

Brookshire

Brookshire Subdivision covenants are effective on properties located on the following streets:

Penshire Court: All
Roxbury Drive: All
Scottswood Drive: 8100 and above
Sherbrooke Lane: All

Official copies are recorded at the following locations:

Restrictive Covenants: Volume 619, Pages 297 - 336

Plats: G 63 & 64

DISCLAIMER: These Restrictive Covenants and Easements were transcribed from the originals and are provided strictly for informational purposes only. The author makes no claims as to their accuracy. They also do not contain every Amendment, Deviation, Lot Line Adjustment or Waiver on record.

If a completely accurate document is required, please contact your attorney or the Registrar of Deeds for Dorchester County.

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

DECLARATION OF COVENANTS AND
RESTRICTIONS FOR
BROOKSHIRE SUBDIVISION
AND PROVISIONS FOR
THE BROOKSHIRE SUBDIVISION
HOMEOWNER'S ASSOCIATION, INC.

THIS DECLARATION, made this 30th day of September, 1988, by CAROLINA PACIFIC, INC., a South Carolina Corporation, hereinafter referred to as the "Owner".

WITNESSETH:

WHEREAS, Owner holds title in fee simple to the certain lands located in Dorchester County, South Carolina, comprising approximately 30.759 acres, more or less, (hereinafter referred as the "Property") described in Part One, Article II, Section 1 of this Declaration and intends to plan and develop a community comprised of the Property and known as "Brookshire Subdivision" with certain common properties for the use and benefit of all property owners within such community; and

WHEREAS, Owner desires to provide for the preservation of the land values and for the maintenance of common properties, and, to this end, Owner has consented to subject the Property together with such additions as may hereafter be made, as provided in Part One, Article II, Section 2, to the covenants, restrictions, easements, affirmative obligations, charges and liens, hereinafter set forth (hereinafter referred to as the "Covenants"), each and all of which is and hereby declared to be for the benefit of the Property and every owner of any and all parts thereof; and

WHEREAS, Owner deems it desirable, for the efficient preservation of the values and amenities in the community, to create an agency to which should be ultimately delegated and assigned by the Owner authority to maintain and administer the Common Properties and services, to enforce the Covenants governing the same, and to disburse all assessments and charges necessary for such maintenance, administration and enforcement; and

WHEREAS, the Owner has caused to be incorporated under the laws of the State of South Carolina, a non-profit corporation, Brookshire Subdivision Homeowner's Association, Inc., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth; and

WHEREAS, this Declaration will be referred to as the "Brookshire Covenants of 1988", and will be recorded in the Office of the Register of Mesne Conveyance for Dorchester County, South Carolina, and may be incorporated by reference to the Book and page of recording in the records in said Office.

NOW, THEREFORE, Owner hereby declares that the Property and such additions thereto as may hereafter be made pursuant to Part One, Article II, Section 2 hereof are and shall be held, transferred, sold, conveyed, given, purchased, leased, occupied, and used subject to the Covenants. These Covenants, the benefits of the Covenants, and the affirmative and negative burden of these Covenants, shall touch and concern and run with the land herein referred to as the Property. The Owner reserves the right to add additional covenants in respect to the property owned by the Owner at the time of the adoption of the additional covenants but not to property previously conveyed to others. Any rights and easements reserved by the Owner under these Covenants shall also be reserved to the assigns and successors in interest of the Owner.

PART ONE

GENERAL REFERENCES

ARTICLE I

DEFINITIONS

Section 1. The following words and terms when used in this Declaration or any Supplementary Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

- (a) "Approved by the Owner" shall mean written approval issued by the Owner signed by its president or by a designated representative.
- (b) "Association" shall mean and refer to the Brookshire Subdivision Homeowner's Association, Inc., a South Carolina non-profit corporation, its successors and assigns.
- (c) "Board" shall mean the Board of Directors of the Brookshire Subdivision Homeowner's Association, Inc., as established by the Bylaws of the Brookshire Subdivision Homeowner's Association, Inc., a South Carolina non-profit Corporation, its successors and assigns.
- (d) "Common Properties" shall mean refer to those areas of land with any improvements thereon which are owned and designated by the Owner as "Common Properties" or which are deeded or leased to the Association and designated in said deed as "Common Properties". All Common Properties are to be devoted to and intended for the common use and enjoyment of the Property Owners, their tenants, guests and invitees, at uniform fees, charges, and assessments established herein as may be modified from time to time by the Association. The designation and dedication of land or improvements as Common Properties shall not mean or imply that the public at large or Property Owners, or their tenants, guests and invitees acquire an easement of use or enjoyment therein except at such fees, and under such rules and regulations for operation as may be established from time to time by the Owner or the Association. The Common Properties to be owned by the Association at the time of conveyance of the first Residential Lot are described as follows:

ALL those certain pieces, parcels or lots of land, situate, lying and being in Dorchester County, South Carolina, shown and designated as "GREEN AREA 0.154 AC.", "GREEN AREA 0.123 AC.", "GREEN AREA 0.785 AC. (INCLUDES WETLANDS)", "WETLAND 0.426 AC.", "GREEN AREA 0.134 AC." and "GREEN AREA 0.359 AC." on a plat prepared by Andrew C. Gillette, R. L. S., dated January 22, 1988, and revised March 10, 1988, and further revised April 11, 1988; which said plat was recorded in Plat Book G, page 63, in the Office of the Clerk of court for Dorchester County.

ALSO

ALL those certain pieces, parcels or lots of land, situate, lying and being in Dorchester County, South Carolina, shown and designated as "GREEN AREA", "GREEN AREA" and "DETENTION AREA 1.992 AC." on a plat prepared by Andrew C. Gillette, R. L. S., dated November 4, 1987, and revised March 10, 1988, and entitled "PLAT Showing a portion of Brookshire Subdivision (15.215 AC.) Property of Carolina pacific, Inc., Located in Dorchester County, South Carolina", which said plat is recorded in the Office of the Clerk of Court for Dorchester County in Plat Book G, page 64.

- (e) "Covenants" or "Declaration" shall mean and refer to the "Brookshire Covenants of 1988" including all covenants, conditions, restrictions, and obligations set forth in this Declaration.
- (f) "Member" shall mean and refer to the Owner and all those Property Owners who are Members of the Association as provided in Part Three, Article I hereof, including the spouse and children (under 21) permanently residing with the said Property Owner.

(g) "Offensive or Noxious" activity or behavior shall include but not be limited to a public nuisance or nuisance per se and shall also include any behavior or activity which is inconsistent with both the pleasurable use of the Brookshire area by a majority of the residents and their reasonable expectations of enjoyment for their property, the Common Properties, and natural surroundings free of rude, crude, excessively noisy, tasteless behavior; flashing lights; racing vehicles; radio; hi-fi or electronic music distractions; etc., or other similar behavior curtailing the pleasure of use of the land of Brookshire Subdivision. Marketing events conducted by the Owner shall not constitute offensive or noxious activity or behavior.

(h) "Owner" shall mean and refer to Carolina Pacific, Inc., a South Carolina Corporation, its successors and assigns.

(i) "Pertinent Laws" shall mean and refer to the statutes, ordinances, regulations and other laws pertinent to the ownership, sale, use and development of the Property, as are codified or promulgated by the State of South Carolina, the County of Dorchester, the Government of the United States of America, and other public authorities having jurisdiction over the Property.

(j) "Property" and "Brookshire" shall mean and refer to the lands described in Part One, Article II, Section 1 hereof and Exhibit A, attached hereto, and additions thereto as provided in Part One, Article II, Section 2 hereof, as are subjected to this Declaration or any Supplementary Declaration.

(k) "Property Owner" shall mean and refer to the owner (but shall not include the "Owner" except with respect to properties reacquired by the Owner after Owner's conveyance thereof) as shown by the real estate records of the Office of the Clerk of Court for Dorchester County, whether it be one or more persons, firms, association, corporations or other legal entities, of fee simple title to any Residential Lot situated upon the Property, but notwithstanding any applicable theory of mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure. The term "Property Owner" shall not mean or refer to any lessee or tenant of a Property Owner. In the event that there is recorded with the Office of the Clerk of Court for Dorchester County a long-term contract of sale covering any Residential Lot or parcel of land within the Property, the Property Owner of such Residential Lot or parcel of land shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond nine (9) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

(l) "Residential Lot" shall mean any parcel of land located within the Property which is intended for use as a site for a single family detached dwelling, as shown and designated as a numbered parcel on any recorded final subdivision plat of any part of the Property.

(m) "Use of Land" or "Intended for Use" shall mean the use designated in the deed of conveyance of a parcel or by separate declaration of covenants designating the use for which any particular parcel of land is restricted to in such declaration or incorporated by reference to a particular recorded declaration of covenants in deeds by which the Owner has conveyed such land. Reference to "uses" of land, or description of parcels on maps and promotional material shall not constitute a designation of use for purposes of this Declaration nor shall such reference create any obligation for the owner.

(n) "Residential Use or Used for Residential Purposes" shall mean to be used as one's residence or normal and customary place of abode and shall not include any use for business purposes. The use of a portion of a dwelling as an office shall be considered a Residential Use if such use does not create regular customer or client traffic to and from the dwelling and no sign, symbol, logo, or

nameplate identifying such business is affixed to or about the entrance to the dwelling except where the approval of the Owner has been given to such use.

ARTICLE II

PROPERTY DESCRIPTION

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these Covenants is described as follows:

ALL of those lots designated as Lots 1 through 10, Block "A"; Lots 1 through 24, Block "B"; Lots 1 through 5, Block "C", and the parcels designated as "GREEN AREA 0.154 AC.", "GREEN AREA 0.123 AC.", "GREEN AREA 0.785 AC. (INCLUDES WETLANDS)", "WETLAND 0.426 AC.", "GREEN AREA 0.134 AC." and "GREEN AREA 0.359 AC." on a plat prepared by Andrew C. Gillette, R. L. S., dated January 22, 1988, and revised March 10, 1988, and further revised April 11, 1988; which said plat was recorded in Plat Book G, page 63, in the Office of the Clerk of Court for Dorchester County.

ALSO

ALL those certain pieces, parcels or lots of land, situate, lying and being in Dorchester County, South Carolina, shown and designated as Lots 1 through 19, Block "D"; Lots 1 through 21, Block "E", "GREEN AREA", "GREEN AREA" and "DETENTION AREA 1.992 AC." on a plat prepared by Andrew C. Gillette, R. L. S., dated November 4, 1987, and revised March 10, 1988., and entitled "PLAT Showing a Portion of Brookshire Subdivision (15.215 AC.) Property of Carolina Pacific, Inc., Located in Dorchester County, South Carolina", which said plat is recorded in the Office of the Clerk of Court for Dorchester County in Plat Book C, page 64.

The Owner intends to develop the Property as a residential community and to allow all other activities permitted by law which the Owner deems appropriate as uses for such property. Properties conveyed to the Association shall become Common property in accordance with its designation in the deed of conveyance from the Owner. The Owner shall not be required follow any predetermined sequence or order of improvements development; and it may bring within the plan of these covenants additional lands, and develop the same before fully completing the development of the Property.

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in any of the following manners:

a. The Owner, its successors and assigns, shall have the right, without consent of the Association, to bring within the plan and operation of this Declaration, additional properties in future stages of the development activity. The additions authorized under this and the succeeding subsections shall be made by either deeding such additional property subject to this Declaration by specific reference in individual deeds or by filing a Supplementary Declaration of Covenants and Restrictions (previously and hereinafter referred to as the "Supplementary Declaration") with respect to the additional property which shall extend the operation and effect of these Covenants to such additional property.

The Supplementary Declaration may contain such complementary additions and/or modifications of these Covenants as may be necessary or convenient, in the judgment of the Owner, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modifications shall have no effect on the Covenants as they apply to the Property.

(b) Upon approval in writing of the Association pursuant to three-fourths (3/4) of the vote of those present at a duly called meeting, the owner of any property who desires to add it to the plan of these Covenants and to subject it to the jurisdiction of the Association, may file or record a Supplementary Declaration with respect to the additional property which shall extend the operation and effect of these Covenants to such additional property.

The Supplementary Declaration may contain such complementary additions and/or modification of these Covenants as may be necessary or convenient, in the sole judgment of the Association, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modification shall have no effect on the Covenants as they apply to the Property.

(c) Upon merger or consolidation of the Association with another association, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Property, together with the covenants and restrictions established upon any other properties, as one scheme. No merger or consolidation shall cause any revocation, change or addition to these Covenants including, without limitation, voting rights, limits on assessments and dues of the Association, or any other matter substantially affecting the interests of Members of the Association.

PART TWO

COVENANTS AND RESTRICTIONS

APPLICABLE TO

COMMUNITY DEVELOPMENT

OF BROOKSHIRE SUBDIVISION

ARTICLE I

GENERAL COVENANTS

Section 1. Purposes. The primary purpose of these Covenants and the foremost consideration in the origin of same has been the creation of a residential community which is aesthetically pleasing, which is functionally convenient, which is capable of maintaining itself while retaining private control, and which provides for the ultimate ownership, operation and maintenance of certain Common Properties by the Association. The establishment of objective standards relating to design and location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of property and of technological advances and environmental values. For this reason, such standards are not established hereby, but may be suggested by the Owner in discussions with and materials submitted to Property Owners. These standards and this Declaration are consistent with and serve to complement the Subdivision Regulations of Dorchester County and other Pertinent Laws. To implement these Covenants, the Owner may, through an Architectural Review Board created pursuant to Section 6(c) of this Article, establish and amend from time to time objective standards and guidelines which shall be in addition to and more restrictive than said governmental standards.

All Residential Lots in Brookshire shall be Used for Residential Purposes exclusively. The use of a portion of a dwelling on a Residential Lot as an office by the owner or tenant thereof shall be considered a residential use if such use does not create regular customer or client traffic to and from the dwelling.

No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any Residential Lot other than one (1) single family dwelling, one (1) small one-story accessory building which may include a detached private garage or carport, provided the use of such accessory building does not overcrowd the site and, provided further, that such building is not used for any activity normally conducted as a business.

The provisions of this Section shall not prohibit the Owner or its assignees from using house or other dwellings as models for its sales program. Use as a model shall be limited to display purposes except as hereinafter provided.

Section 2. Siting. To assure that buildings and other structures will be located so that the maximum privacy and breeze will be available to each building or structure, and that structures will be located with regard to the topography of each Residential Lot taking into consideration the location of large trees and other aesthetic and environmental considerations, the Review Board reserves unto itself, its successors and assigns, the right to control and to decide solely (so long as (a) its decisions are not arbitrary or capricious and (b) subject to the provisions of the pertinent land use regulations of public authorities having jurisdiction) the precise site and location of any building any or structures on any property in Brookshire.

The location shall be determined only after reasonable opportunity is afforded the Property Owner to recommend a specific site. Provided, however, that in the event an agreed location is stipulated in writing in the contract of purchase and approved by the Review Board, and such location complies with the local town and county subdivision regulations and Pertinent Laws, the Review Board shall approve automatically such location for a residence.

Section 3. Minimum Square Footage. As to Residential Lots, the total living areas of the main structure located thereon, exclusive of open porches, port-cocheres, garages, carports and breezeways, shall be not less than fifteen hundred (1500) square feet for one-story structures or seventeen hundred seventeen hundred (1700) square feet for structures of more than one (1) story, unless otherwise approved, in writing by Owner, upon the recommendation of the Architectural Review Board.

Section 4. Building Height. No more than one (1) dwelling structure, not to exceed two and one-half (2 1/2) stories above the minimum height established by applicable flood zone regulations of the United States shall be erected on any one (1) Residential Lot unless otherwise approved, in writing, by Owner upon the recommendation of the Review Board.

Section 5. Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved to the Owner over ten (10') feet of each side line of each Residential Lot, and over the rear ten (10') feet of each Residential Lot. Within these easements, no structure, planting other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities. The easement area of each Residential Lot and all improvements in it shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible. The easements may be transferred by the Owner to public or private utility companies or agencies at the Owner's discretion.

Section 6. Architectural and Design Review.

(a) Purpose. In order to preserve the natural beauty of Brookshire and its setting, to maintain Brookshire as a pleasant and desirable environment, to establish and preserve a harmonious design for the community and to protect and promote the value of property; no building, fence or other structure shall be erected, placed or altered until the proposed building plans, specifications, exterior color or finish, plot plan (showing the proposed location of such building or structure, drives and parking areas), landscape plan, and construction schedule shall have been approved in writing as hereinafter provided.

(b) Objectives. Architectural and Design review shall be directed towards attaining the following objectives for Brookshire:

- (1) Preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruption of natural water courses or scar natural landforms
- (2) Ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the Residential Lot and with surrounding Residential Lots and structures.
- (3) Ensuring that the architectural design of structures and their materials and colors are visually harmonious with Brookshire's overall appearance, history and cultural heritage; with surrounding development; with natural landforms and native vegetation and with development plans, officially approved by the Owner, or any governmental or public authority, if any, for the areas in which the structures are proposed to be located.
- (4) Ensuring that the plans for landscaping provide visually pleasing settings for structures on the same lot and on adjoining or nearby lots, and blend harmoniously with the natural landscape.
- (5) Ensuring that any development, structure, building or landscaping complies with the provisions of the Covenants.
- (6) Promoting building design and construction techniques that respond to energy consumption and environmental quality consideration such as heat loss, air emissions and run-off water quality.

(c) Architectural Review Board.

(1) The Owner shall establish an Architectural Review Board (such board previously and hereinafter referred to as the "Review Board") which shall consist of five (5) members. Three (3) members shall be appointed by the Owner and two (2) members shall be elected by the Association. Until such time as the Association is activated and has held its organizational meeting, the Review Board shall consist of up to five (5) members, all appointed by the Owner. The regular term of office for each member shall be one (1) year, coinciding with the fiscal year of the Owner. Any member appointed by the Owner may be removed with or without cause by the Owner at any time by written notice to such appointee. A successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. Any member elected by the Association shall be removed in accordance with the Bylaws of the Association.

(2) The Review Board shall select its own Chairman and he, or in his absence the Vice-Chairman, shall be the presiding officer of its meetings. All meetings shall be held at least once in each calendar month or upon call of the Chairman; all meetings shall be held at such place as may be designated by the Chairman. Three (3) members shall constitute a quorum for the transaction of business, provided a minimum of two (2) members appointed by the Owner shall be present in order to have a quorum. The affirmative vote of a majority of the members of the Review Board shall constitute the action of the Review Board on any matter before it. The Review Board shall operate in accordance with its own rules of procedure; said rules shall be filed with the Association and maintained in the records of the Association.

(3) The Review Board is hereby authorized to retain the services of one or more consulting architects, landscape architects, urban designers, and attorneys, who need not be licensed to practice in the State of South Carolina, to advise and assist the Review Board in performing the design review functions herein prescribed.

(d) Transfer of Architectural Review Authority. At any time the Owner may by filing a Supplementary Declaration with the Register of Mesne Conveyance for Dorchester County, transfer the above described architectural review authority to a permanent Review Board which, subject to the covenants and conditions stated within the aforesaid Supplementary Declaration, shall be under the control of the Association. This section does not obligate the Owner to make such transfer, provided, however, that such transfer must be made no later than December 31, 1991.

(e) Review of Approval of Plans for Additions, Alterations or Changes to Structures and Landscaping. No building, wall, fence, deck, pier, swimming pool, roof, exterior light or other structure or improvement of any kind shall be commenced or erected upon any Residential Lot or upon the exterior of any dwelling or upon the Common Properties, nor shall any landscaping be done, nor shall any addition to any existing building or alteration or change therein be made until the proposed building plans, specifications (including height, materials and exterior finish), plot plan, landscape plan and construction schedule shall have been submitted to and approved by the Review Board.

(f) Submission, Approval and Refusal of Architecture, Siting, Landscaping and Other Building Plans. Three copies of any required document, plan, or survey shall be submitted to the Review Board. Two copies of all plans and related data shall be retained for the records of the Review Board. The other copy shall be returned to the Property Owner marked "approved" or "disapproved". The Review Board shall establish a fee sufficient to cover the expense of reviewing plans and related data at the time they are submitted for review and to compensate any consulting architects, landscape architects, urban designers or attorney's retainer in accordance with subparagraph (c)(3) of this Section. The Fee initially established by these Covenants shall be \$50.00 for each submission. The Review Board shall have the right to increase this amount not more than once in any subsequent twelve (12) month period. Approvals shall be dated and shall not be effective for construction commenced more than six (6) months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event approval of such plans is neither granted nor denied within thirty (30) days following receipt by Review Board of writing request for approval, the provisions of this Section shall be thereby waived. Refusal of approval of plans, location or specification may be based by Review Board upon any ground which is consistent with the objectives of these Covenants, including purely aesthetic considerations, so long as such ground is not arbitrary or capricious.

(g) Approval Not a Guarantee or Representation of Proper Design or Good Workmanship. No approval of plans, location or specifications, and no publication or architectural standards bulletin shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good workmanlike manner. Neither the Owner, the Association nor the Review Board shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved under these Covenants nor for any defects in construction pursuant to such plans and specifications. The Property Owner shall have sole responsibility for compliance with approved plans and does hereby hold the Review Board and the Owner harmless for any failure thereof caused by the Property Owner's architect or builder. The Owner reserves the right to prohibit the Property Owner's builder and/or general contractor from the site in the event it is determined that failure to comply with approved plans is determined to be intentional or due to gross negligence.

Section 7. Parking. Each Property Owner shall provide off-street space for parking of at least two (2) motor vehicles prior to the occupancy of any building or structure constructed on said property in accordance with reasonable standards established by the Review Board.

Section 8. Completion of Construction. The exterior of all houses and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Property Owner or builder due to strikes, fires, national emergency or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the Property Owner shall require the contractor to maintain the Residential Lot in a reasonably clean and uncluttered condition. Upon completion of construction, the Property Owner shall cause the contractor to immediately remove all equipment, tools and construction material from the Residential Lot. Any damage to roads, Common Properties or property owned by others caused by the Property Owner's contractor or other parties providing labor or services to the Property Owner shall be repaired by the Property Owner or by the Owner at Property Owner's expense.

Section 9. Service Yards. Each Property Owner shall provide a visually screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clothes lines and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Each Property Owner shall provide either a garage or a visually screened area for the storage of boats or recreational vehicles, if such items are to be kept on a Residential Lot.

No trailer, trailer house, recreational vehicle, mobile home, motor home, habitable motor vehicle of any kind, boat or boat trailer, school bus, truck (other than vans or pickups of three-quarter ton capacity or less) or any type of commercial vehicle shall be parked, whether on any street, or on any Residential Lot or on any of the Common Property unless such area has been specifically designated for such purpose by the Association or unless such shall be parked in a closed garage or behind a visual screen on a Residential Lot. This clause shall not be construed to prohibit a mere temporary standing or parking of a trailer, boat, trailer house, recreational vehicle or motor home for short periods (i.e., forty-eight hours or less) preparatory to moving the same to some other location for use or storage.

Section 10. Signs. No signs or ornaments shall be on the Property by anyone including, but not limited to, the Property Owner, a Realtor, a contractor or subcontractor, except with the written permission of the Review Board or except as may be required by legal proceedings. If such permission is granted, the Review Board reserves the right to restrict size, color and content of such signs.

Section 11. Other Buildings and Vehicles. No mobile home, trailer, tent or similar out-building or structure shall be placed on any Residential Lot at any time, either temporarily or permanently without prior approval from the Review Board.

Section 12. Unsightly Conditions. It shall be the responsibility of each Property Owner and tenant thereof to prevent the accumulation of litter, trash, packing crates or rubbish or the development of any unclean, unsightly or unkept condition of buildings or grounds on his property either before, during or after construction and to prevent accumulations which shall tend to substantially decrease the beauty of the community as a whole or the specific area.

Section 13. Lights. The design and location of all exterior lighting fixtures shall be subject to the approval of the Review Board. Neither these fixtures nor any other illumination devices, including but not limited to, Christmas decorations, located anywhere on the structures or grounds of any Residential Lot shall be located, directed, or of such intensity to affect adversely the night-time environment of any adjacent property.

Section 14. Animals. No animals, livestock or poultry of any kind shall be raised, bred, kept or pastured on the Property, except that: (1) a reasonable number of common household pets such as dogs and cats may be kept on any one Residential Lot; provided said pets must be secured by a leash or lead, or under the control of a responsible person and obedient to that person's command at any time they are permitted outside a house or other dwelling or other enclosed area approved by the Owner for the maintenance and confinement of pets. As used in these Covenants, "reasonable number" shall be deemed to limit the total number of all dogs and cats to two (2) per Residential Lot. Each person bringing or keeping a pet upon the Property shall be absolutely liable to each and all other Owners, their family members, invitees, lessees, renters and contract purchasers, and their respective family members, guests or invitees for any damage to persons or property caused by such pet. Any animal owner shall be required to use a "pooper scooper" to clean up after the owner's animal if the animal defecates off his property.

Section 15. Water and Sewage. No private water wells may be drilled or maintained on any Residential Lot so long as the Owner or a public service district or other governmental unit, its successors or assigns, has installed a water distribution line within 100 feet of such property with average daily water pressure in such line adequate for the normal household use in dwellings served by such distribution line, except with the written approval of the Owner and all regulatory agencies having approval authority.

Section 16. Repairs and Hazards. Any building or other improvement on the property that is destroyed partially or totally by fire, storm or any other means shall be repaired or demolished within a reasonable period of time, and the land restored to an orderly and attractive condition.

Section 17. Offensive Activity. No Noxious or Offensive activity shall be carried on upon any Residential Lot, Common Properties, or any place within Brookshire, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the community. The term "nuisance", used in these Covenants, shall not be restricted to its legal meaning.

Section 18. Certain Easements. The Owner reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, over and under the ground of the Property to erect, maintain, and use electric, cable television, and telephone poles, wires, cables, conduits, drainage ways, sewers, wells, pumping stations, tanks, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage or other public conveniences or utilities on, in or over those portions of such property as may be reasonable required for utility line purposes; provided, however, that no such utility easement shall be applicable to any portion of such property as may (a) have been used prior to the installation of such utilities for construction of a building whose plans were approved pursuant to these Covenants by the Owner, or (b) such portion of the Property as may be designated as the site for a building on a plot plan or for erection of a building which has been filed with the Review Board and which has been approved in writing by said Review Board.

These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Any material disturbance to the grounds of any Property Owner caused by such utility installation shall be repaired and said grounds returned to their prior condition by the Owner or prompt and reasonable remuneration for such repair shall be made to such Property Owner by the Owner.

Section 19. Antennas. No television antenna, satellite dish antenna, receiving "dish", radio receiver or sender or other similar device shall be attached to or installed on the exterior of any building or anywhere on any Residential Lot, nor radio, television signals, nor any other form of electromagnetic radiation shall be permitted to originate from any Residential Lot which may unreasonably interfere with the reception of television or radio signals upon any other of such properties, except as follows:

- (a) The provisions of this section shall not prohibit the Owner from installing equipment necessary for a master antenna system, security system, cable television and mobile radio systems or other similar systems within Brookshire; and

(b) Should cable television services be unavailable and good television reception not be otherwise available, the Review Board may grant to any Property Owner permission to install a television antenna or receiving "dish"

Section 20. Trespass. Whenever the Association or the Owner is permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on any property or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

Section 21. Parcels. No Residential Lot shall be subdivided, or its boundary lines changed, except with the written consent of the Owner. However, the Owner hereby expressly reserves to itself, its successors or assigns, the right to replat any such lot or lots and to take such other steps as are reasonably necessary to make such replatted lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, rights-of-way, private roads, bridges, parks, recreational facilities and lots.

The provisions of this Section shall not prohibit the combining of two (2) or more contiguous lots into one (1) larger lot. Following the combining of two (2) or more lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these Covenants and such lot will be considered to be one (1) Residential Lot subject to any special conditions established by the Owner. Consolidation of lots, as described above, must be approved by the Owner, said approval shall be granted in the Owner's sole discretion upon such terms and conditions as may be established by the Owner from time to time, including specific provisions for the payment of assessments.

Section 22. Multiple Ownership of Properties. A Residential Lot may be owned by multiple owners, subject to limitations on use of Common Properties facilities and voting rights. For purposes of this paragraph, a married couple, and children (under 21) residing with the couple, constitutes a single owner.

ARTICLE II

ENVIRONMENTAL CONTROLS

Section 1. Topography and Vegetation. Topographic and vegetation characteristics of a Residential Lot shall not be altered by removal, reduction, cutting, excavation or any other means without the prior written approval of the Review Board. Written approval will be granted for the minimum amount of earth movement and vegetation reduction required in plans and specifications approved pursuant to the provisions of this Declaration.

Section 2. Tree Removal. No trees, bushes, or underbrush of any kind may be removed without the written approval of the Review Board. Approval for the removal of trees located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building will be granted unless such removal will substantially decrease the beauty of the Property. Owner or Review Board reserves the right to have specimen trees preserved and to have site planning provide for their retention.

Section 3. Certain Controls. To implement effective and adequate erosion control and protect the beauty of the Property, the Owner, its successors, assigns (including but not limited to the Association) and agents shall have the right to enter upon any property before or after a building or structure has been constructed thereon for the purpose of performing any grading or landscaping work or constructing and maintaining erosion prevention devices.

To implement effective insect, rodent, reptile and woods fire control, the Owner, its successors, assigns and agents, have the right to enter upon any property on which a building or structure has not been constructed and upon which no landscaping plan has been implemented for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds or other unsightly growth, or removing trash, draining standing water or dispensing pesticides.

Section 4. Erosion in Common Properties. The Owner, its successors and assigns, shall have the right, but shall not be obligated, to protect all Common Properties from erosion, by planting trees, plants and shrubs where and to the extent necessary, or by such mechanical means as construction and maintenance of siltation basins, or other means deemed expedient or necessary by the Owner. The right is likewise reserved to the Owner to take steps necessary to provide and insure adequate drainage ways in Common Properties, to cut fire breaks, and to remove diseased, dead or dangerous trees and carry out other similar activities, the cost of which is to be paid by assessment of the Property Owners in accordance with the provisions of Part Three of these Covenants.

ARTICLE III

COMMON PROPERTIES

Section 1. Easements in Common Properties. The Owner reserves unto itself, its successors, assigns and agents, a perpetual, alienable and releasable easement or right to go on, cover and under the ground to erect, maintain and use electrical, cable television, and telephone poles, wires, cables, conduits, drainage ways, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water drainage or other infra-structure, public conveniences or utilities in said Common Properties. These reservations and rights expressly include the right to cut any trees, bushes, or shrubbery, rights to make any grading of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Owner further reserves to itself, its successors, assigns, and agents, the right to locate wells, pumping stations, siltation basins and tanks within Common Properties. The Owner reserves to itself, its successors and assigns, the right to all subsurface minerals, elements, and objects found under Common Properties.

Section 2. Owner's Use of Common Properties. The Owner expressly reserves to itself, its successors and assigns, for so long as it retains ownership of any land within Brookshire, every reasonable use and enjoyment of the Common Properties in a manner not inconsistent with the provisions of the Covenants.

Section 3. Affirmative Obligations of the Owner. It is expressly understood and agreed that the granting herein of easements pertaining to Common Properties and the reservation by the Owner of rights pertinent thereto in no way places a burden of affirmative action on the Owner and the Owner is not bound to make any of the improvements noted herein, or to extend to any Property Owner any service of any kind, except as such may be consented to by the Owner on its own behalf and as may be undertaken at the expense of the Association or the Property Owner, as the case may be.

Section 4. Offensive Materials in Common Properties. No trash, garbage, sewage, sawdust, building materials or any unsightly or offensive material shall be placed upon any of the common Properties, except that this provision shall not apply to any waste treatment facility established on the Property by the Owner.

Section 5. Common Properties. Subject to the provisions of these Covenants, the rules and regulations of the Association and any charges established by the Association, every Member shall have a right and easement of enjoyment in and to any property now or hereafter designated "Common Properties" pursuant to these Covenants and such easement shall be appurtenant to and shall pass with the title of every Residential Lot; provided, however, that the privilege to use and enjoy the Common Properties may be denied to or withdrawn from such Member for violation of the Covenants, including the obligation to pay assessments when due.

Section 6. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association, in accordance with its Bylaws, to borrow money from any lender for the purpose of improving and/or maintaining the Common Properties owned by the Association, and providing services authorized herein and in aid thereof to mortgage said properties.

(b) The right of the Association to assume and pay any liens or encumbrances against the Common Properties at the time of conveyance.

(c) The right of the Owner, its successors and assigns, or the Association by its Board, to dedicate or transfer to any public or private utility, utility easements on any part of the Common Properties.

(d) The rights of the Association to give or sell all or any part of the Common Properties owned by the Association, including leasehold interests, to any public agency, authority, public service district, utility or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such dedication, transfers and determinations as to purposes and conditions shall be authorized by the affirmative vote of two-thirds (2/3) of the votes cast at a duly called meeting of the Association, subject to the most stringent quorum requirement established herein, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days prior to such meeting. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association, and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Properties prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

(e) The right and easement of enjoyment to the Common Properties shall be limited to the Member and his or her spouse and children (under 21) permanently residing with the Member, or tenants of the Member.

PART THREE

BROOKSHIRE SUBDIVISION HOMEOWNER'S ASSOCIATION, INC.

ARTICLE I

MEMBERSHIP AND VOTING RIGHTS

IN THE ASSOCIATION

Section 1. Membership. Every Property Owner, including the Owner, shall be a Member of the Association, provided, however, that in the case of multiple ownership of any Residential Lot, there shall be a maximum of one (1) Voting Member. In the event of such multiple ownership of any kind, including ownership by a partnership or corporation, the name of the Property Owner designated as Voting Member shall be submitted to the Owner and/or the Association each year, not later than the first day of January of each year.

Section 2. Voting Rights. The Association shall have one type of regular membership and one type of special voting membership as follows:

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Class "A" - Class "A" Members shall be all Property Owners. Each Class A Member shall be entitled to one vote for each Residential Lot owned. When more than one person holds an interest in any Residential Lot, the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

In addition to the Classes "A" regular voting Membership described above, there shall be a Special Voting Membership for the Owner under the following circumstances:

So long as the Owner retains ownership of any Residential Lots on the Property, the Owner shall be allowed a Special Voting Membership by which he shall be entitled two (2) votes for each Residential Lot owned. The Special Voting Membership for Owner shall cease and automatically be converted to Class "A" Membership on the happening of either of the following events, whichever occurs earlier: (a) when the total votes outstanding in Class A Membership equal the total votes outstanding in the Special Voting Membership, or (b) on December 31, 1993.

When any property entitling an owner thereof to membership in the Association is owned of Record in the name of a corporation, trust, partnership or two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, one officer, trustee, person or entity shall be designated the voting Member to bind all the others. Written evidence of such designation in a form satisfactory to the Association shall be delivered to the Secretary of the Association prior to the exercise of a vote by such Owners. All voting shall be straight noncumulative voting.

The voting rights of any Member may be assigned by said Member to his lessee who has entered into a lease with a term of two (2) years or more; provided, however, that the owner may not assign to such lessee any vote or votes not attributable to the property actually leased by such lessee.

Section 3. Board of Directors. The initial Board of Directors of the Association shall consist of three people who shall be appointed by the Owner and who shall administer the initial meeting of the Association and who shall serve until the first annual meeting of the Association. At the first annual meeting, the Members shall elect five Directors, three for a term of two years (to be elected in one election), and two for a term of one year (to be elected in a second election), and the Board shall thereafter consist of five Directors. At each subsequent annual meeting, Directors shall be elected for two-year terms to succeed the Directors whose terms expire at the meeting. A plurality of the votes cast shall be sufficient to elect a Director in any election. A Director may be elected to succeed himself, and a Director shall be deemed to continue in office until his successor has been elected and has assumed office. The rights of the Owner to appoint and elect no less than a majority of the membership of the Board shall continue so long as the Owner controls a majority of the votes as established in the Covenants.

Section 4. Quorum Required for Any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of the Members at an open meeting of the Association (as distinguished from the Referendum) shall be as follows:

The first time a meeting of the Members is called to vote on a particular action proposed to be taken by the Association, the presence at the meeting of Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of proper notice and the required quorum at such meeting shall be the presence of Members or proxies entitled to cast twenty-five (25%) percent of the total vote of the Membership of the Association. In the event the required quorum is not forthcoming at the second meeting, a third meeting may be called subject to the giving of proper notice and there shall be no quorum requirement for such third meeting. Unless otherwise provided, any reference hereafter to "votes cast at a duly called meeting" shall be construed to be subject to the quorum requirements established by this Part Three, Article I, Section 4 and any other requirements of such "duly called meeting" which may be established by the Bylaws of the Association. This provision shall not apply when the proposed action is the amendment of this Declaration and the quorum requirement established by Part Four, Article II shall govern in that instance. For the purpose of this Section, "proper notice" shall be deemed to be given when given each Member not less than thirty (30) days nor more than sixty (60) days prior to the date of the first meeting at which any proposed action is to be considered, however, not less than ten (10) days advance notice shall be "proper notice" in the event a second or third meeting is called as described above.

Section 6. Proxies. Any Member may, by written proxy, designate an agent cast his vote as any meeting of the Association. Unless a proxy states otherwise, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Residential Lot. All proxies shall be in writing and filed with the Secretary.

Section 7. Consents. Any action which may be taken by a vote Members may also be taken by written consent to such action signed by that percentage of all Members, the vote of which would normally be required to take the action in question.

ARTICLE II

MAINTENANCE AND RECREATIONAL ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. Each owner of any Residential Lot, whether or not it shall be so expressed in any such deed or other conveyance, agrees to all terms and provisions of this Declaration and to pay to the Association as applicable:

- (1) Annual Assessments or charges; and
- (2) Special Assessments or charges for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The Annual and Special Assessments together with such interest thereon and costs of collection thereof including reasonable attorney's fees as hereinafter provided shall be a charge and continuing lien on the real property and improvements against which each such assessment is made. Each such assessment, with such interest thereon and cost of collection thereof including reasonable attorney's fees, as hereinafter provided, shall also be the personal obligation of the person who was the owner of such real property at the time when the assessment first becomes due and payable. The personal obligation for delinquent assessments shall not pass to Property Owner's successors in title unless expressly assumed by them. In the case of multiple ownership of a Residential Lot, all of the multiple owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Assessments. The Annual Assessments levied hereunder shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Property and for the improvement, maintenance management, enhancement, enlargement and operation of the Common Properties, and to provide services which the Owner or Association is authorized to provide. In carrying out these duties, the Owner or Association may make payment of taxes and insurance thereon; make improvements on Common Properties, pay the cost of labor, equipment, materials, management, supervision, accounting and member information services; maintain offices and equipment; repay any loans made to the Owner or the Association and take such other action as is necessary to carry out its authorized functions.

The Association may establish reserve funds equal to ten (10%) percent of its receipts from its regular Annual Assessments to be held in reserve in interest drawing accounts or investments as a reserve for (a) major rehabilitation or major repairs, and (b) for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.

Section 3. Amount of Assessment. The first Annual Assessment, the amount not to exceed \$300.00 per Residential Lot, shall be levied by the Association commencing January 1, 1989. Assessments shall be prorated in the year in which a Residential Lot is conveyed to a purchaser by the Owner.

Property shall not be classified for purposes of these Covenants and these Annual Assessments as a Residential Lot until conveyed to the purchaser by the Owner.

From and after January 1, 1990, the Annual Assessment may be increased each year by the Owner or Board by an amount not in excess of five (5%) percent per year, or the percentage increase between the first month and the last month of an annual assessment period in the Consumer Price Index, U.S. City Average, All Items (1967=100) (hereafter "C.P.I.") issued by the U.S. City Average, Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas" whichever of these two percentage figures is larger. After January 1, 1990, two-thirds (2/3) of the votes cast at a duly called meeting of the Association, subject to the quorum requirement established by Part Three, Article I, Section 5 hereof, may vote to increase said Annual Assessment by a greater amount. In the event that the C.P.I. referred to above shall be discontinued, then there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living.

Section 4. Special Assessments for Improvements and Additions. In addition to the Annual Assessments, the Association, may levy Special Assessments, for the purpose of construction or reconstruction, repair or replacement of capital improvements upon the Common Properties, including the necessary fixtures and personal property related thereto, or to provide for the necessary personnel and equipment to offer the services authorized herein, or to repay any loan made to the Association to enable it to perform the duties and functions authorized herein provided that such assessment shall have received the assent of two-thirds of the votes of each class of members who are voting, in person or by proxy, at a meeting duly called for this purpose. This provision shall be interpreted to mean that the Association may make, in any one year, an Annual Assessment plus an additional Special Assessment

Section 5. Notice and Quorum for Any Action Authorized Under This Article. 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 thirty (30) days nor more than sixty (60) days in advance of the meeting. The quorum required for any action authorized to be taken by the Members at a meeting under this Article, unless provided otherwise, shall be as follows:

The first time any meeting of the members of the Association is called to take action under this Article, the presence at the meeting of Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership, shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of ten (10) days prior notice and the required quorum at such subsequent meeting shall be the presence of Members or proxies entitled to cast twenty-five (25%) percent of the total vote of the membership of the Association.

Section 6. Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Residential Lots.

Section 7. Date of Commencement and Proration of Annual Assessment, Due Date. The first Annual Assessment shall be made for the calendar year and shall become due and payable thirty (30) days after the day fixed for the commencement. The Board shall have the power to change the date upon which annual payment of Annual Assessments is due, i.e., lump sum, monthly installments, etc., provided, however, that the Annual Assessment shall be due and payable at least annually.

Section 8. Duties of the Board of Directors. The Owner, initially, and thereafter the Board shall fix the amount of the assessments against each Residential Lot, and shall, at that time, direct the preparation of an index of the properties and assessments applicable thereto which shall be kept in the office of the Association and

which shall be open to inspection by any Property Owner. Written notice of assessment shall thereupon be sent to every Property Owner subject thereto at least thirty (30) days in advance of each Annual Assessment period.

The Association shall, upon demand at any time, furnish to any Property Owner liable for an assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence against all but the Property Owner of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Property Owner; the Lien; Remedies of the Association. If an assessment is not paid on or before the past-due date specified herein, then such assessment shall become delinquent and shall, together with interest thereon at the rate of twelve (12%) percent per annum from the due date and costs of collection thereof as hereinafter provided thereupon shall become charge and continuing lien on the land and all improvements thereon, against which each such assessment is made, in the hands of the Property Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Property Owner at the time when an assessment first becomes due and payable to pay such assessment, however, shall remain his Personal obligation and shall not pass as a personal obligation his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the past due date, the Association may bring an action at law against the Property Owner personally and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

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

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien to any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Property pursuant to a decree of foreclosure, or any other proceeding or deed in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments accruing after conveyance by mortgagee to an owner, provided, however, that the mortgagee shall not be liable for assessments until it has held title to the property for more than six (6) months.

Section 11. Exempt Property. The following property, individuals, partnerships or corporations, subject to the Covenants, shall be exempted from the assessment, charge and lien created herein:

- (a) The grantees in conveyances made for the purpose of granting utility easements;
- (b) All lands below the mean high water mark;
- (c) Unsubdivided land and Residential Lots owned by the Owner; and
- (d) Common Properties.

Section 12. Annual Statements. Upon conveyance of the Common Properties to the Association and assumption by the Association of the right, to make and collect the within described assessments, the President, Treasurer, or such other officer as may have custody of the funds of the Association shall annually, within ninety (90) days after the close of the fiscal year of the Association, prepare and execute under oath a general itemized statement showing the actual assets and liabilities of the Association at the close of each fiscal year, and a statement of revenues, costs and expenses. It shall be necessary to set out in the statement the name of any creditor of the Association; provided, however, that this requirement shall be construed to apply only to creditors of more than \$500.00. Such officer shall furnish to each Member of the Association who may make request therefor in writing, a copy of such statement, within thirty (30) days after receipt of such request. Such copy may be

furnished to the Member either in person or by mail. Prior to such time as the Association assumes the aforesaid obligation, the Owner shall not be required to provide the aforesaid statement to the Property Owners.

ARTICLE III

FUNCTIONS OF THE ASSOCIATION

Section 1. Ownership and Maintenance of Common Properties. The Association shall be authorized to own and maintain Common Properties and equipment, furnishings, and improvements devoted to the following uses:

- (a) for sidewalks, walking paths or trails and bicycle paths throughout the Property;
- (b) for providing any of the services which the Association is authorized to offer under Section 2 of this Article;
- (c) for purposes set out in deeds or long-term leases by which Common Properties are conveyed or leased to the Association;

Section 2. Services. The Association shall be authorized but not required to provide the following services:

- (a) clean-up, maintenance, landscaping, and lighting of all roads, parks, lagoon, and Common Properties, within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole.
- (b) garbage and trash collection, removal and disposal;
- (c) insect and pest control to the extent that it is necessary or desirable in the judgment of the Board to supplement the service provided by the State and local governments;
- (d) the services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this Declaration;
- (e) to take any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants, restrictions, or Bylaws applicable to the Association;
- (f) to set up and operate the Review Board as herein above provided;
- (g) to conduct recreation, sport, craft, and cultural programs of interest to Members, their children and guests;
- (h) to provide safety equipment for storm emergencies;
- (i) to construct improvements on the Common Properties for any purpose or as may be required to provide the services as authorized in this Article;
- (j) to provide administrative services including but not limited to legal; accounting and financial; and communication services informing Members of activities, Notice of Meetings, Referendums, etc., incident to the above listed services;
- (k) to provide liability and hazard insurance covering improvements and activities on the Common Properties, independently or in collaboration with the Owner;
- (l) to administer and collect the assessments for the maintenance of all Common Properties, entrance signage and landscaping, all common planting areas, and nature areas and the

drainage through such areas;

(m) the designation and dismissal of any personnel necessary to accomplish any valid task of the Association; and

(n) the enactment of reasonable regulations governing the operation and use of the Common Properties, including any necessary "House Rules" (it shall not be necessary to record regulations newly adopted or the amendment or repeal of existing regulations, but no Member shall be bound by any newly adopted regulation until a copy of the regulation has been mailed or delivered to him).

Section 3. Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified or implied in this Declaration. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board, taking into consideration the funds available to the Association and the needs of the Members, at which point the Association shall be required to act. Special Assessments shall be levied as provided in Article II, Section 4, herein. The functions and services which the Association is authorized to provide may be added or reduced at any time upon the affirmative vote of fifty-one (51%) percent of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4. Mortgage and Pledge. The Board shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association only in performing its authorized functions.

PART FOUR

GENERAL PROVISIONS

ARTICLE I

DURATION

Section 1. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, the Owner, or any Property Owner, their respective legal representatives, heirs, successors, and assigns, for a period of twenty-five (25) years from the date this Declaration is recorded. Upon the expiration of said twenty-five (25) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of the initial twenty-five (25) year period, three-fourths (3/4) of the votes cast at a duly held meeting of the Association vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such proposal will be considered, shall be given each Member at least thirty (30) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration and the total number of votes cast against such resolution. Said certificate shall be recorded in the official real estate records for Dorchester County, South Carolina, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

ARTICLE II

AMENDMENTS

The Owner specifically reserves to itself, its successors and assigns, the right to amend this Declaration, or any portion thereof, on its own notion, from the date hereof until December 31, 1993, so long as the voting power of existing Members is not diluted thereby, nor the amounts of assessments of such existing Members changed in any manner which would adversely affect such Members, after which time the procedure for amendment shall be as follows: All proposed amendments shall be submitted to a vote of the Members at a duly called meeting of the Association and any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting at which such proposed amendment is to be considered are in favor of the amendment. If any proposed amendment to this Declaration is approved by the Members as set forth above, the President and Secretary of the Association shall execute an Addendum to this Declaration which shall set forth the amendment, the effective date of the amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such amendment was adopted), the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, and the total number of votes cast for and against the amendment. Such Addendum shall be recorded in the official real estate records of Dorchester County, South Carolina.

The quorum required for any action authorized to be taken by the Association under this Article shall be as follows:

The first time any meeting of the Members of the Association is called to take action under this Article, the presence at the meeting of the Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of ten (10) days prior notice and the required quorum at each subsequent meeting shall be the presence of Members or proxies entitled to cast fifty (50%) percent of the total vote of the Association.

ARTICLE III

NOTICES

Section 1. Any notice required to be sent to any Member or Property Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the last known address of the person or entity who appears as owner in the public records of Dorchester County, South Carolina, on the first day of the calendar month in which said notice is mailed.

Section 2. Notice to one of two or more co-owners of a Residential Lot, shall constitute notice to all co-owners. It shall be the obligation of every Member to notify immediately the Secretary of the Association in writing of any change of address.

Section 3. Any person who becomes a Property Owner and Member following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor in title.

ARTICLE IV

INSURANCE

Section 1. Casualty Insurance on Insurable Common Properties. The Association shall keep all insurable improvements and fixtures of the Common Properties insured against loss or damage by fire for the full

Section 2. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Properties Improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment against all Property Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Annual Assessments made against such Lot Owner.

Section 3. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

ARTICLE V

ENFORCEMENT, SEVERABILITY AND INTERPRETATION

Section 1. Who May Enforce Generally. In the event of a violation or breach of any of the affirmative obligations or restrictions contained in this Declaration by any Property Owner or agent of such Property Owner, the Owner or any Property Owners or any of them jointly or severally shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

Section 2. Enforcement by the Association. In addition to the foregoing provisions of Section 1, the Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

The Association may engage a person or persons to respond to complaints received as to violations of the covenants and shall inform the violators of such complaint. If the violation is not expeditiously terminated, the Owner or Association may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these Covenants. Violators shall be obligated to reimburse the Association in full for all its direct and indirect costs, including but not limited to legal fees incurred by the Association in maintaining compliance with these covenants.

Section 3. Enforcement by the Owner. In addition to the foregoing provisions of Sections 1 and 2, the Owner shall have the right, but shall not be obligated, to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. Violators shall be obligated to reimburse the Owner in full for all its direct and indirect costs, including but not limited to legal fees incurred by the Owner in maintaining compliance with these covenants.

Section 4. Against Whom May the Covenants Be Enforced. The obligations and benefits prescribed by the Covenants shall run with the Property and shall be enforceable against the Owner, its successors and assigns; the Association, its successors and assigns; and against any Property Owner or other person or their heirs, successors and assigns whose activities bear a relation to the Property when the aforesaid parties engaged in activities (including omissions and failures to act) which constituted violations or attempts to violate or circumvent the covenants and restrictions set forth in this Declaration.

Section 5. Means of Enforcement. Enforcement of these Covenants shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to create any lien created by these Covenants.

Section 6. Severability. Should any covenants or restriction herein contained, any Part, Article, Section, paragraph, sentence, clause, phrase or term in this Declaration be declared to be void, invalid, illegal, or unenforceable for any reason by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 7. Interpretation. In all cases, the provisions of this Declaration 5 all be given that interpretation of construction which will best tend toward the consummation of the general plan of development of the Property. The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning ordinance which allows a less restricted use of the Property.

Section 8. Authorized Action. All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board in the manner provided for in the Bylaws of the Association, unless the terms of this instrument provided otherwise.

ARTICLE VI

TERMINATION OF ASSOCIATION

Section 1. In the event that this Declaration be declared void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, and such adjudication occurs within ten (10) years of the date of recording of this Declaration, all Common Properties belonging to the Association at the time of such adjudication shall revert to the Owner.

Section 2. In the event this Declaration is adjudicated to be invalid or otherwise declared void, illegal or unenforceable, the Owner shall own and operate the Common Properties as Trustee for the use and benefit of the Property Owners, subject to the conditions and easements as set forth herein.

If said adjudication shall occur on a date more than ten (10) years after the date of recording of this Declaration, or if the Members of the Association should vote not to renew and extend this Declaration as provided for herein, all Common Properties owned by the Association at such time shall be transferred to a Trustee appointed by the appropriate court of Dorchester County, South Carolina, which Trustee shall own operate said land for the use and benefit of the Property Owners as set forth herein. A Trustee, whether the Owner or Court-I appointed, shall operate the Common Properties as follows:

(a) Each Residential Lot shall be subject to an Annual Assessment which shall be paid by the Property Owner to the Owner or Trustee, whichever becomes the successor in title to the Association. The amount of such Annual Assessment and its due date shall be determined solely by the Trustee, but the amount of such Annual Assessment, on any particular Residential Lot, shall not exceed the amount actually assessed against that lot in the last year that assessments were levied by the Association, subject to the adjustments set forth in paragraph (b) below.

(b) The amount of the minimum and maximum Annual Assessment which may be charged by the Owner or Trustee hereunder on any Residential Lot shall be automatically increased each year by either five (5%) percent or the percentage increase between the first month and the last month of the annual assessment period in the Consumer Price Index, U. S. City Average, All Items (1967-100) (hereafter "C.P.I.") issued by the U. S. Bureau of Labor Statistics in its monthly report entitled "The Consumer Price Index, U. S. City Average and Selected Areas", whichever of these two percentage figures is larger. If the C.P.I. is discontinued, then there shall be used the most similar index published by the United States Government that may be procured.

(c) Any past due Annual Assessment together with interest thereon at a rate of twelve (12%) percent per annum from the due date and all costs of collection including reasonable attorneys 5 fees shall be a personal obligation of 'the Property Owner at the time the Annual Assessment became past due, and it shall also constitute and become a charge and continuing lien on the lot and all improvements thereon, against which the assessment has been made, in the hands of the then owner, his heirs, devisees, personal representatives and assigns.

(d) The Owner or the Trustee, as the case may be, shall be required to use the funds collected as Annual Assessments for the operation, maintenance, repair and upkeep of the Common Properties. The Owner or Trustee may charge, as a part of the cost of such function, the reasonable Value of its services in carrying out the duties herein provided for. Neither the Owner nor the Trustee shall have the obligation to provide for operation, maintenance, repair and upkeep of the Common Properties once the funds provided by the annual assessment have been exhausted.

(e) The Owner or the Trustee shall have the right to convey title to the Common Properties and to assign its rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The Owner or the Trustee shall have the power to dispose of the Common Properties free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by fifty-one (51%) percent of the Property Owners (one vote per Residential Lot), or in the alternative, shall be found to be in the best interest of the Property Owners by the appropriate court of Dorchester County, South Carolina. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Properties; then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair and upkeep of such properties; then distributed among the Property Owners, exclusive of the Trustee, in a proportion equal to the portion that the maximum annual assessment of property owned by a particular owner bears to the total maximum annual assessments for all property located within the Property.

ARTICLE VII

FHA/VA APPROVAL

As long as there is a Special Voting Membership for the Owner, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Properties, and amendment of the Covenants.

IN WITNESS WHEREOF, the undersigned has set its hand and seal by its duly authorized officer(s) as of date first above written

Signatures on file with original.