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**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR BROAD STREET SUBDIVISION**

THIS DECLARATION, made this November 11, 1996, by BROADSTREET DEVELOPMENT COMPANY, LLC a South Carolina corporation (hereinafter referred to as "Developer").

**WITNESSETH:**

WHEREAS, Developer is the owner of certain real property lying and being in the town of Beaufort, Beaufort County, South Carolina, which real property is known as Broad Street Subdivision and is more particularly described in Exhibit A attached hereto and by reference made a part hereof; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values it is developing in Broad Street Subdivision and for the maintenance of this Property (as hereinafter defined) and the improvements thereon, and to this end desires to subject the real property described in Exhibit A to the covenants, conditions, restrictions, and easements hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values in the Broad Street Subdivision, to create an agency to which should be delegated and assigned the powers of administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has caused to be incorporated, under the laws of the State of South Carolina, Broad Street Neighborhood Association, Inc., a non-profit corporation for the purpose of exercising such functions;

NOW THEREFORE, Developer hereby declares that all of the real property described in Exhibit A is and shall be held, transferred, sold, mortgaged, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth.

**ARTICLE I. DEFINITIONS**

1.01 "Broad Street Architectural Committee" shall mean and refer to L. Montgomery Jones, or such other individual(s) as Developer may appoint, or such entity to which the Broad Street Architectural Committee may assign its duties, until all improvements are constructed thereon and sold to permanent residents. At such time as all of the Lots in the Subdivision have

been fully developed, the Developer shall notify the Board and all the Owners of Lots in the Subdivision to that effect, at which time the Developer's rights and obligations as the Broad Street Architectural Committee shall forthwith terminate.

Notice to the Board and all the Owners by Developer under this provision shall be in writing. After receipt of said notice from the Developer, the Board shall have the right, power and authority to elect a successor Broad Street Architectural Committee which shall consist of not less than two (2) Owners of Lots. The rules and regulations pursuant to which such Broad Street Architectural Committee shall act shall be prescribed by the Board. Notwithstanding the foregoing, the Developer may, in its sole discretion, relinquish control over the Broad Street Architectural Committee at any time prior to completion and sale of all Lots in the Subdivision by so notifying the Board and the Owners of Lots in the Subdivision as set forth hereinabove.

1.02 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of Broad Street Neighborhood Association, Inc., as the same may be amended from time to time.

1.03 "Association" shall mean and refer to Broad Street Neighborhood Association, Inc., a South Carolina nonprofit corporation.

1.04 "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

1.05 "Builder" shall mean any person engaged principally in the business of constructing for sale to homeowners single family residential dwellings to whom the Developer sells or has sold one or more Lots for the purpose of constructing thereon a single family residential dwelling.

1.06 "By-Laws of the Association" or the "By-Laws" shall mean and refer to those By-Laws of Broad Street Neighborhood Association, Inc. which govern the administration and operation of the Association, as the same may be amended from time to time.

1.07 "Common Area" shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.08 "Common Assessment" shall mean and refer to assessments levied against all Lots in the Property to fund Common Expenses.

1.09 "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of

this Declaration.

1.10 "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard may be more specifically determined by the Board of Directors and the Broad Street Architectural Committee.

1.11 "Declaration" shall mean the covenants, restrictions, and easements and all other provisions herein set forth in this entire document, as the same may be amended from time to time.

1.12 "Developer" shall mean and refer to (i) Broadstreet Development Company, LLC, a South Carolina corporation, or (ii) any successor-in-title or any successor in interest to Broadstreet Development Company, LLC, to all of the Property then subject to this Declaration and provided in the instrument of conveyance to any such successor-in-title or interest is expressly designated as the "Developer" hereunder by the grantor of such conveyance, which grantor shall be the "Developer" hereunder at the time of such conveyance.

1.13 "Lot" or "Lots" shall mean and refer to lots as shown on the Plat.

1.14 "Mortgage" shall mean and refer to a security deed, deed of trust, mortgage, installment land sales contract or other similar security instrument granting, creating or conveying a lien upon, a security interest in or a security title to a Lot.

1.15 "Mortgagee" shall mean and refer to the holder of a Mortgage.

1.16 "Owner" shall mean and refer to the record owner, whether one or more Persons, including Developer, of the fee simple title to any Lot, but excluding those persons having such an interest under a Mortgage.

1.17 "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

1.18 "Plat" shall mean and refer to that certain plat of Broad Street Subdivision, prepared by Gasque and Associates, Inc., David E. Gasque, R.L.S., No. 10506, dated 1/9, 1996, a copy of which is recorded in the RMC Office for Beaufort County, South Carolina in Plat Book 59 at page 38, as the same may be amended from time to time.

1.19 "Property" shall mean and refer to that tract or parcel of land described in Exhibit A attached hereto and by reference made a part hereof.

1.20 "Structure" shall mean and refer to: (i) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, satellite dish, mailbox, driveway, temporary or permanent living quarters or any other temporary or permanent improvement to such Lot; (ii) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects the natural flow of surface waters from, upon or across any artificial creek, stream, wash or drainage channel from, upon or across any artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (iii) any change in grade at any point on a Lot of more than six (6) inches, whether or not subsection (ii) of this Section 1.20 applies to such change.

1.21 "Subdivision" shall mean and refer to that tract or parcel of land described in Exhibit A attached hereto and by reference made a part hereof.

#### ARTICLE II. DEVELOPMENT

2.01 Development of Property. Except as otherwise set forth herein, all Lots within the property shall be subject to the standards and restrictions set forth in Article IX and X hereof. Developer shall have the right, but not the obligation, for so long as Developer owns any Lot primarily for the purpose of sale, to make improvements and changes to the Common Area and to all Lots owned by Developer, including, without limitation, (i) changes in the location of the boundaries of any Lots owned by Developer, (ii) installation and maintenance of any water or other utility systems and facilities, and (iii) installation of security facilities.

2.02 Interest Subject to Plan of Development. Every purchaser of a Lot shall purchase such Lot and every Mortgagee and Lienholder holding an interest therein shall take title, or hold such security interest with respect thereto, with notice of this Article. Any provision of this Declaration to the contrary notwithstanding, the provisions of this Article II may not be abrogated, modified, rescinded, supplemented or amended in whole or in part without the prior written consent of Developer.

2.03 Plat. Developer reserves the right to modify, amend, revise and add to the Plat, at any time and from time to time, setting forth such information as Developer may deem necessary with regard to the property, including, without limitation, the locations and dimensions of the Lots, the private roads, utility systems, drainage systems, utility easements, drainage easements, access easements and building and set-back line restrictions.

Developer, by executing and recording this instrument, specifically reserves the right to develop the Property in separate phases in the future, with the timing of future development to be in the sole discretion of the Developer. As each subsequent phase is developed, Developer shall execute and record an amendment to this instrument along with an amended plat of the Property indicating the extent of the phase then to be developed.

ARTICLE III. PROPERTY RIGHTS

3.01 General. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration may be conveyed, transferred and encumbered the same as any other real property. Except as provided in Section 2.01 hereof, Lots shall not be subdivided and the boundaries between Lots shall not be relocated unless the relocation thereof is made with the consent of the Board and of Developer, so long as Developer owns a Lot primarily for the purpose of sale. Each Lot in the Subdivision shall be subject to those easements, if any, which are shown on the Plat as affecting such Lot.

3.02 Easements for Developer. Developer hereby reserves for itself, its successors and assigns, in perpetuity the following easements and rights-of-way in, on, over, under or through any portion of the Property subject to this Declaration.

(a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, telephone, community antenna, television cables and other utilities;

(b) For the construction of improvements on the Lots;

(c) For the installation, construction and maintenance of storm-water drains, and for any other public or quasi-public utility facility;

(d) For maintenance and use of a sales office and parking spaces in connection with its efforts to market Lots; and

(e) For the maintenance and use of such other facilities, equipment, and signs as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots or the developing of Lots.

3.03 Easements for Association. There is hereby reserved a general right and perpetual easement for the benefit of the Association, its directors, officers, agents and employees,

including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof (including that portion of each Lot designated for utility easements as shown on the Plat) in the performance of their respective duties and responsibilities. Said easement shall include, but not be limited to, the right to enter upon the Lots (i) to perform the maintenance responsibilities of the Association set forth in Section 5.02 hereof, and (ii) for emergency, security and safety reasons, which right may also be exercised by all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during reasonable hours and then, whenever practicable, only upon reasonable advance notice to the Owner of the Lot directly affected thereby. This easement shall specifically include the right to enter in, on, under and to cross over those Lots in the Subdivision upon which any entryway treatment, fence or wall, lighting or irrigation facilities or equipment, or entryway landscaping is located for the purpose of inspecting, maintaining and repairing same.

3.04 Easements for Owners. Subject to the provisions herein, every member of the Association shall have a right and easement of use and enjoyment in and to the Common Area (including, without limitation, the right of pedestrian and vehicular access, ingress and egress over those portions of the Common Area from time to time designated for such purposes), and the right of use of all utility easements as shown on the Plat, which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association, acting through the Board, to:

(a) adopt and publish rules and regulations governing the use of the Common Area;

(b) suspend an Owner's voting rights for any period during which any assessment of the Association against said Owner's Lot remains unpaid;

(c) grant easements or rights of way on, over, across and through the Common Area to any public agency, authority or utility or to any utility company or cable television system; and

(d) dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Owners and Developer, if Developer owns a Lot primarily for the purpose of sale agreeing to such dedication or transfer, has been recorded in the records of Beaufort County, South Carolina.

3.05 Title to Common Area. Developer may from time to time convey to the Association, at no expense to the Association, real and personal property for the common use and enjoyment of the Owners. The Association hereby covenants and agrees to accept from Developer all such conveyances of real and personal property. Notwithstanding any legal presumption to the contrary, the fee simple title to such real and personal property designated as Common Area or for public use, together with all rights therein, shall be reserved to Developer until such time as the real and/or personal property is conveyed to the Association or to any municipality or other governmental body, agency, or authority. The City of Beaufort shall own and maintain the roads and sidewalks serving the Lots as shown on the Plat.

#### ARTICLE IV. MEMBERSHIP

4.01 Every Owner shall be deemed a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and ownership of a Lot shall be the sole qualification for such membership. In the event that fee title to a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee. The foregoing is not intended to include Mortgagees or any other persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. Notwithstanding any of the foregoing to the contrary, no Owner, whether one or more persons, shall have more than one membership per Lot. The rights and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by a member or a member's spouse, but in no event shall more than one vote be cast or more than one office held for each Lot owned. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as the Owners of such Lot themselves determine. The vote appurtenant to such Lot shall be suspended in the event more than one person seeks to exercise it. The voting weight appurtenant to each Lot is equal and each Lot shall have one vote.

4.02 Every person who purchases a Lot in the subdivision shall pay to the Association a non-refundable initiation fee in the amount of \$50.00 at the time of closing on the Lot. Said initiation fee shall be used by the Association in such manner as the Board sees fit, including but not limited to payment of Common Expenses or establishing capital reserves.

#### ARTICLE V. MAINTENANCE

5.01 Responsibilities of Owners. Unless specifically identified herein as being the responsibility of the Association, all maintenance and repair of Lots, together with all other improvements thereon or therein, shall be the responsibility of the

owner of such Lot. Each Owner shall be responsible for maintaining his or its Lot in a neat, clean and sanitary condition, and such responsibility shall include but not be limited to the maintenance and care of all exterior surfaces of all improvements, buildings and other structures located on the Lot, and all landscaping. As provided in Section 5.02(b) hereof, each Owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining or cleaning any item which is the responsibility of such Owner but which responsibility such Owner fails or refuses to discharge. No Owner shall decorate, change or otherwise alter the appearance of any portion of the exterior of his residence or the landscaping, grounds or other improvements within a Lot unless such decoration, change or alteration is first approved, in writing, by the Broad Street Architectural Committee as provided in Article IX hereof, or do any work which, in the reasonable opinion of the Broad Street Architectural Committee, would jeopardize the soundness and safety of the Subdivision, reduce the value thereof or impair any easement or hereditament thereto, without in every such case obtaining the prior written approval of the Broad Street Architectural Committee.

5.02 Responsibilities of Association.

(a) Except as may be herein otherwise specifically provided, the Association shall maintain, landscape and keep in good repair, as the case may be, (i) all portions of the Common Area and improvements thereon, if any, (ii) all lighting and irrigation facilities and equipment, if any, located within the Common Area or located within any utility easement or landscape easement as shown on the Plat and serving only the Subdivision, (iii) all utility lines, facilities, roads, lanes and equipment located within the Common Area or located within any utility easement or landscape easement as shown on the Plat and serving the Subdivision, if such utility lines, facilities, roads, lanes and equipment are not maintained by a public authority, governmental entity, public service district, public or private utility or other person. The Association shall not be liable for injury or damage to any person or property caused by the elements or by any Owner or any other person. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.



(b) In the event that Developer or the Board determines that:  
(i) any Owner has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which he or it is responsible hereunder, or (ii) that the need for maintenance, cleaning, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his family, tenants, guests or invitees, then in either event, Developer or the Association, except in the event of an emergency situation, shall give such Owner written notice of Developer's or the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such Owner, and setting forth with reasonable particularity the maintenance, cleaning, repairs or replacement deemed necessary. Except in the event of emergency situations, such Owner shall have ten (10) days within which to complete the same in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair or replacement is not capable of completion within said ten (10) day period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, Developer or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner, and said cost shall be added to and become a part of the assessment to which such Owner and his Lot are subject and shall be collected as provided for herein for the collection of assessments. In the event that Developer undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse Developer for Developer's costs and expenses.

#### ARTICLE VI. INSURANCE AND CASUALTY LOSSES

##### 6.01 Insurance.

(a) The Board or its duly authorized agents shall have the authority to and may obtain and continue in effect adequate property insurance upon the Common Area, in such form as the Board deems appropriate, for the benefit of the Association and insuring all insurable improvements against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of any repair or reconstruction in the event of damage or destruction from any such hazard.

(b) The Board or its duly authorized agents shall have the authority to and may obtain and continue in effect a public liability policy covering all damage or injury caused by the

negligence of the Association, its members, its directors and officers, or any of its agents, and if available, at reasonable cost (in the sole discretion of the Board), a blanket fidelity bond or employee's dishonesty coverage for all officers, directors, employees and agents of the Association and all other persons handling or responsible for funds of the Association. Such public liability policy and bond shall provide such coverages as are determined to be necessary by the Board.

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

(d) All such insurance coverage obtained by the Board shall be written in the name of the Association as trustee for each of the Owners and the costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Subdivision shall be vested in the Board.

6.02 Damage or Destruction to Improvements. Immediately after the damage or destruction by fire or other casualty to all or any part of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and, in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article VI, means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. The Association shall restore or replace such damaged improvements. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board may levy a special assessment against all Owners, without the necessity of a vote pursuant to Section 8.04 hereof, for such excess cost of repair or reconstruction. Such a special assessment shall be levied against the Owners equally in the same manner as annual assessments are levied, and additional assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any for such damage or destruction. Such insurance proceeds and assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is

established by the Board. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association.

6.03 Mortgagee Rights. The rights of the Board and of the Association to adjust losses under any property insurance policies insuring improvements constructed on any of the Common Area and to apply proceeds therefrom for the restoration and repair of such improvements shall be subject to the rights of any first priority mortgagee of the Common Area to adjust losses, receive insurance proceeds and, at such mortgagee's option, to apply such proceeds to the secured indebtedness owing to such mortgagee or to the restoration and repair of improvements under such conditions and safeguards as such mortgagee may deem appropriate.

#### ARTICLE VII. ADMINISTRATION

7.01 Control of Association. Except to the extent otherwise required by the provisions of the Code of Laws of South Carolina (1976), as amended, relating to nonprofit corporations, this Declaration, the By-Laws or the Articles of Incorporation, the powers herein or otherwise granted to the Association may be exercised by the Board, acting through the officers of the Association, without any further consent or action on the part of the Owners. Developer shall have the right to appoint and remove all members of the Board and any officer or officers of the Association until such time as the first of the following events shall occur: (i) the date as of which the last Lot in the Subdivision shall have been conveyed to a Person other than Developer or a Builder, or (ii) the surrender by Developer of the authority to appoint and remove directors and officers of the Association by an express amendment to this declaration executed and recorded by Developer. Each Owner, by acceptance of a deed to or other conveyance of a Lot, vests in Developer such authority to appoint and remove directors and officers of the Association as provided by this Section 7.01 and by Section 11.01 hereof.

7.02 Duties and Powers. The duties and powers of the Association shall be those set forth in the provisions of the Code of Laws of South Carolina (1976), as amended, relating to nonprofit corporations, this Declaration, the By-Laws and the Articles of Incorporation, together with those reasonably implied to effect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the Code of Laws of South Carolina (1976) as amended, this Declaration, the Articles of Incorporation and the By-Laws, in that order, shall prevail, and each Owner of a Lot, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies. The Association may exercise any other right or privilege given to it expressly by this Declaration or by Law, together with every other right or privilege given to it herein or reasonably necessary to effectuate any such

right or privilege.

7.03 Rules and Regulations. The Association, through its Board, may make and enforce reasonable rules and regulations governing the use of the Lots and the Common Area, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

#### ARTICLE VIII. ASSESSMENTS

8.01 Purposes of Assessments. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of the Subdivision, including but not limited to management fees, administration expenses, utility charges, insurance premiums, maintenance, landscaping and repair costs, and establishment of reserve funds, all as may be more specifically authorized from time to time by the Board.

8.02 Creation of Lien and Personal Obligation of Assessments. Each Owner of a Lot, other than Developer or a Builder, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments, such assessments to be established and collected as provided in Section 8.03 hereof, and (b) special assessments, such assessments to be established and collected as provided in Section 8.04 hereof, and (c) individual or specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, fines as may be imposed against such Lot in accordance with Article XI hereof. Any such assessments, together with late charges, simple interest at the rate of twelve percent (12%) per annum, and court costs and attorney's fees incurred to enforce or collect such assessments, shall be an equitable charge and a continuing lien upon the Lot against which each assessment is made. Any such lien shall run with the property upon which it was assessed. Each such assessment, together with late charges, interest, court costs and attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

8.03 Computation of Annual Assessments. It shall be the duty of the Board at least thirty (30) days prior to the Association's fiscal year end to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The Board shall cause the budget and the proposed total of the annual assessments to be levied against Lots for the following year to be delivered to each Owner at least fifteen (15) days prior to the annual meeting. The total annual

assessments shall be divided among the Lots equally, so that each Lot shall be subject to equal annual assessments. The budget and the annual assessments shall become effective unless disapproved at the annual meeting by either (i) Developer, for so long as Developer has the authority to appoint and remove directors and officers of the Association, or (ii) a majority of the votes of all Owners of the Lots in the Subdivision. In the event that proposed budget is disapproved or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget and annual assessments in effect for the then current year shall continue for the succeeding year. If any budget at any time proves inadequate for any reason, then the Board may call a meeting of the Association for the approval of a special assessment as provided in Section 8.04 hereof.

8.04 Special Assessments. In addition to the annual assessments authorized above, the Association, acting through the Board, may levy, in any assessment year, special assessments for Common Expenses or capital improvements, applicable to that year only, provided that except as otherwise permitted in Section 6.02 hereof, any such assessment shall be approved by (i) Developer, for so long as Developer owns any Lot primarily for the purpose of sale, and (ii) two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose in accordance with the provisions of Section 8.06 hereof. The Board may make such special assessments payable in installments over a period which may, in the Board's discretion, extend in excess of the fiscal year in which adopted. Such special assessments are to be prorated among the Lots equally as provided with respect to annual assessments.

8.05 Individual Assessments. Any expenses of the Association occasioned by the conduct of less than all of the Owners shall be specifically assessed against such Owners and their respective Lots. The individual assessments provided for in this Section 8.05 shall be levied by the Board and the amount and due date of such assessment shall be as specified by the Board.

8.06 Notice of Meeting and Quorum. Written notice of the annual meeting of the Association, as well as any other meeting called for the purpose of taking any action authorized under Sections 8.03 and 8.04 hereof, shall be sent to all members not less than fifteen (15) days nor more than forty-five (45) days prior to said meeting. The presence of members or proxies entitled to cast over fifty percent (50%) of all the votes of the Association shall constitute a quorum for the conduct of business.

8.07 Liens. All sums assessed against any Lot pursuant to this Declaration, together with court costs, reasonable attorneys' fees, late charges, and interest as provided herein, shall be secured by an equitable charge and continuing lien on such Lot in

favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot except only for (i) liens of ad valorem taxes, and (ii) liens for all sums unpaid on a first priority Mortgage or on any Mortgage to Developer, or its affiliates, successors or assigns, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument. Sale or transfer of a Lot shall not affect the validity of such assessment lien. Notwithstanding the foregoing to the contrary, the subordination of the assessment lien to the lien of first priority Mortgages shall only apply to such assessments which have become due and payable prior to a Foreclosure. Any Mortgagee who acquires title to a Lot by Foreclosure shall be liable for assessments thereafter becoming due. All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for assessments as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances.

8.08 Effect of Nonpayment; Remedies of the Association.

Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than (10) days after the date when due shall incur a late charge in an amount as may be determined by the Board from time to time and shall also commence to accrue simple interest at the rate of twelve percent (12%) per annum. A lien and equitable charge as herein provided for each assessment shall attach simultaneous as the same shall become due and payable, and if an assessment has not been paid within (30) days, the entire unpaid balance of the assessment may be accelerated at the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such assessment shall include the late charge established by the Board, interest on the principal amount due at the rate of twelve percent (12%) per annum, all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder by law. In the event that the assessment remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Article shall be in favor of the Association, and each Owner, by his acceptance of a deed or other conveyance to a Lot, vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such assessments as a debt and/or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein, including by way of illustration but not limitation, conveyance of his Lot, abandonment of his Lot or by renunciation of membership in

the Association.

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

8.10 Date of Commencement of Annual Assessments. The annual assessment provided for herein shall commence as to each Lot on the day on which such Lot is conveyed to a Person other than Developer or a Builder and shall be due and payable in such manner and on such schedule as the Board may provide. Annual assessments and any outstanding special assessments shall be adjusted and pro-rated for each Lot according to the number of months then remaining in the then fiscal year of the Association.

#### ARTICLE IX. ARCHITECTURAL STANDARDS

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements of Broad Street Architectural Code (as that term is defined below) and other requirements of this Article have been fully met, and until the approval of the Broad Street Architectural Committee ("BAC") has been obtained pursuant to Section 1 below. The BAC may establish reasonable fees to be charged by the committee for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

This Article shall not apply to the activities of the Developer.

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce decisions of the BAC in courts of competent jurisdiction. This Article may not be amended without the Developer's written consent.

9.01 Broad Street Architectural Committee. The ("BAC") shall consist of up to three (3), but not less than (2), persons. Members of the BAC may include, but are not required to include, architects, professionals, or other persons who are not members of the Association. The BAC shall have exclusive jurisdiction over

all original construction and all modifications, additions, or alterations made on or to existing Lots or structures containing Lots and the open space appurtenant thereto. The Developer may assign the rights and powers under this Article to the Association; provided, however, there shall be no surrender of this right except in a written instrument in recordable form executed by Developer.

The BAC shall promulgate the design and development guidelines consisting of the Community Standards and the Architectural Standards included in a document to be known as the Broad Street Code Regulating Plan ("Broad Street Code") for the Properties and application and review. The Broad Street Code may provide for different requirements and guidelines for different types of Lots within the Properties and may permit exceptions to be made by BAC for architectural merit. Copies shall be available from the BAC. The Broad Street Code may be amended by the BAC. It shall make the Broad Street Code and review procedures available to Owners and builders who seek to engage in development of or construction upon any portion of the Properties and such Owners and builders shall conduct their operations strictly in accordance with the Broad Street Code. The BAC shall approve or disapprove plans submitted to it, or shall request additional information reasonably required by the review procedures within thirty (30) days after submission of the plans to the BAC.

Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of a structure on a Lot, or to paint the interior of a structure any color desired; provided, modifications or alterations to the interior of screened porches, patios and similar portions of a structure visible from outside the structure shall require the prior written approval by the BAC.

9.02 Right to Inspect. Any member of the Board of Directors, the BAC or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such person or persons shall not be deemed guilty of trespass by reasons of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may record in the appropriate land records a notice of violation naming the violating Owner and seek injunctive relief in a court of competent jurisdiction.

9.03 No Waiver of Future Approvals. The approval of the BAC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the BAC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawing, or matters whatever subsequently or additionally submitted for approval or consent.



**9.04 Variance.** The BAC may authorize variances from compliance with any of its guidelines and procedures due to circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations. Such variance shall be granted only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variances shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) prevent the BAC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

**9.05 Compliance With Guidelines.** Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Broad Street Code or the review procedure promulgated by the BAC may be excluded by the Board from the Properties without liability to the Board, the Association, or member thereof, or Lot Owner.

**9.06 No Liability**

(a) **General.** Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the BAC shall not bear any responsibility of ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Developer, the Association, the Board of Directors, the BAC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any Lot.

(b) **Encroachments.** An encroachment of the chimney or ground level steps of the home built on a Lot into a right-of-way of the Properties must be authorized by the BAC. If the encroachment is damaged by work within utility easement areas such damage shall be the responsibility of the Owner and the Owner shall indemnify and hold harmless the Developer, the Association, the Board, and the BAC.

**ARTICLE X. USE RESTRICTIONS**

**10.01 Use of Lots and Dwellings.** Each Lot shall be used for residential purposes only and no trade or business of any kind may be carried on therein. The use of a portion of a residence as an office by an Owner or his tenant shall not be considered to be a violation of this covenant if such use does not create a nuisance. The use of a residence or a portion thereof for business meetings, entertainment or the enjoyment or business of the Owner's employees, trustees, agents, clients or customers shall not be

considered to be a violation of this covenant if such does not create regular customer, client or employee traffic or otherwise create a nuisance.

10.02 Antennas. No television antenna, radio receiver, satellite dish or other similar device shall be attached to or installed on any portion of the Property, unless screened by shrubbery, fencing, etc., so as to shield the device from public view, nor shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals within the Subdivision; provided, however, that Developer and the Association shall not be prohibited from installing equipment necessary for master antenna, security, cable television, mobile radio or other similar systems within the Subdivision.

10.03 Water Wells. No private water wells may be drilled or maintained on any Lot.

10.04 Pets. No animals, livestock, birds or poultry of any kind shall be raised, bred or kept by any Owner upon any portion of the Property, provided that generally recognized house pets may be kept in residences, subject to rules and regulations adopted by the Association, through its Board, and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. Pets shall be under leash or voice control at all times when walked or exercised outside of all fenced areas on a Lot.

10.05 Nuisances. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of the Property. Noxious or offensive activities shall not be carried on in any Lot and each Owner, his/her family, tenants, guests, invitees, servants and agents shall refrain from any act of use of a Lot which could cause disorderly, unsightly or unkempt conditions, or which could cause embarrassment, discomfort, annoyance or nuisance to the occupants of other portions of the Subdivision or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used or placed within the Subdivision.

10.06 Motor Vehicles, Trailers, Boats, Etc. All automobiles owned or used by Owners or other than temporary guests and visitors shall be parked behind the primary home. The Board of the

Association shall have the authority to promulgate rules and regulations to govern or prohibit the outside storage or parking upon any Lot of any motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorcycle, motorized bicycle, motorized go-cart or any other related forms or transportation devices. Furthermore, although not expressly prohibited hereby, the Board may at any time prohibit mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts and other similar vehicles, or any of them, from being kept, placed, stored, maintained or operated upon any portion of the Property if in the opinion of the Board such prohibition shall be in the best interests of the Subdivision. No Owners or other occupants shall conduct vehicle, boat, trailer, etc., repairs or engage in similar unsightly activities of any kind upon or within any Lot except (i) within enclosed garages or workshops or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

10.07 Sales and Construction Activities. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Developer, any Builder and their respective agents, employees, successors and assigns to maintain and carry on within the Property such facilities and activities as may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots or the developing installation and operation of sales and construction trailers and offices, signs and model residences. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences as model residences, and to use any residence as an office for the sale of Lots and for related activities.

10.08 Fences. No fence or wall of any kind shall be erected, maintained or altered on any Lot by any Owner, other than Developer, without the prior written approval of the Broad Street Architectural Committee.

10.09 Signs. (a) No signs whatsoever (including but not limited to commercial and similar signs) shall, without the Broad Street Architectural Committee's prior written approval of plans and specifications thereof, be installed, altered or maintained on any Lot, or on any portion of a Structure or motor vehicle visible from the exterior thereof, except:

- (i) such signs as may be required by legal proceedings;
- (ii) not more than one "For Sale" or "For Rent" sign for a Lot; provided, however, that in no event shall any such sign be larger than six square feet in area;

(iii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the Broad Street Architectural Committee;

(IV) such signs as are used to identify and advertise the Subdivision; and

(v) a sign indicating the builder of the residence on the Lot.

(b) Following the consummation of the sale or lease or completion of construction of any Lot, the "For Sale" or "For Rent" sign and the builder sign shall be removed immediately.

10.10 Garage Sales. All garage sales shall be conducted in accordance with applicable law and such rules and regulations as the Board may establish from time to time concerning same.

10.11 Clotheslines, Garbage Cans, Tanks, Etc. All clotheslines, garbage cans, above-ground storage tanks, mechanical equipment including, without limitation, electrical meters, gas meters and air conditioning compressors, and other similar items on Lots shall be located or screened so as to be concealed from view of adjacent streets.

10.12 Exterior Structures. No artificial vegetation, exterior sculptures, fountains or similar items shall be constructed, placed or maintained on any Lot without the prior written approval of the Broad Street Architectural Committee.

10.13 Construction of Improvements. Construction of all dwellings on a Lot shall be completed within twelve (12) months of the commencement date of said construction. If any dwelling on a Lot is not completed within twelve (12) months of the commencement date of said construction, the Association, its employees and agents, shall have the right, but not the obligation, to enter upon said Lot and to take such action as is necessary to complete construction of such dwelling, with the costs thereof being assessed against the owner of such Lot. Such Owner shall be personally liable to the Association for the direct and indirect costs of completion of said dwelling, and the liability for such costs shall constitute an equitable charge and continuing lien upon the Lot enforceable by the Association in the same manner as other liens for the improvement of real property or by any other appropriate proceeding in law or in equity. The Association shall give notice to the Owner of such Lot prior to commencing any work and the provisions thereof shall be applicable with respect to the foregoing.

10.14 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited

by applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the more restrictive provision shall govern and control.

10.15 Subdivision of Lots. No Lot shall be subdivided or its boundary lines changed without the prior written approval of the Board of Directors of the Association. Developer, however, hereby expressly reserves the right to replat any Lot or Lots owned by Developer. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

10.16 Tree Removal. No trees with a measure of over six (6") inch caliper or greater shall be removed, except for safety reasons, unless approved in accordance with Article XI of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required, by the committee having jurisdiction, to replace the removed tree with one (1) or more trees of such size and number, and in such locations, as the BAC may determine in its sole discretion.

10.17 Right to Repurchase. The property owner hereby acknowledges and agrees that if, within two (2) years of the date of closing, the owner has not begun construction of a home on the property, the Developer shall have the right, but not the obligation, to repurchase the property at the purchase price the owner paid for the property.

#### ARTICLE XI. ENFORCEMENT

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

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

11.02 Self-Help. In addition to any other remedies provided for herein, the Developer and the Association or its duly authorized agents shall have the power to enter upon a Lot to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the By-Laws, the rules and regulations, the use restrictions or the Standards. Unless an emergency situation exists, the Board shall give the violating Owner ten (10) days written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments.

#### ARTICLE XII. GENERAL PROVISIONS

12.01 Control by Developer. NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION OR IN THE BY-LAWS OF THE ASSOCIATION, Developer shall have the right to appoint and remove all members of the Board of the Association as provided by and for the term set forth in Section 7.01 hereof. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees that Developer shall have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section 12.01 and the provisions of Section 7.01. Upon the expiration of Developer's right to appoint and remove directors and officers of the Association pursuant to the provisions of Section 7.01 and this Section 12.01, such right shall pass to the Owners, including Developer if Developer then owns one or more Lots, and a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting the Owners shall elect a new Board which shall undertake the responsibilities of the Board, and

Developer shall deliver all books, accounts and records, if any, which Developer has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Developer has in its possession.

12.02 Amendments by Developer. During any period in which Developer retains the right to appoint and remove any directors and officers of the Association, Developer may unilaterally amend this Declaration by an instrument in writing filed and recorded in the records of the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina, without the approval of any Owner or mortgagee; provided, however, that (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of his Lot as set forth in this Declaration or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby, or (ii) 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 thereto of all such Mortgagees so affected. Any amendment made pursuant to this Section 12.02 shall be certified by Developer as having been duly approved by Developer, and by such Owners and Mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 12.02 and further agrees that, if requested to do so by Developer, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Property (A) if such amendment is necessary to bring any provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith, (B) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (C) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such improvements subject to this Declaration, or (D) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the Lots or other improvements subject to this Declaration.

12.03 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 12.02 hereof, shall be proposed and adopted in the following manner:

- (a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the

Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by members of the Association. Such amendment must be approved by Owners holding at least two-thirds of the total votes in the Association; Provided, however, (i) that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee, and (ii) during any period in which Developer owns a Lot primarily for the purpose of sale, such amendment must be approved by Developer.

(c) The agreement of the required percentage of the Owners and, where required, Developer and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

12.04 Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect for a period of twenty (20) years from and after the date of the recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. This Declaration may be renewed for an unlimited number of successive ten (10) year periods. Renewal shall be automatic unless a Declaration to the contrary is duly recorded.

12.05 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of U.S. President William Clinton.

12.06 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Developer or the Board will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect



notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for the record in the records of the Register of Mesne Conveyances for Beaufort, South Carolina. The captions of each Article and Section hereof as to the contents of each Article and Section hereof are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of South Carolina.

12.07 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

12.08 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provisions of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

12.09 Rights of Third Parties. This Declaration shall be recorded for the benefit of Developer, the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Property or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and subject to the rights of Developer and Mortgagees as herein provided, the Owners shall have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

12.10 No Trespass. Whenever the Association, Developer, the Broad Street Architectural Committee, and their respective successors, assigns, agents or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve or do any other action within any portion of the property, the entering thereon and the taking of such action shall not be deemed to be a trespass.

12.11 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to owners shall be delivered or

sent to such address as have been designated in writing to the Association, or if no address has been so designated, at the address of such Owners' respective Lots. Notices sent by United States Mail shall be deemed effective on the third day after mailing. Notices delivered in person shall be effective on the date of delivery. All notices to the Association shall be delivered or sent in care of Developer at PO Box \_\_\_\_\_, Beaufort, South Carolina 29901, or to such other address as the Association may from time to time notify the Owners. All notices to Developer shall be delivered or sent to Developer at the above address or to such other address as Developer may from time to time notify the Association. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association.

12.12 No Liability. Developer has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Developer shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Developer shall have no such liability.

12.13 Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Property or the privilege of possession and enjoyment of any part of the Property, except that no such agreements shall be binding as to the Developer without the written consent of the Developer.

12.14 Variances. Notwithstanding anything to the contrary contained herein, the Board, and Developer for so long as Developer has the right to appoint and remove all members of the Board of the Association and any officer or officers of the Association as set forth in Section 7.01 hereof, shall be authorized to grant individual variances from any of the provisions of this Declaration or the By-Laws, except the provisions of Article VIII of the Declaration regarding assessments, if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Property.

12.15 Security. NOTWITHSTANDING ANY PRIVACY WALL AND/OR FENCE SERVING THE SUBDIVISION, DEVELOPER MAKES NO REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE EFFICACY OF SUCH STRUCTURES FROM A SAFETY OR SECURITY STANDPOINT. EACH OWNER, OCCUPANT, GUEST OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE



## SCHEDULE 'A'

ALL that certain piece, parcel or tract of land, situate, lying and being in the City of Beaufort, County of Beaufort, State of South Carolina, being known as Broad Street Subdivision and being more fully described as follows, to-wit: Commencing at a marker located on the northern edge of the right of way of Southside Blvd., thence running N00°46'30"E for a distance of 160.28 feet to a marker; thence, S89°55'21"E for a distance of 120.04 feet to a marker; thence, N00°41'39"E for a distance of 160.0 feet to a marker; thence, N03°51'53"E for a distance of 281.89 feet to a marker; thence, N89°56'16"W for a distance of 138.51 feet to a marker; thence, N89°56'16"W for a distance of 509.29 feet to a marker; thence, N88°55'10"W for a distance of 170.58 feet to a marker; thence, N89°52'19"W for a distance of 58.81 feet to a marker; thence, S01°35'38"W for a distance of 133.04 feet to a marker; thence, S86°20'34"W for a distance of 121.26 feet to a marker; thence, S86°20'34"W for a distance of 143.54 feet to a marker; thence, S12°51'03"W for a distance of 9.24 feet to a marker; thence, S77°16'46"W for a distance of 162.47 feet to a marker; thence, S84°24'46"W for a distance of 67.84 feet to a marker; thence, S85°07'14"W for a distance of 81.81 feet to a marker; thence, N84°58'45"W for a distance of 147.14 feet to a marker; thence, S08°45'57"W along the eastern edge of the right of way of Battery Creek Road for a distance of 51.96 feet to a marker; thence, S88°57'17"E for a distance of 120.65 feet to a marker; thence, S88°51'33"E for a distance of 115.01 feet to a marker; thence, S00°03'37"E for a distance of 125.49 feet to a marker; thence, S00°15'59"E for a distance of 50.05 feet to a marker; thence, S89°48'41"E for a distance of 1,182.92 feet to a marker; thence, S00°46'30"W for a distance of 174.87 feet to a marker; thence, S89°42'09"E along the northern edge of the right of way of Southside Blvd. for a distance of 50.0 feet to a marker and the point of beginning. For a more detailed description of said tract, reference may be had to that certain plat or map prepared by David E. Gasque, R.L.S., dated September 11, 1996, a copy of which is recorded in the RMC Office for Beaufort County, South Carolina, in Plat Book 59 at Page 38.

FILED  
JOHN A. SULLIVAN, JR. *Davis, Tupper*  
R.M.C. *5172*  
BEAUFORT COUNTY, S.C.

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