that is an Owner shall be eligible to serve as a Director.

Section 2. Term of Office. The parties who are to act in the capacity of initial Directors until the election of their successors are Harvey Hawkins, Marlene Beaty, and Ken Starnes. These parties will serve as Directors until the third annual meeting of the Association, as described below. At the third annual meeting of the Association, the Members shall elect two (2)

Directors for the term of two (2) years and one (1) Director for the term of three (3) years. At each annual meeting thereafter, the members shall elect successor Directors for Directors whose terms have expired, each to serve for a term of two (2) years; provided, however, that prior to the first annual meeting of the Members, Declarant shall have the right, without a meeting of Members or an election, to appoint successor Directors for Directors who resign or otherwise leave office, each to serve the remainder of the term of the party leaving office.

Section 3. Removal. Directors may be removed from the Board, with or without cause, at any regular or special meeting of the Members called for such purpose, by a majority of the votes of the Members cast at such meeting, except no individual Director shall be removed if the number of votes cast against his removal would be sufficient to elect the Director if voted cumulatively at an election at which the same total number of votes were cast and the entire authorized Board were then being elected. In the event of death, resignation or removal of a Director, the remaining Directors may appoint his successor and his successor shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual reasonable expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Board shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written consent of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board. All such written consents shall be filed with the minutes of the proceedings of the Board and an explanation of the action taken shall be posted at a prominent place within the Townhome Development within three (3) days after the written consents of all Board members have been obtained.

ARTICLE VI NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board may be made by a nominating committee appointed by the Board prior to the annual meeting. The nominating committee shall consist of a chairman, who shall be a member of the Board, and two or more Members. The nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies to be filled. Nominations may also be made from the floor at the annual meeting.

Section 2. Election. The first election of the Board shall be conducted at the third meeting of the Association and the authorized number of Directors shall be elected at that meeting. Election to the Board shall be by secret written ballot. Election of Directors shall not be cumulative voting in elections in which more than two Directors are to be elected. The persons receiving the largest number of votes shall be elected.

Section 3. Election of Director by Members Other than Declarant. Notwithstanding any contrary provision in this Article VI, from the first election of the Board, so long as a majority of

the Voting Power of the Association resides in Declarant, or so long as there are two (2) outstanding classes of membership in the Association, Members other than Declarant shall be entitled to elect not less than one (1) Director. A Director who has been elected to office solely by the votes of Members other than Declarant may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the Voting Power residing in Members other than Declarant.

Section 4. Vacancies. Any vacancy on the Board caused by death, disability, resignation or increase in the number of Directors may be filled by appointment by a majority of the remaining Directors or by the sole remaining Director. Any vacancy on the Board caused by removal of a Director shall be filled by election pursuant to sections 2 and 3 of this Article.

ARTICLE VII MEETINGS OF DIRECTORS

Session 1. Regular Meetings. Regular meetings of the Board shall be held at such intervals as the Board considers necessary and desirable, but not less often than once every year until after the first annual meeting of Members, and then not less often than once every three (3) months. Regular meetings shall be held at such place and at such hour as may be fixed from time to time by resolution of the Board. Notice of the time and place of regular meetings shall be posted at a prominent place or places in the Townhome Development, and shall be communicated to call Directors not less than two (2) days prior to the meeting, provided, however, that notice of a meeting need not be given to any Director who has signed a waiver of notice or consent to holding of the meeting.

Section 2. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the president of the Association or by any two (2) Directors other than the president. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be sent to all Directors and posted in the manner prescribed for notice of regular meetings not less than twenty-four (24) hours before the scheduled time of the meeting, provided, however, that the notice need not be given to any Director who has signed a waiver of notice or consent to holding the meeting.

Section 3. 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.

Section 4. Open Meetings. Regular and special meetings of the Board shall be open to all Members of the Association; provided, however, that Members who are not Directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board.

Section 5. Executive Session. The Board may, with the approval of a majority of a quorum of its members, adjourn a meeting and reconvene in closed executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved

and orders of business or a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

ARTICLE VIII
POWERS AND DUTIES OF THE BOARD OR DIRECTORS

Section 1. Powers. The Board shall have power to:

(A) Adopt, publish and enforce Rules and Regulations governing the Townhome Development, the use and enjoyment of the Common Area and any facilities thereon, and the personal conduct thereon of the Members, their guests, invitees, members of their families or households, and tenants, provided the Rules and Regulations are approved by the vote or written consent of a majority of each class of Members, and provided that (i) the Members may amend any such Rules and Regulations adopted by the Board at any regular or special meeting of the Members called for such purpose (a) if two-class voting structure is in effect, by the vote or written consent of sixty-seven percent (67%) of the total Voting Power of each class of Members, or (b) if two-class voting structure is not in effect, by the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association; (ii) such Rules and Regulations shall be reasonable, shall not discriminate against Declarant, and must be consistent with the Declaration, the Articles and these Bylaws; and (iii) Rules and Regulations shall not be effective until written notice thereof has been given by mailing a copy of the Rules and Regulations, postage prepaid, at least ten (10) days before the effective date of the Rules and Regulations, to each Member addressed to the Member's address last appearing in the books of the Association.

(B) After Notice and Opportunity for Hearing by the Board, (1) suspend an Owner's rights as a Member of the Association, including his voting rights and right to use of any recreational facilities on the Common Area, for any period during which any fine against such Member or any assessment against such Member's Lot remains unpaid; (2) impose monetary penalties as provided in the Declaration for any infraction of the Rules and Regulations or any violation of or failure to comply with the provisions of the Declaration or these Bylaws, provided the Member shall have been warned in writing of a previous infraction within the preceding one (1) year; and (3) suspend an Owner's rights as a Member of the Association for a period not to exceed thirty (30) days for any infraction of the Rules and Regulations;

(C) Enforce and carry out provisions of the Declaration, these Bylaws and the Articles, and exercise all rights of the Association and the Board set forth in the Declaration, these Bylaws and the Articles;

(D) Pay any taxes or assessments which are or could become a lien on the Common Area or any portion thereof;

(E) Contract for casualty, liability and other insurance;

(F) Incur and pay expenses on behalf of the Association and contract for goods and services for the Common Area or any other real or personal property for which the Association is responsible and any other real or personal property for which the Association may be responsible or as to which the Association may have duties and obligations; provided, however, that: (i) no contract with a third person wherein the third person will furnish goods or services for the Common Area or any other real or personal property for which the Association is responsible or the Association shall exceed a term of one year (except for a management contract or a contract with a public utility, in which case the contract shall be limited to the shortest term allowable by such public utility at the regulated rate, or prepaid casualty or liability insurance policies which shall not exceed three (3) years' duration, provided the policy permits short rate cancellation by the insured); (ii) expenditures in the aggregate exceeding five percent (5%) of the budgeted gross expenses of the Association for any fiscal year of the Association shall not be incurred for capital improvements to the Common Area in any fiscal year; and (iii) any management agreement for the Townhome Development shall be terminable for cause upon thirty (30) days' written notice and without cause upon ninety (90) days' written notice, without payment of a termination fee. The restrictions contained in (i) and (ii) hereinabove shall not apply if the contract of expenditures are approved by the vote or written consent of a majority of the Voting Power of each class of Members so long as there are two classes of Members, and by a majority of the Voting Power residing in Members other than Declarant when there is one class of Members.

(G) Delegate to committees, officers, employees and other agents of the Association reasonable powers to carry out the powers and duties of the Board; provided, however, that the Board shall not delegate the power to impose discipline against Members or to levy fines against Members;

(H) Prepare and distribute budgets and financial statements of the Association;

(I) Enter any Lot, at reasonable hours, after forty-eight (48) hours' notice and with as little inconvenience to the Owners as possible, in connection with any work or thing required or permitted to be performed or done by the Association by these Bylaws, the Declaration or the Rules and Regulations. In the event of emergency threatening injury to persons or property, or reasonable cause to believe there is such an emergency, the right of entry shall be immediate and may be exercised without notice, whether or not the Owner is present. The Association shall repair any damage caused by such entry;

(J) Employ a manager and such other employees as it deems necessary to carry out the powers and duties of the Association;

(K) Sell, transfer and convey the property of the Association, except that: (i) if a two-class voting structure is in effect, approval by a vote or written consent of a majority of the Voting Power of each class of Members shall be required, or, if a two-class voting structure is not in effect, the approval by vote or written consent of a majority of the total Voting Power of the Association residing in Members other than Declarant shall be required when the sale, transfer, or conveyance of any property exceeds in value five percent (5%) of the budgeted gross expenses of the Association for the fiscal year, or when the aggregate of all property sold in any fiscal year of the Association exceeds in value five percent (5%) of the budgeted gross expenses

of the Association for the fiscal year; and (ii) any sale, transfer or conveyance of real property shall require the approvals of Members and Mortgagees as set forth in the Declaration;

(L) Exercise all the powers set forth in the South Carolina Nonprofit Corporation Act of 1994, as amended from time to time, except those reserved to the Members by the provisions of these Bylaws, the Articles or the Declaration; and

(M) Compromise, settle, release and otherwise adjust claims, demands, causes of action and liabilities on behalf of the Association and Owners, as the cause may be provided any such claim, demand, cause or action or liability arises out of or relates to a condition or defect common to all or a majority of the Lots of improvements constructed thereon, or to the development, design, construction, condition, repair or maintenance of or damage or injury to or defect in the Common Area of part thereof, and make and receive all payment or other consideration necessary therefor or in connection therewith. For such purposes, the Board shall be, and hereby is, irrevocably appointed attorney-in-fact to act on behalf of all Owners upon such terms and conditions and for such consideration as may be approved by a majority of the Board.

Section 2. Non-Liability. A Director of the Board shall not be liable to the Members if he performs the duties of a Director, including the duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner such Director believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. In performing the duties of a Director, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared and presented by:

(A) One or more officers or employees or the Association whom the Director believes to be reliable and competent in the matters presented;

(B) Counsel, independent accountants or other persons as to matters which the Director believes to be within such person's professional or expert competence; or

(C) A committee of the Board on which the Director does not serve, as to matters within its designated authority, which committee the Director believes to merit confidence; so long as, in any such case, the Director acts in good faith, after reasonable inquiry, when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

Section 3. Indemnification. Any person who at any time serves or has served as a director of the Association shall have a right to be indemnified by the Association to the fullest extent permitted by law against (a) expenses, including reasonable attorneys' fees, actually and necessarily incurred by him or her in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, whether formal or informal, and whether or not brought by or on behalf of the Association, arising out of his or her status as such director, or his or her status as an officer, employee or agent of the Association, or his or her service, at the request of the Association, as a director, officer, partner,

trustee, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise or as a trustee or administrator under an employee benefit plan, or his or her activities in any of the foregoing capacities, and (b) any liability incurred by him or her, including without limitation, satisfaction of any judgment, money decree, fine (including any excise tax assessed with respect to an employee benefit plan), penalty or settlement, for which he or she may have become liable in connection with any such action, suit or proceeding.

The Board of Directors of the Association shall take all such actions as may be necessary and appropriate to authorize the Association to pay the indemnification required by this Bylaw, including without limitation, to the extent necessary, (a) making a good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due him or her and (b) giving notice to and obtaining approval by the Members of the Association.

Expenses incurred by a Director in defending an action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt by the Association of (a) a written affirmation of the director of his or her good faith belief that he or she has met the standard of conduct prescribed by law for indemnification of the director by the Association, (b) a written undertaking by or on behalf of the Director to pay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association against such expenses, and (c) a determination is made that the facts then known to those determining whether to indemnify the Director would not preclude indemnification.

Any person who at any time after the adoption of this Bylaw serves or has served as a director of the Association shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein, and any modification or repeal of these provisions for indemnification shall be prospective only and shall not affect any rights or obligations existing at the time of such modification or repeal. Such right shall inure to the benefit of the legal representatives of any such person, shall not be exclusive of any other rights to which such person may be entitled apart from the provisions of this Bylaw, and shall not be limited by any provisions for indemnification under the applicable laws of the State of South Carolina.

Section 4. Duties. The Board shall:

(A) Cause to be kept a complete record of all its acts and corporate affairs and to present to the Members, and any Mortgagee making written request therefor, the following:

(1) A pro forma operating statement (budget) for each fiscal year, which statement shall be distributed not less than fifteen (15) days and not more than sixty (60) days before the beginning of the fiscal year;

(2) A balance sheet as of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing of the first sale of a Lot in the Townhome Development and an operating statement for the period from said date of such first closing to said accounting date, which balance sheet and statement shall be distributed within

sixty (60) days after the accounting date. The operating statement shall include a schedule of assessments received and receivable identified by Lot number and Owner's name;

(3) An annual report, which annual report shall be distributed within one hundred twenty (120) days after the closing of the fiscal year, consisting of the following:

- (a) A balance sheet as of the end of the fiscal year;
- (b) An operating (income) statement for the fiscal year;
- (c) A statement of changes in financial position for the fiscal year; and

(d) The annual report shall be prepared by an independent public accountant for any fiscal year in which the gross income of the Association exceeds \$75,000 and, if not prepared by an independent accountant, the annual report shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

(B) Supervise the officers, agents and employees of the Association in the proper performance of their duties;

(C) Perform, on behalf of the Association, its rights, duties, and obligations under the Declaration including, without limitation, as more fully provided in the Declaration and subject to any limitations contained therein:

(1) Fix the amount of the annual assessment against each Lot at least fifteen (15) days in advance of each annual assessment period and, if necessary, revise such annual assessment period and, if necessary, revise such annual assessment;

(2) Send written notice of each assessment to every Owner in advance of each annual assessment period, provided that failure to comply with the provisions of this subparagraph shall not invalidate any assessment, lien or obligation to pay such assessment; and

(3) Take appropriate action against any Owner who is delinquent in the payment of any assessment to the Association, which action may include, but is not limited to, commencement of an action against the Owner for payment thereof and/or foreclosure of the lien against the Lot of such Owner.

(D) Issue, or cause an appropriate officer to issue, upon demand by any person having a legitimate interest, a certificate setting forth whether or not any assessment has been paid, for which certificate a reasonable charge may be made by the Board;

(E) Procure and maintain liability, fire and extended coverage casualty insurance, as required by the Declaration, worker's compensation insurance, and such additional insurance and endorsements as the Board may deem desirable;

(F) Cause the Common Area and any other real and personal property for which the Association may be responsible or as to which the Association may have duties and obligations to be kept in a good state of maintenance and repair;

(G) Pay proper expenses of the Association; and

(H) Establish and maintain reserve funds for Common Area replacements and maintenance in accordance with the initial budget of the Association or such budgets as may subsequently be adopted from time to time by the Board. Funds deposited in reserve for a particular purpose shall be held for that purpose and shall not be expended for any other purpose without (i) if a two-class voting structure is in effect, the vote or written consent of a majority of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of the Voting Power of the Association, except that if the Board determines that funds held in reserve for a particular purpose exceed an amount reasonably required as a prudent reserve for that purpose, then, without the vote or written consent of Members, the excess may be allocated to any other reserve fund established by the Board and expended for the purpose for which such other reserve fund has been established.

ARTICLE IX OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and a vice-president, who shall at all times be members of the Board, a secretary and a treasurer, and such other officers as the Board may, from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless such person sooner resigns, or is removed, or is otherwise disqualified to serve.

Section 4. Special Appointment. The Board may appoint such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may determine from time to time.

Section 5. Resignation and Removal. Any officer may be removed from office, with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. No person shall simultaneously hold more than one of any of the offices, except in the case of special offices created pursuant to section 4 of this Article IX; provided, however, that notwithstanding the foregoing, the offices of secretary and treasurer may be held by the same person.

Section 8. Duties. The duties of the officers shall be those usually vested in their respective offices, including the following:

(A) President: The President shall preside at all meetings of the Board and shall see that orders and resolutions of the Board are carried out;

(B) Vice President: The Vice President shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board;

(C) Secretary: The Secretary, or an Assistant Secretary elected and authorized by the Board, shall keep minutes of all meetings of the Board and of the Members and shall have custody and charge of the Association's corporate seal, minute books, membership transfer books, and such other books, papers and documents as the Board may prescribe; and

(D) Treasurer: The Treasurer, or an Assistant Treasurer elected and authorized by the Board, shall be responsible for Association funds and securities and shall keep or supervise the keeping by persons designated by resolution of the Board of books of account of Association receipts and disbursements.

Section 9. Checks and Drafts. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable by the Association shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board.

Section 10. Execution of Contracts and Other Documents. The Board by resolution may authorize any officer or officers, agent or agents to enter into any contract or execute any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Association by any contract or agreement or to pledge its credit to render it liable for any purpose or for any amount.

ARTICLE X BOOKS AND RECORDS

The membership register, books of account and minutes of meetings of the Members, Board, and committees of the Board shall be made available for inspection and copying by any Member, any Member's duly appointed representative and any Mortgagee during normal business hours for a legitimate purpose, at such place or places within the Townhome Development as the Board may prescribe. The Board shall establish reasonable rules with respect

to notice to be given to the custodian of the records by the Member or Mortgagee desiring to make the inspection; hours and days of the week when such an inspection may be made; and payment of the cost of reproducing documents requested by a Member or Mortgagee. The Declaration, the Articles and these Bylaws shall be available for inspection by any Member at the principal office of the Association, where copies may be obtained at reasonable cost. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association, including the right to make extracts and copies of documents.

ARTICLE XI ASSESSMENTS

As more fully provided in the Declaration, each Member (other than Declarant) is obligated to pay the Association annual and special assessments which are secured by a lien upon the Lot against which the assessment is made. Declarant shall be obligated to pay assessments only to the extent provided in the Declaration. Any assessments which are not paid within fifteen (15) days of the due date shall be delinquent. The Board may require that any delinquent assessment bear a late charge to cover administrative expenses incurred as a result of the late payment of the assessment. Late charges on delinquent assessments shall not exceed the rates set forth in the Declaration. In addition to its rights under the Declaration, the Association may bring an action at law against the Owner personally obligated to pay a delinquent assessment, or foreclose the lien against his Lot and, after Notice and Opportunity for Hearing, the Association may suspend a delinquent Owner's membership in the Association while the assessment remains unpaid. In any action to enforce payment of an assessment, the Association shall be entitled to recover interest, costs and reasonable attorneys' fees. No Owner may exempt himself from payment or assessments by waiver of the use or enjoyment of all or any portion of the Common Area or abandonment of his Lot.

ARTICLE XII CORPORATE SEAL

The Association may have a seal. If the Association elects to have a seal, the seal shall be in circular form having within its circumference the name of the Association.

ARTICLE XIII AMENDMENTS AND INTERPRETATION OF DOCUMENTS

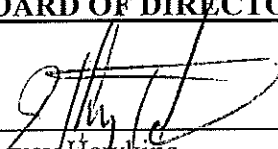
Section 1. Amendment. Any amendment of these Bylaws shall require (i) if two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members as such classes of membership are set forth in the Declaration of these Bylaws; or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association; provided, however, that no such amendment shall change any provision hereof where such provision is contained in or governed by the Articles or the Declaration, unless the applicable provisions of the Articles and/or Declaration are likewise amended as therein required, and provided further that the percentage of the Voting Power of the Association and of Members other than Declarant

necessary to amend a specific provision of these Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision. Any amendment which establishes, governs, provides for or regulates any one of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Area; (iv) insurance or fidelity bonds; (v) right to use the Common Area; (vi) responsibility for maintenance or repair of the Townhome Development; (vii) expansion or contraction of the Townhome Development or the addition, annexation or withdrawal of property to or from the Townhome Development; (viii) the boundaries of any Lot; (ix) interests in the Common Area; (x) leasing of ownership interests; (xi) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (xii) any provisions which are for the express benefit of Mortgagees; or (xiii) any other material amendment shall require written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each Mortgage owned), and (a) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members, or (b) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association. Notwithstanding any of the above provisions, if required by the Declaration or applicable law, the Department of Housing Urban Development and the Veterans Administration shall each have the right to veto all amendments while there is a two-class voting structure in effect.

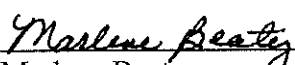
Section 2. Interpretation. In the case of any conflict between the Articles and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. In the case of any conflict between the Articles and the Declaration, the Declaration shall control.

IN WITNESS WHEREOF, we, being all of the initial Directors of The Townhomes at Avery Lake Community Property Owners Association, Inc., have hereunto set our hands as of the 27th day of July, 2007.

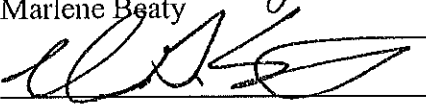
BOARD OF DIRECTORS



Harvey Hawkins



Marlene Beaty



Ken Starnes

**THE TOWNHOMES AT AVERY LAKE COMMUNITY
PROPERTY OWNERS ASSOCIATION, INC.**

**ORGANIZATIONAL MEETING OF THE
INCORPORATOR BY WRITTEN CONSENT
TO ACTION WITHOUT A MEETING**

The undersigned, being the incorporator (the "Incorporator") of The Townhomes at Avery Lake Community Property Owners Association, Inc., a South Carolina non-profit corporation (the "Corporation"), does hereby take the following actions and adopt the following preambles and resolutions by signing his written consent hereto, in lieu of an organizational meeting of the Incorporator, pursuant to S.C. Code Ann. § 33-31-205:

WHEREAS, the Incorporator filed the Articles of Incorporation of the Corporation with the Secretary of State of South Carolina on July 27, 2007;

WHEREAS, in lieu of an organizational meeting of the Incorporator, and pursuant to S.C. Code Ann. § 33-31-205, the Incorporator named in the Articles of Incorporation desires to elect the initial Board of Directors who shall complete the organization of the Corporation;

NOW, THEREFORE, BE IT RESOLVED, that the following persons be, and they hereby are, elected as the members of the initial Board of Directors of the Corporation, to constitute all of the members of its initial Board of Directors:

Harvey Hawkins
Marlene Beaty
Ken Starnes

FURTHER RESOLVED, that the Board of Directors shall complete the organization of the Corporation.

I hereby consent that the actions set forth in the foregoing resolutions shall have the same force and effect as if taken at a duly constituted organizational meeting of the Incorporator, effective as of the date hereof, and direct that this document be filed with the minutes of the Corporation as part of the permanent records of the Corporation.

As of the 27th day of July, 2007.

INCORPORATOR:


Thomas Rowe

**THE TOWNHOMES AT AVERY LAKE COMMUNITY
PROPERTY OWNERS ASSOCIATION, INC.**

**ACTION WITHOUT MEETING OF THE
BOARD OF DIRECTORS**

The undersigned, being all of the members of the Board of Directors of The Townhomes at Avery Lake Community Property Owners Association, Inc., a South Carolina non-profit corporation ("Corporation"), do hereby unanimously adopt the following resolutions by signing their written consent hereto pursuant to S.C. Code Ann. § 33-31-821:

1. ARTICLES OF INCORPORATION

RESOLVED, that the Articles of Incorporation, which were filed with and certified by the Secretary of State of South Carolina on July 27, 2007, are adopted and approved in all respects as the Articles of Incorporation of the Corporation and shall be placed in the minute book of the Corporation as the first document.

2. ADOPTION OF BYLAWS

RESOLVED, that the Bylaws of the Corporation which appear in the minute book immediately following the Articles of Incorporation are adopted and approved. The Secretary or any Assistant Secretary, or any one or more of the undersigned Directors, is directed to certify the adoption of the Bylaws by signing them on the last page.

3. ELECTION OF OFFICERS

RESOLVED, that the following persons are elected as the officers of the Corporation to serve until the first annual meeting of the Board of Directors and until their successors are elected and qualified:

<u>Name</u>	<u>Office</u>
Harvey Hawkins	President
Ken Starnes	Vice President
Marlene Beaty	Secretary/Treasurer

4. BANKING DEPOSITORY

RESOLVED, that the President or Vice President of the Corporation is hereby authorized and directed to designate as depositories of the funds of the Corporation one or more banks and to designate representatives of the Corporation to deposit funds with any such bank in the name of the Corporation and to sign and endorse all checks, drafts, notes or other obligations for the Corporation; and

RESOLVED FURTHER, that the Secretary of the Corporation is hereby authorized to certify to any such bank, as having been adopted by the Board of Directors, forms of resolutions approved by the President of the Corporation as being substantially consistent with this resolution, such approval to be conclusively presumed from the signature of the Secretary on a copy of any such resolution indicating such certification; and

RESOLVED FURTHER, that this resolution shall be in effect and binding upon the Corporation until it shall have been rescinded or modified.

5. BOARD OF DIRECTORS

RESOLVED, that the number of persons constituting the initial Board of Directors of the Corporation shall be three and that the persons elected to the Board of Directors by the Incorporator shall continue in office until the first annual meeting and until their successors are elected and qualified.

6. TAX STATUS

RESOLVED, that the proper officers of the Corporation, acting for the Corporation, are authorized to take any and all actions deemed necessary and advisable to apply for recognition of exemption or other tax status of the Corporation under applicable sections of the Internal Revenue Code or the South Carolina Code.

7. PAYMENT OF FEES, TAXES AND REIMBURSEMENTS

RESOLVED, that the proper officers of the Corporation be and hereby are authorized and directed to pay and discharge all taxes, fees and other expenses heretofore incurred or hereafter to be incurred in the organization of the Corporation and to reimburse the officers of the Corporation and all other persons for all reasonable expenditures heretofore made by them in such connection.

8. PROCUREMENT OF BOOKS AND RECORDS

RESOLVED, that the Secretary be and hereby is authorized and directed to procure the necessary corporate books and records and to open and maintain books and records in accordance with applicable law and the Bylaws of the Corporation.

9. EMPLOYMENT OF PROFESSIONAL SERVICES

RESOLVED, that in connection with discharging their duties as such, including, without limitation, preparation and filing of books, records, reports, tax-exempt status applications, and returns, the proper officers of the Corporation be and hereby are authorized and directed to procure in their discretion such legal, accounting or other professional services and assistance as they may reasonably require in order to properly discharge the duties of said offices, and that the reasonable expenses therefor shall be charged to and paid for by the Corporation.

10. CORPORATE LICENSES

RESOLVED, that the proper officers of the Corporation be and hereby are authorized and directed to do any and all acts and execute any and all such documents as shall be necessary or desirable in order to procure for the Corporation any federal, state, local or other governmental licenses, qualifications, permits, approvals or other authority that may be required in order for the Corporation to fulfill the purpose for which it was organized.

11. RATIFICATION OF PROMOTERS' ACTS

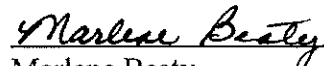
RESOLVED, that all things done and all actions taken by any and all of the promoters, or agents thereof, of the Corporation in connection with any matters preliminary to or necessary for the organization, incorporation, investigation, and promotion of this Corporation be and hereby are in all respects ratified, confirmed and approved.

IN WITNESS WHEREOF, the undersigned, being all of the members of the Board of Directors of the Corporation, indicate their consent in writing to the foregoing actions effective as of the 27th day of July, 2007.

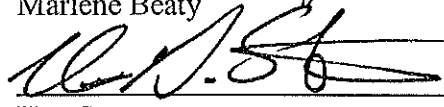
BOARD OF DIRECTORS



Harvey Hawkins



Marlene Beaty



Ken Starnes