



of the Association consistent with the requirements of this Declaration. "Articles" shall mean the Articles of Incorporation of the Association. Until such time as the Association is formed and turned over to the owners, the Declarant shall carry out all functions of the Association as set forth in this Declaration.

SECTION 2. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Association.

SECTION 3. "Building" shall mean both the main portion of a structure built for permanent use and all projections or extensions thereof including, but not limited to, garages, outside platforms, canopies, porches, and outbuildings.

SECTION 4. "By-laws" shall mean the By-laws of the Association.

SECTION 5. "Common Area" shall mean all land within the Property owned or maintained or to be owned or maintained by the Association and specifically designated by Declarant as "Common Area" including, but not limited to, areas shown on any recorded final plat as "Common Area" or as Landscape Easements, together with such facilities and improvements as may be constructed thereon including, but not limited to: dams, lakes, storm water detention ponds, water lines and equipment, roads and streets, fencing, sidewalks and walking paths, entrance walls, signage, landscaping, lights and gates or other security facilities, for the common use and enjoyment of the members of the Association. The Common Area shall also include the cul-de-sac islands and street medians within the public roads (including all landscaping and other improvements contained within them). The initial portions of the Common Area to be owned by the Association may be conveyed to the Association by Declarant at such time as it shall be determined by the Declarant, in the exercise of its sole discretion, that the Association is able to maintain them. From time to time, Declarant may designate additional property as Common Area by filing a declaration to such effect in the public records of Greenville County, South Carolina and, if appropriate, by conveying the same to the Association. Further, the Common Area shall include other real or personal property acquired by the Association in accordance with its by-laws if the same is designated as a part of the Common Area. Common Area may include any real property, with facilities and improvements constructed thereon, which is located within the Southampton development and which benefits the Property.

SECTION 6. "Declarant" shall mean and refer to Southampton Development, LLC, its successors and assigns.

SECTION 7. "Improvement" shall mean any structure or construction of any kind that alters the physical appearance of a Lot including, but not limited to, buildings, outbuildings, roads and driveways (other than those dedicated to public use), parking areas, fences screening privacy lawns, signage, landscaping and walkways located on Lots, together with any grading, landscaping, or construction work or treatment done or applied to a Lot in connection therewith.

SECTION 8. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat or development plan of the Property with the exception of Common Area and streets and roads.

SECTION 9. "Member" shall mean and refer to every person or entity that holds membership with voting rights in the Association.

SECTION 10. "Occupant" shall mean any person or entity who occupies, or who has the right to occupy, all or a part of any Lot that is a part of the Property, whether such occupancy or right of occupancy is based on ownership, lease, license, or easement.

SECTION 11. "Owner" shall mean and refer to the Owner of record, whether one or more persons or entities, of a fee simple title to any Lot, or any portion thereof, which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 12. "Person" shall mean and refer to any individual, corporation, limited liability company, partnership, association, trustee, or other legal entity.

SECTION 13. "Property" shall mean and refer to that certain real property described in Exhibit "A" attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association by annexation.

## **ARTICLE II - PROPERTY RIGHTS**

SECTION 1. OWNERS' EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to those portions of the Common Area owned by the Association which shall be appurtenant to and shall pass with the title to every Lot, whether or not referred to in any deed conveying title to any Lot, subject to the following provisions:

- (a) the right of the Association to suspend the voting rights of an Owner or Occupant for any period during which any assessment against Owner's Lot(s) remains unpaid;
- (b) the right of the Association to grant easements and rights of way across or beneath all or any part of the Common Area to any public agency, authority, or utility; and
- (c) the right of the Association, in accordance with its Articles and By-laws, to borrow money for the purpose of improving the Common Area and to mortgage, pledge, or otherwise hypothecate any or all of its real or personal property as security for any such money borrowed.

SECTION 2. LEASES OF LOTS. Any permitted lease agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the lease shall be subject in all respect to the provisions of this Declaration of Covenants, Conditions, and Restrictions, the Articles of Incorporation and By-laws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. All leases of Lots shall be in writing for a term of not less than six (6) months, and shall not provide for the lease of less than the entire Lot and all improvements located thereon.

SECTION 3. DELEGATION OF USE. Any Owner may delegate, in accordance with the applicable By-laws of the Association, his rights of enjoyment of the Common Area and facilities to the members of his family, guests, his tenants, or contract purchasers, provided that every such delegate shall reside upon the Property or be accompanied by the Owner.

### **ARTICLE III - MEMBERSHIP AND VOTING RIGHTS**

SECTION 1. The Declarant will form, on or before the date that ninety percent (90%) of all Lots in Southampton are improved and occupied, a not-for-profit corporation to be known as Southampton Homeowners Association, herein referred to as the "Association," which will co-own, maintain and operate the Common Areas and other physical elements of the Property outlined in this Declaration. The Declarant will initially exercise full control over the activities of the Association until such time the Declarant transfers control to the property owners in the subdivision. When the Declarant decides to divest itself of control and authority of the Association, a new Board of Directors shall be formed by election from among the property owners in Southampton pursuant to the Association's By-Laws. At that time the new Board of Directors, on behalf of the Association, shall in writing under separate agreement accept possession of all Common Areas and other physical elements in their then current condition for ownership, operation and maintenance.

SECTION 2. MEMBERSHIP. Every Owner of a Lot which is subject to a lien for assessments shall be a Member of the Association. An Owner may assign in writing his membership and voting rights to an Occupant upon such terms as the Association may prescribe. Otherwise, membership and voting rights shall be appurtenant to, and may not be separated from, ownership of any Lot that is subject to assessment; provided, however, that no such assignment shall affect the obligation of the Owner to pay the assessment described in ARTICLE IV hereof.

SECTION 3. CLASSES. The Association shall have the following two classes of voting membership:

(a) Class A Members shall be all Owners, with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be Members. The vote for such Lot shall be exercised as the Owners thereof among themselves determine, but in no event shall multiple Owners of a Lot be entitled to cast more than the one (1) vote with respect to any Lot, and no fractional vote may be cast with respect to any Lot.

(b) The Class B Member shall be the Declarant, and it shall be entitled to ten (10) votes for each Lot in which it holds a fee or undivided fee interest. Class B membership may, at the option of Class B Member, be converted at any time to Class A membership.

SECTION 4. ASSOCIATION BOARD OF DIRECTORS. Following its incorporation, the business and affairs of the Association shall be managed by a Board of Directors of not less than three (3) directors, each of whom shall be elected by a majority vote of the Members of the Association in accordance with its By-laws. Directors shall be required to be Members of the

Association. No Director shall incur any liability whatsoever to any Member, Owner, or Occupant for any actions taken by such Director in good faith and within the scope of his or her authority in implementing or enforcing any provision of this Declaration or Association's By-laws.

#### **ARTICLE IV - COVENANT FOR MAINTENANCE AND ASSESSMENTS**

**SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.** All Owners of Lots or any portion thereof, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to Declarant or, after it is formed, the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, lawn, and/or fence maintenance costs, such assessments to be established as necessary and collected as hereinafter provided; (3) a pro rata share of ad valorem taxes levied against the Common Area; and (4) a pro rata share of assessments for public improvements to or for the benefit of the Common Area. The annual and special assessments, together with interest thereon and costs of collection thereof, including reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the Person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Notwithstanding anything herein to the contrary, Lots owned by Declarant shall not be subject to a lien for assessments.

The Declarant, pursuant to the plan of development for the subdivision, shall construct, or cause to be constructed, and, if deemed appropriate or necessary by Declarant, the necessary streets and roads to the Lots and shall provide, or cause to be provided, either in the streets abutting a Lot or in reserved utility easements, water, natural gas, electric, cable television, and telephone service to each Lot. The initial construction of such utility services to Lots shall be accomplished without cost or expense to The Association and shall not be subject to the lien and assessment rights described herein.

#### **SECTION 2. PURPOSE OF ASSESSMENTS.**

(a) The assessments levied by Declarant or The Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and Occupants of the Property owned by its Members and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose or for maintenance of the Common Area including, but not limited to: the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, roads, entrance areas, walking paths, landscape lighting, landscape easements, the procurement and maintenance of insurance in accordance with this Declaration and the By-laws, the payment of usage and/or rental charges for any street lights located on the Property, the payment of taxes assessed against the Common

Area, the employment of attorneys and accountants to represent the Association when necessary, and such other needs as may arise.

(b) Assessments by the Declarant or Association also shall be used for the purpose of providing for each individual Lot's garbage/refuse collection, lawn and landscape maintenance for the Common Areas and landscape easements, and be mandatory for all Lots and carried out on an annual contract basis by a single party or entity, with the cost thereof to be borne as a common expense and paid for by funds collected through annual and/or special assessments.

(c) Garbage/refuse collection shall be performed on a weekly basis, on the same day of the week for all Lots. The original Owner of each Lot will receive a new roll cart provided by the waste collection company.

(d) Declarant, and then after its formation, The Association shall own and be responsible for the maintenance of the following items: all internal subdivision streets, landscaped cul-de-sac islands, traffic circles and street medians (including all landscaping and improvements located therein), subdivision signage, entrance monuments and gates; sidewalks and walkways, street name and traffic control signage, and storm water detention ponds. Any expenses incurred to own and maintain these items shall be paid for by funds collected through annual and/or special assessments.

(e) All monies collected by Declarant or the Association shall be treated as the separate property of the Declarant or Association, and such monies may be applied by Declarant or the Association to the payment of any expense of operating and managing the property of Declarant or the Association and the Common Area, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-laws of the Association. As monies for any assessment are paid unto Declarant or the Association by any Lot Owner, the same may be commingled with monies paid to Declarant or the Association by the other Lot Owners. Although all funds and common surplus, including other assets of Declarant or the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge, or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When a Lot Owner shall cease to be a Member of the Association by reason of his divestment of ownership of his Lot, by whatever means, Declarant and the Association shall not be required to account to such Owner for any share of the fund or assets of the Association that may have been paid to the Association by such Owner. All monies which any Owner has paid to Declarant or the Association shall be and constitute an asset of Declarant or the Association which may be used in the operation and management of the property of Declarant or the Association and the Common Area and in carrying out the other responsibilities of Declarant or the Association.

### SECTION 3. ANNUAL AND SPECIAL ASSESSMENTS.

(a) Declarant and, after it is formed, the Association shall impose assessments, with Declarant covering the share of costs for each Lot upon which a residence and associated landscaping has not been completed and the Owners paying for each Lot upon which a residence and landscaping

has been completed. In both cases, these assessment amounts shall be pro-rated on a monthly basis according to the portion of the year during which the residence and landscaping on the Lot have been completed. This annual assessment shall be due from the Owner of each Lot pursuant to Section 5 of ARTICLE IV.

(b) The annual assessments shall not apply to any Lot so long as it is wholly owned by the Declarant, or any of the exclusive builders approved to build in Southampton until such time the Lot has been transferred from the builder to the Owner of the residence on such Lot.

(c) There shall be no maximum limitation upon the assessments imposed by Declarant. The annual assessment for the calendar year commencing January 1 of the year following creation of the Association shall be established by the Board of Directors of the Association and may be increased for each calendar year thereafter by the Board of Directors without a vote of the membership, by a percentage which may not exceed ten percent (10%) of the maximum annual assessment of the previous year.

(d) The maximum annual assessment for the calendar year commencing January 1 of the year following the Association's first assessment and for each calendar year thereafter may be increased without limit by a vote of two-thirds (2/3) of the votes cast by the Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(e) In addition to the annual assessments authorized above, the Association may levy, at any time during any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction; reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes cast by the Members who are voting in person or by proxy at a meeting duly called for this purpose, in accordance with the procedure set forth in Section 4 below.

**SECTION 4. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 3.** Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than fourteen (14) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be the same as the required quorum of the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

**SECTION 5. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENT.** The annual assessments provided for herein shall be collected on an annual basis and shall commence as to each Lot on the first day of the first month following the conveyance of that Lot to an Owner by Declarant or one of the exclusive builders, with the assessment for the first year of ownership to be prorated according to the portion of the year during which the Lot is owned by the Owner and according to the portion of the year during which the residence and associated landscaping is

completed. At least thirty (30) days in advance of each annual assessment period, the Declarant and, after it is formed, the Board of Directors shall fix the amount of the annual assessment to every Owner subject thereto. The due date and method of payment (i.e., payments to be made annual, semi-annual, or quarterly) shall be established by Declarant and, after it is formed, the Board of Directors.

**SECTION 6. EFFECT OF NONPAYMENT OF ASSESSMENTS.** If any Owner or Occupant shall fail to pay assessments or other payments (or any portion thereof), or to perform maintenance and repair, or shall otherwise be in breach of this Declaration, then Declarant or Association, after fifteen (15) days' prior written notice to such delinquent Owner or Occupant, shall have the right, but not the obligation, to make such payments or perform such maintenance and repair or cure such default and to charge the delinquent Owner or Occupant with the amount or costs thereof, together with interest thereon at the rate of twelve percent (12%) per annum, from the date of advancement of funds to the date of reimbursement by the Owner or Occupant. In addition to the foregoing, Declarant or the Association may impose an additional late fee of \$25.00 for each month during which any assessment due from any Owner or Occupant remains unpaid.

The Owner of each Lot shall be primarily liable and the Occupant, if any, secondarily liable for the violation or breach of any covenant, condition, or restriction herein contained. Violation or breach of any covenant, condition, or restriction herein contained shall give to Declarant or the Association, following fifteen (15) days' written notice to the Owner or Occupant in question (except in exigent circumstances), the right, privilege, and license to enter upon the Lot where said violation or breach exists and to summarily abate and remove, at the expense of the Owner or Occupant thereof, any improvement, structure, thing, or condition that may be or exist thereon contrary to this Declaration. No such entry by Declarant or the Association or their agents shall be deemed a trespass, and neither Declarant nor the Association nor their agents shall be subject to liability to the Owner or Occupant of said Lot for such entry and any action taken to remedy or remove a violation. The cost of such action shall be charged to the Owner or Occupant as prescribed above.

**SECTION 7. CREATION OF LIEN.** The: amount of any past due assessment, imposed late fees, and the cost of any payment, maintenance, repair, abatement, remedy, or removal undertaken under this Article IV shall be a binding personal obligation of the Owner or Occupant in violation of any provision of this Declaration, as well as a lien (enforceable in the same manner as a mortgage) upon the Lot in question. The lien provided for in this section shall not be valid as against a bona fide purchaser or mortgagee for value of the Lot in question unless either (i) a suit to enforce said lien shall have been filed and notice of lis pendens shall have been recorded in Greenville County, South Carolina, or (ii) a statement setting forth the amount of such lien, except for interest and costs of collection which may continue to accrue ("Statement of Lien"), shall have been recorded and indexed with the mortgage records for Greenville County, South Carolina, prior to the recordation of the deed or mortgage conveying or encumbering the Lot in question to such bona fide purchaser or mortgagee, respectively. The Statement of Lien shall cover the amount of the assessment, payment, cost or expense incurred by Declarant or the Association, interest as set forth in Section 6, and the costs of collection or enforcement of the Statement of Lien, including reasonable attorneys fees and the cost of any title search incident to

enforcement. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Declarant and, after it is formed, the Association is hereby designated as attorney-in-fact for each Owner for the purposes of executing and recording a Statement of Lien as contemplated by this Section. Each Owner, by purchasing property subject to this Declaration, irrevocably consents for himself and his heirs, successors or assigns to the filing of a Statement of Lien by the Declarant or the Association and consents to the recording and indexing of such Statement of Lien against Owner in the mortgage books and records of Greenville County, South Carolina.

SECTION 8. CURE. If an assessment or default for which a notice of lis pendens or Statement of Lien was filed is paid in full and cured, Declarant or the Association shall file or record a cancellation or rescission of such notice of lis pendens or Statement of Lien, upon payment by the defaulting Owner of the costs of preparing and filing or recording such cancellation or rescission, and other reasonable costs, interest, or fees that have been incurred.

SECTION 9. NON-EXCLUSIVE REMEDY. The foregoing lien and the rights to foreclose thereunder shall be in addition to, and not in substitution for, all other rights and remedies that any party may have hereunder, including a suit at law or in equity or in any applicable administrative forum to enjoin any violation hereof or to recover damages for any violation or unpaid assessments. Upon creation of the Association, Association shall also have all the same rights and remedies prescribed for Declarant under this Article, but Declarant also shall have all such rights and remedies in its own name for so long as Declarant retains its Class B membership in Association. If successful in any such action, Declarant or the Association may recover from the defaulting Owner expenses incurred in said enforcement proceedings, including reasonable attorneys fees.

Upon failure of the Declarant or the Association to take effective action to enforce any provision contained herein against an Owner who is in breach or violation of this Declaration within a reasonable time after having been requested to take such action by any other Owner, then any Owner may bring an action at law or in equity or in any applicable administrative forum to enforce the provisions hereof and, if successful, may recover from the defaulting Owner expenses incurred in said enforcement proceedings, including reasonable attorneys fees.

SECTION 10. FAILURE TO ENFORCE IS NO WAIVER. The failure of Declarant or the Association to enforce any requirement, restriction, or standard herein contained shall in no event be deemed to be a waiver of the right to do so thereafter or in other cases, nor of the right to enforce any other requirement, restriction, or standard.

SECTION 11. SUBORDINATION OF LIEN TO MORTGAGE. The lien of the assessments provided for herein on any Lot should be subordinate to the lien of any first mortgage on such Lot. The sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section.

## **ARTICLE V - ARCHITECTURAL REVIEW PROCESS**

**SECTION 1. GENERAL CONDITIONS.** No structure may be commenced or erected upon the Property or any application for building permit for such structure be made, any landscaping done, or any addition to any existing building or alteration or change to the exterior thereof be made, until the final building plans, specifications, materials and exterior finish, plat plan, and landscape plan and have been submitted to and approved by the Architectural Review Committee (the "ARC" or "Architectural Committee"). No improvement or other structure shall be commenced, erected, maintained, altered or removed without the prior written approval of the ARC. The review process is outlined in the Southampton Architectural Design Standards and Construction Guidelines, which is available upon request.

**SECTION 2. ARCHITECTURAL REVIEW COMMITTEE.** Declarant shall designate two (2) or more Persons to serve with itself as an Architectural Review Committee (the "ARC") for the express purpose of insuring compliance with the provisions of this Article and Article VI hereafter. In the event any member of the ARC should, in Declarant's opinion, for any reason cease to be able to perform his duties properly, a replacement shall be selected by the Declarant. Declarant shall be responsible for administrative duties associated with the ARC and shall sign on behalf of the ARC for all building plan approvals.

**SECTION 3. DESIGN REVIEW PROCESS.** This approval process shall apply to all new improvements, buildings, structures (whether temporary or permanent), walls, fences, and landscaping, as well as modifications and additions to existing improvements and structures.

(a) In order to prevent duplication of building or improvements to be constructed in this subdivision and to carry out the intent of this Declaration, the ARC is vested with full authority to approve or disapprove plans for the construction of any building or improvement with its major exterior features so similar to an existing building or improvements as to be considered a substantial duplication. The ARC shall further have the right to refuse to approve any plans or specifications for buildings or improvements, plot plans or landscape or recreational plans, taking into consideration such factors as it may deem appropriate including, but not limited to, the suitability of the proposed building or other improvement, the materials of which it is to be built, whether or not it is in harmony with the surroundings, the effect it will have on other residences already constructed and the effect it will have on the outlook from adjacent or neighboring property. The foregoing considerations and, in particular, the harmony of the overall development, shall be of paramount importance in the review of all plans, and the ARC may reject plans which it feels are not appropriate for any of the above reasons, regardless of the aesthetic merit of such plans when considered individually. If a builder who has previously constructed a residence in subdivision wishes to repeat a plan or to construct another residence with a plan substantially similar to an existing residence, he must cause to be listed on the application for approval submitted to the ARC all Lots within the subdivision on which the proposed residence or one substantially similar has been built previously.

(b) The Architectural Committee is authorized by a majority vote of all its members to approve or ratify in the construction or alteration of any building or improvement minor violations of any provisions of these restrictions relating to set back, location and size of improvements, or similar

matters if in the opinion of all members of the Committee such shall be necessary to prevent undue hardship, and to waive or vary the provisions of this Article or other provisions of this Declaration relating to use of the Property if, in the opinion of all members of the Architectural Committee, such waiver or variance would not be inconsistent with the intent and purpose of this Declaration. The approval or ratification by the Architectural Committee in accordance with this paragraph shall be binding on all Persons.

(c) All residential building must commence within twelve (12) months from closing on the Lot and be completed within twelve (12) months from commencement. All work must be completed in a workmanlike manner and the construction site at all times must be kept clean and free of debris. Damage to any street, curb, gutter or sidewalk occurring during construction of any improvement on a Lot shall be promptly repaired by the Owner or his builder or contractor. Should the Owner fail to promptly repair or have repaired any such damage, the Association shall have the right to do so, and the cost of such repairs may be immediately assessed against and collected from the Owner in the same manner as other assessments allowed under this Declaration.

(d) In the event construction of any building or improvement is commenced on any Lot in this subdivision and work is abandoned for a period of thirty (30) days or longer, without just cause shown, or should any building or improvement remain unfinished for a period of twelve (12) months from the date construction began, without just cause shown, then in either event the ARC shall have: (1) the authority to complete the structure at the expense of the Owner and shall have a lien against the Lot and all Improvements to the extent of any moneys expended for said completion, but said lien shall at all times be subordinate to the lien of any prior recorded mortgage or mechanic's lien (but the ARC shall have the right to contest the validity and amount of such liens); or (2) the authority to remove the improvements from the Lot, and the expense of said removal shall constitute a lien against the Lot, which lien shall be subordinate to the lien of any prior recorded mortgage or mechanics' lien. Said liens shall be foreclosed in the same manner as the procedure set forth in ARTICLE IV for the foreclosure of liens for assessments. No action shall be taken under this paragraph without notice to any mortgagee or other lien holder of the proposed action to the taken and to give ten (10) days in which to allow Owner to show cause, if any he can, why the ARC should not take action under this paragraph.

(e) When at least ninety (90) percent of the numbered Lots have been sold by Declarant, Declarant may, at its option, turn over the functions of the Architectural Committee to the Association. The Association shall thereafter appoint members of the Architectural Committee. Otherwise, Declarant shall turn over functions of the Committee to the Association when all Lots have been sold and all improvements upon the Property have been completed.

(f) Each Lot Owner and his contractor, subcontractor, and other agents shall take full responsibility for controlling surface water run-off and sediment that may adversely affect any other property. Plans to control said run-off and sediment must be submitted to the ARC along with other required plans. Notwithstanding any plans as may be submitted, the ARC may make additional reasonable requirements of Lot Owners to prevent or control excess run off or sediment during construction or thereafter. However, responsibility for the surface water run off will be that of the Lot Owner and not that of the ARC.

## **ARTICLE VI - ARCHITECTURAL DESIGN STANDARDS AND GENERAL USE RESTRICTIONS**

**SECTION 1. GENERAL DESIGN GUIDELINES.** Detailed provisions are outlined in the Southampton Architectural Design Standards and Construction Guidelines, which is . The following general design guidelines, and the use restrictions in Section 2 below, are incorporated in this Declaration to provide Owners and Owners' architects with adequate information as to some of the specific requirements and restrictions by which plans and drawings for proposed residences will, be reviewed by the ARC. The main purpose for establishing these guidelines and restrictions is to ensure the quality and consistency of the Property, and they are not intended to impose undue restrictions on creativity of design and siting of residences. Additionally, these guidelines and restrictions apply only to the overall aesthetics and appearance of structures and are not inclusive of all local building codes and regulations, compliance with which is the responsibility of each Owner. Interior design, interior material selections, colors, window treatments (except as noted), etc., also are excluded, and these selections are left to the discretion of the Owner.

The exterior treatment of any new residence shall follow these guidelines and restrictions to create a harmonious and consistent architectural appearance, both in proportioning and material selection. The architectural "style" shall be French country or old world-style in approach. Declarant considers this approach desirable to create a community of homes which are individual in character but which will blend to provide a consistent or planned look for the overall development. Other acceptable styles may be approved by the ARC in its sole discretion as long as they are not in conflict with the intent of the styles specified herein.

Declarant mandates that approved materials for installation on exterior walls of residences shall be predominately brick, natural stone (no man-made stone), and/or stucco. Vinyl or metal siding is not permitted for boxing windows or soffits. Vinyl or metal siding is permitted only for exterior porch ceilings. Exterior windows shall use "simulated divided light" grids with a preferred 1-1/8" grid width and a minimum grid width of 7/8". These materials are selected to allow for some individual preference, but are limited to provide for the consistency of appearance discussed above.

Roof areas shall be finished in the highest architectural grade of slate, asphalt or fiberglass shingles; furthermore, copper sheet roofing and flashing may be used. The pitch for the primary roof areas shall be at least 5/12. The style, placement and materials of roof gutters and downspouts shall be subject to approval by the ARC. Flat roof areas are discouraged and must not be visible from the Common Areas or Private Roads or neighboring property.

**SECTION 2. USE OF PROPERTY.** Any use of the Property by its Owners shall be in accordance with the applicable zoning classification of R-S, Residential Suburban as stated in the Greenville County Zoning Ordinance. Each Lot and the residence and improvements thereon and the Common Area and facilities shall be for the following uses and subject to the following restrictions, and, in addition, to those set forth in the By-laws:

(a) All Buildings and the Common Area and facilities shall be used for residential and related common purposes. No Lot may be subdivided or combined with an adjacent Lot, and each Lot shall be used for a single family residence and for no other purpose, except that the Declarant and others approved and designated by Declarant may use one or more Lots or residences for temporary sales offices and/or model residences for sales purposes. No residence shall be constructed which does not contain a minimum of 3,000 square feet of enclosed heated living space. The minimum square feet on the first floor of any three-story residence, two-story residence or one-and one-half story residence shall be 1,800 square feet of enclosed heated living space. Each residence also must be oriented so that the front door faces the street, and shall be set back from the front, side and rear property lines at least the minimum number of feet required by the set back lines shown on any recorded final subdivision plat of the Property, unless a variance to the setback lines is specifically granted the ARC and/or the Greenville County Building Codes Department.

(b) No Owner shall do or keep anything, nor cause or allow anything to be done or kept, on his Lot, in his residence, or on the Common Area and facilities which will result in any increase in the premiums for or the cancellation of insurance on any portion of the Property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common Area and facilities.

(c) No immoral, improper, offensive or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property.

(d) Nothing shall be done in or to any residence or in, to, or upon any of the Common Area and the facilities which will impair the structural integrity of any building, residence, or portion of the Common Area and facilities or which would impair or alter the exterior of any Building or portion thereof, except in the manner provided in this Declaration.

(e) No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any part of the Property, except that the Declarant or those designated by Declarant may use any Lot or residence for temporary sales or display purposes. Any Owner wishing to establish a home occupation or home based business shall be subject to the provisions of the Greenville County Zoning Ordinance.

(f) No Owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any residence, Building or any portion of the Common Area and facilities, except as may be allowed by the Association pursuant to its By-laws; provided, however, that the Declarant, any Owner and any mortgagee who may become the Owner of any Lot, or their respective agents, may place on any Lot a standard "For Sale" sign, the form of which shall be specified by the Architectural Committee for uniform use throughout the Property.

(g) No Person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Areas and landscape easements except at the direction of and with the express prior written consent of the Declarant or Association.

(h) The Common Area and landscape easements shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the residences, subject to any rules or regulations that may be adopted by the Association pursuant to its By-laws.

(i) Front-loading garages (those that face the same street upon which the front of the residence faces) shall not be allowed except for carriage-style approved by the ARC. An automatic opening and closing device shall be required for each garage door, and all garage doors shall remain closed except when automobiles are entering or leaving the garage. Any recreational vehicle, camper, boat, or trailer or any vehicle or item not in daily use placed upon any Lot by the Owner must be stored at all times behind the closed doors of the garage of such Owner's residence. No such item(s) shall be placed elsewhere on any Lot on which there shall not be a garage except for brief periods reasonably necessary to load or unload them, and no repairs to such items shall be conducted upon any Lot except in the garage.

(j) Each Building shall have an enclosed garage suitable to accommodate at least three full size automobiles. Detached garages are allowed. The garage doors of garages shall not open towards the front of the Lot except for carriage-style approved by the ARC. As to attached garages and corner lots, the placement of garage doors shall require specific approval of the ARC. Furthermore, the placement of any garage door shall be done so as to not detract from the overall streetscape and curb appeal of the Subdivision, as determined by the ARC.

(k) Any and every container used to store garbage, refuse and debris until collected by public or private waste disposal service shall be stored on each Lot so that it shall be out of sight from all streets. The container shall be concealed within buildings, be concealed by means of a screening wall or materials similar and compatible with that of a building, or be concealed by sufficient landscaping to provide a permanent screen from view of surrounding property. These elements shall be integrated with the building plan, shall be designed so as not to attract attention, and shall be located in as reasonably inconspicuous a manner as is possible. Weekly garbage collection from all Lots is mandatory, the cost of which shall be paid out of the annual assessments collected by the Association.

(l) All exterior heating and air conditioning equipment shall be screened from view from the street.

(m) No animals shall be kept, maintained, or quartered on any Lot or any portion of the Property except that cats, dogs, rabbits, hamsters, or caged birds may be kept in reasonable numbers as pets for the pleasure of the Occupants. The ARC is authorized (but not required) to issue reasonable rules for the protection of all Owners relating to the number of pets which may be kept on any numbered Lot. All pets shall be kept in fenced courtyard areas or on leashes and each Owner shall be responsible for the prompt disposal of all excrement or debris of any kind resulting from any pets owned or maintained by such Owner.

(n) Each Lot will be required to have sodded grass (not seeded) in the front and side yards and an underground irrigation system in the entire grassed area. Sod must be installed at the time each residence is constructed. Property Owners will be required to keep tall shrubbery or hedges trimmed to reasonable limits so that air circulation or views from surrounding property will not be adversely affected and so traffic hazards will not be created. Further, all Owners shall be required to maintain their Lots and any improvements thereon at all times in a neat, attractive and presentable manner so as not to detract, from the overall appearance of the subdivision or the surrounding property. If an Owner fails to maintain his Lot in a neat, attractive and presentable manner as determined by the ARC in its sole and absolute discretion, then following 30 days' written notice to such Owner, the Declarant or Association may contract with a landscape service to so maintain such Lot, bill the costs of such maintenance to such Owner, and assess a Lien against such Lot for such costs.

(o) Provisions must be made by the Owners for off-street parking of their own cars and those belonging to guests, invitees and employees, as the parking of such cars on public street rights-of-way for long periods of time during the day or night will not be permitted. Declarant and the Association have the right to contact local law enforcement agencies to ensure cooperation with this policy.

(p) No motorcycles, motorbikes, mini-bikes, go-carts or other similar gas-operated vehicles shall be operated on any Lot or on any Common Area.

(q) Each Lot upon which a residence has been constructed shall have a mailbox of a type and size initially specified by Declarant or the ARC. Such mailbox shall be installed by the Owner, at Owner's expense, before the residence on the Lot is occupied and shall be properly maintained at all times by the Owner and shall not be altered or replaced except by a new mailbox identical to the one originally installed.

(r) The location of any television satellite disks or dishes will require prior written approval of the ARC. No satellite disks, dishes or outside antennae of any kind shall be allowed on any Lot that can be seen from the street. No large satellite dishes or outside TV Dipole antennae are allowed on any Lot.

(s) No tree, except pine trees, having a trunk diameter of eight (8) inches or more (measured three feet from the ground) shall be removed or relocated on any Lot without prior written approval of the ARC.

(t) No tennis courts or above ground swimming pools shall be constructed on any Lot subject to this Declaration.

(u) All fences, walls and hedges to be erected or placed on any portion of any Lot as part of the original residence construction or a later addition, must first receive written approval from the Architectural Committee as being harmonious with the neighboring Lots and the Subdivision. No walls or fences shall be constructed forward of the rear corner of the house other than those interpreted by the Architectural Committee to be decorative and not intended as an enclosure.

Any hedges in the front yard shall not exceed three (3) feet in height. Fences, walls, and hedges erected in the rear yard of any Lot shall be of a reasonable height to serve its intended purpose. Adequate access must be provided to all grassed and landscaped areas in the front and side yards of Lots in order to allow for the efficient common maintenance of such areas. All fencing shall be constructed of brick, wrought iron, or aluminum, having a standard height of six (6) feet and a maximum height of eight (8) feet, unless a variation in the height is otherwise approved by the ARC for the purposes of privacy between adjacent Lots. Fence columns may be brick, or stone. If an Owner fails to maintain his fence in a neat, attractive and presentable manner as determined by the ARC in its sole and absolute discretion, then following 30 days' written notice to such Owner, the Declarant or Association may contract with a third-party service to so maintain such fence, bill the costs of such maintenance to such Owner, and assess a Lien against such Lot for such costs.

(v) All Property subject to this Declaration is hereby declared to be and designated as a wildlife sanctuary and any hunting of any wild birds or animals is hereby prohibited.

(w) All residences shall have a concrete or brick driveway adequate to accommodate parking of at least two automobiles. If curbs are broken by the Owner during construction of driveway entrances, curbs shall be repaired promptly by the Owner and done in an orderly manner acceptable to the Declarant and the Architectural Committee.

(x) All residences shall be required to have gutters and downspouts of a type and construction acceptable to the ARC.

(y) No Owner or builder shall allow disturbed soil to erode and wash into or on any public streets and/or storm drains of the subdivision. Silt fences and a gravel mud mat shall be installed by the builder on each Lot prior to any soil disturbance, and maintained until such time the landscaping and permanent driveway is installed. Any expense incurred by the Declarant or Association in cleaning up soil erosion from the streets or storm drains shall be recovered from the Owner whose Lot such erosion arose.

(z) No bird baths, vegetable gardens, frog ponds, lawn sculpture, artificial plants, birdhouses, rock gardens or similar types of accessories and lawn furnishings, and no sand boxes or other children's play equipment shall be permitted in the front or side yards of any Lot. The above items may be located in the rear yard as long as they are not visible from public streets or adversely affect surrounding property. Clotheslines shall not be allowed on any Lot.

### SECTION 3. SIDEWALKS.

SECTION 4. QUIET ENJOYMENT. No obnoxious or offensive activity, including activity which creates offensive noises, shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to residents within the Property.

SECTION 5. LANDSCAPING. The front and side yard grass lawn on each Building shall be planted with sod, as opposed to seeded, with warm-season grass (e.g., Bermuda, Zoysia, Centipede, etc.) and no other type of grass (i.e., no fescue, bluegrass, bentgrass or rye), and shall

be equipped with appropriate irrigation. The grass shall cover at least fifty (50) percent of the front yard area. The front yard shall mean the area from the front wall of the Building at the point closest to each side Lot line to the street that the Building faces. All other grass on the Lot must be warm-weather grass, but may be seeded. The landscaping installed on each Lot shall be of a value of at least two (2) percent of the total Lot and Building value. Existing trees and vegetation shall not be part of calculation to determine value of installed landscape.

## **ARTICLE VII – EASEMENTS**

**SECTION 1. WALKS, DRIVES, PARKING AREAS, AND UTILITIES.** All Common Areas and landscape easements within Southampton shall be subject to a perpetual nonexclusive easement or easements in favor of all Owners of Lots for their use and the use of their immediate families, guests, invitees, tenants or lessees for all proper and normal purposes, and for ingress and egress and regress to and from such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television cable or antenna lines, and other public utilities as shall be established either prior to or subsequent to subjecting the Property to this Declaration by the Declarant or its predecessors in title, and for the use of the Owners, their families, guests and tenants. The Declarant hereby expressly reserves the right to grant and/or create any such easement subsequent to the date hereof in the event the necessity of such shall subsequently become apparent due to the development of the Property. The Association shall have the power and authority to grant and to establish in, over, upon, and across the Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property. Further, Declarant and the Association shall have the right at any time to enter upon any Common Area, landscape, utility, or other easement shown on any recorded subdivision plat of the Property and/or established pursuant to this Declaration for the purpose of maintaining the same, and to cross such other portions of the Property as may be reasonably necessary to carry out such maintenance.

**SECTION 2. ENCROACHMENTS.** All Lots and the Common Area within Southampton shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach including, without limitation, such items as driveways and walls. If any encroachment shall occur subsequent to subjecting the Property to this Declaration as a result of settling or shifting of any Building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every Lot shall be subject to an easement for entry and encroachment by the Declarant for a period not to exceed eighteen (18) months following conveyance of a Lot to an Owner for the purpose of correcting any problems that may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected Lot or Lots to as near the original condition as practicable.

SECTION 3. EMERGENCIES. Every Lot and residence shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot or within any residence and that endangers any Building or portion of the Common Area.

SECTION 4. LANDSCAPE EASEMENTS. Declarant and the Association may plant or erect, but shall have no obligation to plant or erect, landscaping, fences, or other beautification materials of their choice in any landscape easement area and shall properly maintain any such improvements. The Owner of any Lot or other portion of the Property subject to a landscape easement shall have the right to use the easement area for any purpose or purposes consistent with this Declaration and duly approved by the Architectural Committee pursuant to ARTICLE V hereof. The landscape easement area shall be designated and maintained as "Common Area" by Declarant and the Association, and nothing in this Declaration shall be construed to give any individual Member of the Association or the general public any right to enter upon or use any landscape easement area without the permission of the Owner of the Lot upon which it is located.

SECTION 5. UTILITY AND DRAINAGE EASEMENTS. An easement is reserved over the rear and side lot lines five (5) feet in width on each Lot for the installation, operation, and maintenance of utilities and for drainage purposes. The right is further reserved within the five foot easement for grading changes and tree removal, if necessary, for the purpose of utility maintenance and drainage, all subject to the approval of the ARC. Such easements and other easements across the Lots, as are shown on the recorded final plat, are also reserved. Property Owners agree to comply with the Greenville County approved storm water and sediment control plan for the Southampton Subdivision and all related terms as stated on the recorded final plat for the Property.

#### **ARTICLE VIII - COVENANTS TO KEEP LOTS AND IMPROVEMENTS INSURED AGAINST LOSS, TO REBUILD AND TO KEEP IN GOOD REPAIR.**

SECTION 1. GENERAL. The Declarant covenants with the Association, on behalf of itself and on behalf of each subsequent Owner of a Lot within the Property, and each Owner of any Lot within the Property, by acceptance of a deed therefore, whether or not it shall be so expressed in said deed, or by exercise of any act of ownership, is deemed to covenant:

(a) The Association shall obtain a general all-peril public liability policy and blanket insurance policy equal to the full replacement value of any and all/or all improvements constructed upon the Common Area within Southampton. Said policy shall contain a replacement cost endorsement providing for replacement of a structure from insurance loss proceeds, and said policy shall be consistent with the requirements of any mortgages or financing agreements to which the Common Area within Southampton and any improvements thereon may be subject.

(b) The Association shall apply the full amount of any insurance proceeds to the rebuilding or repair of any said improvement, subject to the concurrence of any mortgagee or lien holder having a right to control the application of such proceeds.

(c) Each Owner shall keep his Lot and any improvements thereon adequately maintained and repaired at all times in a neat, attractive, and presentable manner so as not to detract from the overall appearance of Southampton or the surrounding property.

(d) Premiums for the group or blanket hazard insurance policy and the general public liability policy shall be a common expense and shall be collectible in the same manner and to the same extent as provided for annual and special assessments in Article IV.

(e) Any Owner shall, at his own expense, carry adequate hazard and homeowners insurance policies insuring the residence and improvements on his Lot.

(f) In the event of damage or destruction by fire or other casualty to any property covered by insurance payable to the Association, the Board of Directors shall, with the concurrence of mortgagees, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good a condition as prior to the damage. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least two-thirds (2/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors.

(g) Also, the Association may levy in any calendar year, a special assessment for the purpose of defraying the cost of construction, reconstruction, repair or replacement of improvements constructed in the Common Area or landscape easements within Southampton to the extent that insurance proceeds under a group insurance policy containing a replacement cost endorsement are insufficient to pay all costs of said construction, reconstruction, repair or replacement to as good a condition as prior to damage or destruction by fire or other casualty covered by insurance.

(h) In the event a dwelling is damaged or destroyed, and the Owner does not begin repair or reconstruction with thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the Lot so that it shall be placed in a neat, clean and safe condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the dwelling until paid by the Owner and may be foreclosed in the same manner set forth in ARTICLE IV for liens for assessments.

(i) Any dwelling that has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the By-laws of the Association.

(j) The Association shall maintain adequate fidelity coverage against dishonest acts by officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. Such fidelity bonds shall:

1. Name the Association as an obligee;

2. Be written in an amount equal to at least twenty (20%) percent of the estimated annual operating expenses of the Association, including reserves;
3. Contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

SECTION 2. STORM WATER DETENTION. The Association shall own, operate and maintain the storm water detention ponds located within the Common Area of the subdivision. The required Greenville County Soil and Water Conservation District maintenance schedule for the detention pond is outlined on the final recorded plat for Southampton.

## **ARTICLE IX - GENERAL PROVISIONS**

SECTION 1. ENFORCEMENT. The Declarant, the Association, and any Owner or Occupant, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or the Articles of Incorporation or By-laws of the Association. If the Declarant, the Association, or an Owner or Occupant is successful in any such proceeding brought to enforce the provisions of this Declaration or any lien provided for herein, such successful party shall be entitled to recover from the defendant or defendants all costs and attorneys fees reasonably incurred in such proceeding. Failure by the Declarant, the Association, or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarant and the Association shall have the right to request that law enforcement, public safety, and animal control officers come on the Property to facilitate the enforcement of the laws, codes, and ordinances of any governmental authority.

SECTION 2. SEVERABILITY. Invalidation of any one of the covenants or restrictions contained in this Declaration by judgment or court order shall in no wise affect any other provisions hereof which shall remain in full force and effect.

SECTION 3. MINOR VIOLATIONS: AMENDMENT. Declarant may, without the joinder of any Owner, waive in whole or in part any minor violations of any of the restrictions herein contained. Declarant is authorized to approve or ratify, in the construction or alteration of any building, the restrictions set forth in this Declaration concerning set-back and location in size of improvements if in the opinion of the Declarant, such shall be necessary to prevent undue hardship. This shall include the right to approve the re-cutting of lots provided no additional building lot is created.

The covenants and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first five (5) year period by an instrument signed by Declarant alone until the Southampton Homeowners Association is formed and thereafter by Declarant and Owners holding at least ninety percent (90%) of the then outstanding votes in the Association, and thereafter by an instrument signed by Members holding not less than seventy-five percent (75%) of the then outstanding votes in the Association, provided that no amendment shall alter any

obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. Any amendment must be properly recorded.

IN WITNESS WHEREOF, the undersigned Southampton Development, LLC has caused this instrument to be executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 2008.



**EXHIBIT A**

**TO DECLARATION OF COVENANTS AND  
RESTRICTIONS FOR SOUTHAMPTON  
LEGAL DESCRIPTION**

The "Property," as defined in the attached Declaration of Covenants and Restrictions for Southampton, shall consist of all real property shown on the final subdivision plat for Southampton recorded in the Office of the Register of Deeds for Greenville County, SC in Plat Book 1072 at Page 17.