

**THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT
TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT
(S.C. CODE ANN. § 15-48-10 ET SEQ., AS AMENDED)**

NOTICE TO CLOSING ATTORNEYS: THIS DECLARATION IMPOSES ASSESSMENTS CONSTITUTING A LIEN ON EACH LOT. PLEASE CONTACT THE ASSOCIATION TO DETERMINE THE STATUS OF A PARTICULAR LOT WITH REGARD TO PAYMENT OF ASSESSMENTS. THE ASSOCIATION'S CONTACT INFORMATION MAY BE FOUND ON THE SECRETARY OF STATE'S WEBSITE.

STATE OF SOUTH CAROLINA) AMENDED AND RESTATED DECLARATION OF
) COVENANTS, CONDITIONS, RESTRICTIONS,
COUNTY OF LEXINGTON) AND EASEMENTS FOR FAIRHAVEN (Original
) Declaration recorded in Deed Book 5856 at Page 202)

THIS Amended and Restated Declaration of Covenants, Conditions, Restrictions And Easements for Fairhaven is made this ___ day of _____, 20__, by Fairhaven Homeowner's Association, Inc., a nonprofit corporation organized and existing under the laws of the State of South Carolina. Any defined terms used herein shall have the meaning set out in Article I hereafter:

RECITALS

1. The Declaration of Covenants, Conditions, Restrictions and Easements for Fairhaven was recorded June 30, 2000, in the Office of the Register of Deeds for Lexington County in Deed Book 5856 at Page 202 (as amended and supplemented the "Original Declaration").

2. The Original Declaration was later amended and supplemented by the following instruments: Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Fairhaven, recorded April 20, 2001, in the Office of the Register of Deeds for Lexington County in Deed Book 6318 at Page 194; Attachment to Declaration of Covenants, Conditions and Restrictions, recorded May 9, 2001, in the Office of the Register of Deeds for Lexington County in Deed Book 6367 at Page 98; Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Fairhaven, recorded October 23, 2002, in the Office of the Register of Deeds for Lexington County in Deed Book 7594 at Page 272; Amendment to Declaration of Covenants, Conditions, Restrictions and Easements, recorded August 23, 2010, in the Office of the Register of Deeds for Lexington County in Deed Book 14407 at Page 304;

3. The Original Declaration provides in Article XI, Section 5 that "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 two-thirds (2/3rds) of the votes cast at such meeting vote in favor of such proposed amendment . . . Notice shall be given each Member at least thirty (30) days prior to the date of the meeting at which such proposed amendment is to be considered."

4. The real property described in the Original Declaration and subsequent Amendments is subjected to the covenants, conditions, restrictions, easements, charges, and liens, hereinafter set forth and to the guidelines, policies, procedures, rules and regulations adopted by

the Board of Directors or the Architectural Control Authority for the community as a whole. Each and all of which (i) is and are binding upon the Property and each Owner, (ii) is and for the sole benefit of the Association, and (iii) shall run with the title to the land.

NOW, THEREFORE, the Association, by and through its undersigned Officers, declares that the Members have approved the following Amended and Restated Declaration wherein the real property described in the Original Declaration and subsequent Amendments and Supplemental Declarations, annexed hereto and forming a part hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth which shall run with the title to the land and all Lots therein and which shall be binding on all Owners.

ARTICLE I **DEFINITIONS**

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

- (a) "Association" shall mean and refer to Fairhaven Homeowners Association, Inc., a South Carolina nonprofit corporation, its successors and assigns.
- (b) "Common Properties" shall mean and refer to those tracts of land with any improvements thereon which are deeded to the Association for the use and benefit of its members. The term "Common Properties" shall also include any personal property acquired by the Association if said property is designated as "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Owners, Residents and their guests (to the extent permitted by the Board of Directors of the Association) subject to fee schedules and operating guidelines.
- (c) "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements of Fairhaven, as the same may be amended, renewed or extended from time to time in the manner provided herein, which shall be filed for.
- (d) "Fairhaven" shall mean and refer to the Lots on the property in Lexington County, South Carolina, described in the Plat and the Common Properties.
- (e) "Lot" shall mean and refer to any parcel of land with such improvements or dwellings as may be erected thereon, shown and described as a "Lot" on any recorded subdivision Plat of the property, but shall not include the Common Properties or the streets or road rights-of-way.
- (f) "Member" shall mean and refer to all those Owners who are members of the Association as defined in Article 2.
- (g) "Owner" shall mean and refer to the Owner as shown by the real estate records in the Office of the Register of Deeds of Lexington County, South Carolina, whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Lot located within Fairhaven but, notwithstanding any applicable theory of a mortgage or deed to

secure debt, shall not mean or refer to the mortgagee or holder of a deed to secure debt, its successors or assigns, unless and until such mortgagee or holder of a deed to secure debt has acquired title pursuant to foreclosure or by a proceeding or deed in lieu of foreclosures; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner. In the event that there is recorded in the Office of the Register of Mesne Conveyance of Lexington County, South Carolina, a long-term contract of sale covering any Lot, the Owner of such Lot shall remain the Owner until fee simple title to the Lot has been transferred to the purchaser. A long-term contract of sale shall be one in which (i) the purchaser is required to make payments for the Lot for a period extending beyond nine (9) months from the date of the contract, (ii) the purchase does not receive title to the property until such payments are made and (iii) the purchaser is given the use of said property.

(h) "Property," unless the context shall otherwise require, shall mean and refer to that tract or parcel of land described in the Plat, together with all improvements thereon.

(i) "Resident" shall mean and refer to each Owner and Tenant of a Lot and Patio Home together with the members of his family living in such Patio Home.

(j) "Tenant" shall mean and refer to the Lessee under a written agreement for the rent of a Lot and Patio Home in Fairhaven.

(k) "Patio Home" or "Family Dwelling Unit" shall mean and refer to the improvements constructed on each Lot.

NOTWITHSTANDING THE ESTABLISHMENT OF PATIO HOMES OF FAIRHAVEN HOMEOWNERS ASSOCIATION, INC. AND THE SUBMISSION OF THE PROPERTY TO THE TERMS AND CONDITIONS OF THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR FAIRHAVEN IS NOT A CONDOMINIUM AS DEFINED IN THE HORIZONTAL PROPERTY ACT, CODE OF LAWS OF SOUTH CAROLINA, 1976 SECTION 27-31-10, ET SEQ.

ARTICLE II **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

1. **Membership.** Every person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in 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. 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, regardless of whether title to a Lot is vested in more than one Owner, shall have more than one membership or one vote per Lot.

2. **Membership and Voting Rights.** Members shall be all Owners and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any

Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. The Owners shall file with the Secretary of the Association an instrument in writing signed by all such Owners designating one Owner (or in the case of a corporation, one of its officers) to cast the vote which is attributable to such Lot.

3. **Governing Body.** The Association shall be governed by a Board of Directors consisting of Five (5) Members. The election of the Board of Directors shall be by the Members as provided in the By-Laws. A majority of the positions on the Board should be held by resident owners of Fairhaven.

4. **Proxies.** All Members of the Association may vote and transact business at any meeting of the Association by proxy authorized in writing.

ARTICLE III **FUNCTIONS OF ASSOCIATION**

1. **Ownership and Maintenance of Common Properties.** The Association shall be authorized to own and maintain the Common Properties. The Association shall pay any ad valorem taxes on the Common Properties. Each Owner shall be responsible for the payment of all ad valorem taxes on his Lot and Patio Home. The Association shall have the authority to promulgate and enforce rules and regulations regarding Fairhaven, and fine members for violations of the rules and regulations, which fines, if unpaid, shall become a continuing lien on the Lot, and the right, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties and facilities thereon; however, no portion of the Common Properties may be mortgaged or conveyed without the consent of two thirds (2/3) of the Members.

2. **Required Services.** The Association shall be required to provide the following services:

- a. Repair, replacement and maintenance of the Common Properties and all improvements located therein;
- b. Taking any and all actions necessary to enforce all covenants and restrictions affecting Fairhaven and to perform all of the functions and duties delegated to the Association in any covenants or restrictions applicable to Fairhaven.
- c. Providing administrative services, including, but not limited to, legal, accounting and financial, and communication services informing Owners of activities and giving required notices incident to carrying out the functions of the Association.
- d. Review of and approval or disapproval of plans and specifications for (i) work to any Patio Home or (ii) landscaping on any Lot, all as provided for in the Declaration.
- e. Maintenance of liability insurance for the Association in such amounts as shall be determined by the Board of Directors to protect the Association against claims for which the Board of Directors determine should be covered, including, without limitation, insurance for the officers and directors in connection with their management of the Association

- f. Enforce the obligation of each Owner to maintain and keep in good repair the exterior of such Owner's Patio Home(s) and such Owner's Lot(s).
- g. Maintenance of the Common Properties.
- h. Maintenance and upkeep of the landscaping in accordance with the services provided in Article IX in the front, sides and unfenced back.
- i. To purchase hazard insurance covering the improvements located on the Common Properties and any items of personal property which are a part of the Common Properties.

3. **Discretionary Services.** The Association shall be authorized to provide 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 document. The functions and services which the Association is authorized to carry out or to provide may be added to or reduced or may be changed in nature (i.e., from required to discretionary or vice versa) at any time upon the affirmative vote of a simple majority of the voting rights of those voting at a duly held meeting of Members.

4. **Pledge of Revenues.** The Board of Directors of the Association shall have the power and authority to borrow funds for the benefit of the Association in performing its authorized functions and to pledge the revenues of the Association as security for such loans.

ARTICLE IV **PROPERTY RIGHTS**

1. **Owner's Easements of Enjoyment in Common Properties.** Subject to the provisions of these covenants, the rules and regulations established from time to time by the Association, and any fees or charges established by the Association, every Owner, Resident and Tenant shall have an easement of ingress and egress over all paved portions of the Common Properties and of use and enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of every Lot and Patio Home.

2. **Extent of Owner's Easement.** The easements of ingress, egress, use and enjoyment hereby shall be subject to the following:

- a. The right of the Association to suspend the rights and easements of use of any Owner, resident or tenant of any Lot for any period during which the payment of any assessment made by the Association against such Lot remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Owner's obligation to pay the assessment.
- b. The right of the Association by action of its Board of Directors to dedicate or transfer to any public or private utility, or municipality any part of the Common Properties.
- c. The rights and easements of the Association set forth in Section 3, below.

- d. The right of the Association to grant easements and to dedicate or transfer fee simple title to all or any part of the Common Properties, including leasehold interests, to any public or private concern for such proposes and subject to conditions as may be agreed to by the Association; provided that no such dedication or transfer of fee simple title shall be effective unless authorized by the affirmative vote of a simple majority of the votes cast at a duly called meeting of the Association, and unless written notice of the meeting and of the proposed agreement and action there under is sent to every member of the association at least (30) days prior to such meeting. A true copy of such resolution 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.

3. **Easements for Association.** There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including, but not limited to, any manager employed by the Association, to enter upon the Property (but not inside a Patio Home) or any portion thereof in the performance of their respective duties which specifically, includes the right to maintain and upkeep the landscaping in the front and side yard of each Lot. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the owner or Occupant of the Lot, Patio Home or other structure or improvement directly affected thereby. In that connection, the Board of Directors has the power to grant and accept easements upon, over, under and across all of the Common Areas for ingress, egress, installing, replacing, repairing, and maintaining master television antenna systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and electrical, gas, telephone, water and sewer lines and landscaping.

4. **Leases of Lots.** Any lease agreement between an Owner and Tenant for the lease of such Owner's residence on its Lot shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration, the Articles of Incorporation and the By-Laws of the Association, and any rules and regulations promulgated by the Association. The lease shall also provide that failure to comply with the terms of such documents shall be default under the terms of the lease. All leases of Lots shall be in writing. Homeowners are required to submit the front and last page of a lease to the Association or that part of the lease that describes the dates of the lease and names of the occupants. A tenant information form shall be submitted to the Association within thirty (30) days of transfer indicating the names and phone numbers of the persons living in the unit.

ARTICLE V **COVENANTS FOR ASSESSMENTS**

1. **Creation of the Lien and Personal Obligation of Assessments.** Each and every Owner of any Lot or Lots within the Property, by acceptance of a deed to a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be personally obligated to pay to the Association the regular assessments or charges, special assessments and charges, and the Association's costs of collection, including, without limitation, any collection fees, attorneys' fees,

late fees, administrative fees and charges, and court costs incurred in collecting the assessments, or in enforcing or attempting to enforce the Declaration, By-Laws, Architectural Guidelines and Regulations (collectively, "Costs of Collection")

Regular annual assessments and special assessments are to be fixed, established and collected from time to time as hereinafter provided. The regular annual assessment and special assessments together with such interest thereon and Costs of Collection therefore, shall be a charge and continuing lien on the Lot and Patio Home thereon against which each such assessment is made. Each such assessment, together with assessed interest thereon and all Costs of Collection, as hereinafter provided, shall also be the personal obligation of the Owner of such Lot at the time when the assessment first becomes due and payable. In the case of co-ownership of a Lot, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of Common Properties or abandonment of his Lot and Patio Home.

2. **Date of Commencement of Annual Assessments.** The annual assessments provided for herein shall commence upon the purchase of the Lot and Patio Home by the Owner.

No later than 30 days prior to the calendar year, the Board shall fix the amount of the annual assessment and promptly thereafter the Board shall cause written notice thereof to be sent to every Owner subject thereto. In the event the Board shall fail to fix the amount of annual assessment as described above, the assessment fixed for the immediately preceding year shall continue in effect until a new assessment amount is fixed. The due dates shall be established by the Board.

3. **Purpose and use of Annual Assessment.** The regular annual assessment shall be levied by the Board of Directors of the Association, shall be used exclusively for the improvement, maintenance, repair and enhancement of the Common Properties, and, to provide the required services as set forth in Article III, Section 2 hereof and to provide so many of the discretionary services set forth in Article III, Section 3 as the Board of Directors may elect to provide.

4. **Special Assessments.** In addition to the annual regular assessments authorized by Section 3 hereof, the Board of Directors of the Association may levy special assessments against Lots for the following purposes to the extent any regular annual assessment is insufficient:

- a. Repair or replacement of any paved areas located on the Common Properties.
- b. Repair, replacement and maintenance of the walls and landscaping on the Common Properties.
- c. To provide for the necessary facilities and equipment to offer the services authorized herein.
- d. To repay any loan made to the Association to enable it to perform the duties and functions authorized herein.

Before any special assessment is levied by the Association, it must receive the assent of a simple majority of the votes cast at a duly held meeting of the Association. In sending out the notice of such meeting, the Association shall include in the notice one statement from those Directors favoring the special assessment and one statement from the Directors opposing the special

assessment (if any), containing the reasons for those Directors' support and opposition for the assessment. Neither statement will exceed two (2) pages in length.

In the event any Owner shall fail to fulfill his/her/its obligations under Article IX thereof, and the Association shall fulfill any of such obligations for such Owner, the Association shall be entitled to specially assess such Owner, without the requirement of a vote, for all costs incurred by the Association in performing such service.

5. **Reserve Funds.** The Association may establish reserve funds from its regular annual assessments to be held in reserve in an interest-bearing account or investments as a reserve for (a) major rehabilitation, major repairs, major maintenance or improvement; and (b) for emergency and other repairs required as a result of storm, flood, wind, natural disaster or other casualty loss. The reserve fund should be no less than \$10,000 and no more than one half the total annual assessments received by the Association.

6. **Certificate of Payment.** The Association shall upon demand at any time furnish to any Owner liable for any regular or special assessment, a certificate in writing signed by an officer of the Association or the Association's designee, setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence against all but the Owner of payment of any assessment therein stated to have been paid.

7. **Effect of Non-Payment of Assessment: The Personal Obligation of the Owner: The Lien; Remedies of Association.** Any assessments not paid by the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum or, if fifteen percent (15%) is higher than allowed by law, then the highest rate allowed by law. Said interest shall be charged at the discretion of the Board of Directors. In addition, the Board of Directors shall have the right to charge a late fee on any assessment or installment thereof which shall not have been paid by its due date. In the event that the Board of Directors chooses an installment schedule for the method of payment for an Assessment or as a method of allowing an Owner to pay past due Assessments, and in the event that any installment is delinquent, the Board of Directors shall have the right to accelerate and immediately make due all or part of the assessment due from that Owner of that Lot for that budgeted period. The Board of Directors may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the Lot(s) in the same manner as prescribed by the laws of the State of South Carolina for the foreclosure of mortgages, and may seek a deficiency judgment, and recovery of Costs of Collection.

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein. No disagreement on the part of any Owner with respect to the budget; the amount or installment schedule for any assessment; any change to the amount or installment schedule for the assessment; the Regulations established or amended by the Developer or the Board of Directors; the actions or lack of action on the part of the Association; the purpose for any assessment; shall be reason for any Owner to fail to pay any assessment at the time that it is due.

8. **Subordination of the Lien to Deeds to Secure Debt.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any such first mortgage, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which becomes due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage.

9. **Annual Statements.** The president, treasurer or such other officer, property manager or designee as may have custody of the funds of the Association shall annually, within one hundred and twenty (120) days after the close of the fiscal year of the Association, prepare a general itemized statement showing the actual assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues, costs and expenses. It shall be necessary to set out in the statement the nature of any creditor of the Association, provided, however, that this requirement shall be constructed to apply only to creditors of more than \$500.00. Such officer shall furnish to each Member proof the Association who may request 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/email.

10. **Annual Budget.** The Board of Directors shall prepare and make available to all Members, at least sixty (60) days prior to the first day of each fiscal year, a budget outlining anticipated receipts and expenses for the upcoming fiscal year. The Financial Books of the Association shall be available for inspection by all Members at all reasonable times.

11. **Uniform Assessment.** All assessments made under this Declaration shall be equal among Lots

12. **Working Capital Fund.** In order to insure that the Association will have cash necessary to fund the operation of the Association, a reserve and working capital fund will be established. Funding will be supplied by Owners by payment at the closing of every Lot (and each successive closing thereafter) the sum designated by the Board in the annual budget year but no less than \$200, which will be for the use and benefit of the Association. Amounts paid into the funds are not to be considered to be advance payment of regular assessments.

ARTICLE VI **ARCHITECTURAL CONTROL**

1. **Improvements, Changes and Alterations.** No building, fence, wall or other structure or the construction, installation, location or removal of walls, fences, fountains, bird baths, pools, ponds, streams, gardens, decks, or patios) shall be commenced, erected or maintained upon any Lot; nor shall any exterior addition be made until the plans and specifications showing the nature, kind, shape, color, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Review Board. The Architectural Review Board

will act in accordance with the By-Laws of the Association and be composed of three (3) or more homeowners appointed by the Board of Directors.

2. **Procedures.**

- a. Any person desiring to make any improvement, alteration or change described in Section 1 above shall submit the plans and specifications therefore, showing the nature, kind, shape, height, materials and location of the same, to the Architectural Review Board which shall evaluate such plans and specifications in light of the purpose of this Article.
- b. Upon approval by the Architectural Review Board of any plans and specifications submitted pursuant to this Declaration, copy of such plans and specifications, as approved, shall be deposited for permanent record with the Architectural Review Board and/or Property Manager and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the Architectural Review Board's right, in its discretion, to disapprove similar plans and specifications of any of the features or elements are subsequently submitted for use in connection with any other Lot. Approval of such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.
- c. The Association, nor any other member of the Architectural Review Board, shall not be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Review Board, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Review Board. Furthermore no member of the Architectural Review Board shall be liable in damages to anyone by reason of mistake in judgment, negligence, misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications or the exercise of any other power or right of the Architectural Review Board provided for in this Declaration. Every person who submits plans and specifications to the Architectural Review Board for approval agrees, by submission of such plan and specifications, and every owner of any Lot agrees, that he will not bring any action or suit against the Association, its Board Member or Officers, or any member of the Architectural Review Board, to recover any such damages, and hereby Releases, Remises, Quitclaims, and Covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

- d. During construction, any employee or agent of the Architectural Review Board may, after reasonable notice, at any reasonable time, enter upon any Lot and structure thereon for the purpose of ascertaining compliance with the provisions of this Declaration, and neither the Architectural Review Board, nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

3. **Violations.** If any structure shall be erected, placed, maintained or altered upon any Lot, other than in accordance with plans and specifications approved by the Architectural Review Board pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article. If, in the opinion of the Board of Directors of the Association upon recommendation of the Architectural Review Board, such violation shall have occurred, the Board of Directors shall provide written notice to the Owner of such Lot by certified mail, setting forth the nature of the violation and the specific action required to remedy the violation. Any such required remedial action shall be consistent with guidelines then maintained by the Architectural Review Board. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Board of Directors of the Association shall have the right to proceed at law or in equity for the recovery of damages, or for injunctive relief, or both.

ARTICLE VII **USE RESTRICTIONS**

1. **Purpose.** The primary purpose of this Declaration and the foremost consideration in the origin of same has been the creation of a fee simple patio home development which is aesthetically pleasing and functionally convenient.

2. **Residential Use.** Each Lot and Patio Home constructed thereon shall be used for residential purposes exclusively. No business or commercial activity of any nature shall be maintained in any Patio Home, including by way of illustration and not by way of limitation, telephone answering services, manufacturer's representatives, interior decoration services and such other activities as do not directly constitute or necessitate the transfer of goods or merchandise from, in or about a Patio Home.

3. **Permitted Structures.** No structure shall be erected, placed or permitted to remain on any Lot other than the following:

- a. One single-family Patio Home to be used as a dwelling.
- b. Landscaping structures of the type compatible with the Patio Homes built in Fairhaven including, but not limited to, garden walls, walks, fences, driveways and parking areas.

No mobile home, tent barn shed, pet pen, pet house, above ground pool, hot tubs, basketball goal, or other similar outbuilding or structure shall be placed on any Lot at any time, either temporarily or permanently

Temporary structures may be allowed in accordance with the rules policy and approved by the Architectural Review Board prior to the erection of the structure.

4. **Antennas.** Except as prohibited by law, including, without limitation, 47 U.S.C. § 303 NT, and related FCC Rules, 47 C.F.R. § 1.4000 (which limits, but does not entirely prohibit, control by the Association of the size and location of certain antennas and satellite dishes), no radio or television transmission or reception towers, or the like may be erected on any portion of a Lot except in preferred locations specified by the Board of Directors, in its sole discretion, as defined in the Rules and Regulations.

5. **Air Conditioning Units and Other Objects Located Outside of Patio Home.** No Owner shall install or permit to be installed window or roof-top air conditioning units or similar machines or objects outside of the Owner's Patio Home or which protrude through the walls, windows or roof of a Patio Home.

6. **No Signs.** No signs, advertisements or notices shall be erected, exhibited, maintained, inscribed, painted, or affixed on any portion of a Lot or on any Patio Home by anyone including, but not limited to, an Owner, a Realtor, a Contractor, or Subcontractor, except with the prior written consent of the Association or except as may be required by legal proceedings. If such consent is granted, the Association shall have the right to restrict the size, color and content of such signs. Residential property identification and like signs not exceeding a combined total or more than one (1) square foot may be exhibited and maintained without the written consent of the Association. Likewise, one sign of not more than five (5) square feet advertising a Lot for sale or rent may be exhibited or maintained during the period for which it is for sale or rent without the consent of the Association. No sign should be more than not more than 10 feet from the front entrance of the house.

7. **No Burning.** No outside burning of wood, leaves, trash, garbage or other refuse shall be permitted on any Lot.

8. **Pets.** Except as in this section permitted, no animals, livestock or poultry of any kind shall be kept, raised or bred on any Lot; provided, however, that an Owner may be permitted to keep no more than two (2) normal household pets (i.e. dogs or cats) on his Lot. In the event that pets are kept on a Lot, such pets shall not be kept, maintained or bred for any commercial purposes and must be secured by a leash or lead at any time they are permitted outside a Patio Home. Any pet which causes distress to other Owners by barking, howling, whining, biting, scratching or damaging the property of another owner may not be kept. No outdoor cats are permitted or permitted to be fed outside.

9. **Parking of Vehicles.** No vehicle of any type (including, but not limited to, boats, trailers, trucks, buses, motor homes, recreational vehicles, motor scooters, go carts motor bikes and campers) other than conventional automobiles, vans and pick-up trucks shall be parked or maintained on any Lot except as the Association shall permit in an area specially designated for such purpose. None of the aforesaid vehicles shall be parked or stored overnight on the streets located in Fairhaven, nor shall they be used as a living area while located on

the Property nor shall any of the aforesaid vehicles be repaired or serviced on any portion of the property. Each Lot shall be entitled to no less than two (2) assigned parking spaces. There shall be no parking on grass in lots or common areas.

10. **Activities Causing Disorderly Conditions.** The pursuit of hobbies or other activities which might lead to disorderly, unsightly or unkempt conditions shall not be pursued or undertaken on any Lot.

11. **Disturbing Others.** Each Owner shall be responsible for and shall regulate the occupancy and use of such Owner's Lot and Patio Home so as to not unreasonably disturb other residents of Fairhaven or to interfere unreasonably with the peace and enjoyment of the other Lots and Patio Homes by the Owners thereof. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done on a lot which creates an annoyance or nuisance to the Owners or residents within Fairhaven. No Owner shall allow any disturbing noises on such Owner's Lot to interfere with the rights, comforts or conveniences of other owners. No Owner shall permit any musical instrument to be played or any, television, radio or other sound-making equipment to be operated on such Owner's Lot at a volume which disturbs or annoys other residents of Fairhaven.

12. **Rubbish and Trash.** No portion of a Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash, garbage or other waste shall be stored only temporarily awaiting pickup and must be kept in adequate sanitary containers. Garbage cans and equipment shall be placed in the back or toward the back of each unit. Lots who cannot place trash cans in the back or side of the house must be screened from view. Garbage cans should be placed for pick up no earlier than 7 pm the day before and removed from the curb at the end of trash day.

13. **Interior Window Coverings.** All interior window coverings or treatments as viewed from the exterior shall be white or off-white in color. No bed sheets, towels, newspaper or any other product not specifically designed for window treatment application shall be used for temporary or permanent interior window coverings or treatments.

14. **Mailboxes.** No mailbox shall be erected or installed on any Lot unless the Owner shall have received prior written approval from the Architectural Review Board as to the design, style and location of the mailbox. Mailboxes must be maintained in good repair.

15. **Trees: Screening.** Trees which have a diameter in excess of six (6") inches measured two (2') feet above ground level, and distinctive flora, shall not be intentionally destroyed or removed except with the prior written approval of the Architectural Review Board of the landscape plan. Swing sets may be installed on the Lots only after receiving the prior written approval of the Architectural Board. No clotheslines shall be permitted on the Lots.

16. **Fences.** All fences must be approved pursuant to Article VI, Section 1 prior to installation. Chain link fences are not allowed.

ARTICLE VIII

INSURANCE AND RECONSTRUCTION

1. **Owner Must Provide Insurance of Patio Home.** Each Owner shall, at his own expense, insure his Patio Home and all other insurable improvements on his Lot in an amount not less than the then current maximum insurable replacement value thereof. Such coverage shall afford protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsements and such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm and water damage.

2. **Reconstruction or Repair of Damaged Patio Homes.** If any Patio Home shall be damaged by casualty, the Owner of such Patio Home shall promptly reconstruct or repair it so as to restore such Patio Home nearly as possible to its condition prior to suffering the damage. All such reconstruction and repair work shall be done in accordance with plans and specifications therefore, approved by the Association. Encroachments upon or in favor of Patio Homes or Lots, which may be necessary for or created as a result of such reconstruction or repair, shall not constitute a claim or basis of a proceeding or action by the Owner on whose Patio Home or Lot such encroachment exists, provided that such reconstruction or repair is done substantially in accordance with the plans and specifications approved by the Association or as the building was originally constructed. A number of Patio Homes constructed on the Lots appear from the exterior to have a common party wall with the Patio Home or Patio Homes constructed on contiguous Lots. However, all Patio Homes have been constructed with separate exterior stud walls where there appears to be a party wall. The boundary line between these Lots runs along the air space between any such Patio Homes. This air space has been concealed on the exterior by covering it with facie boards which are common to both Patio Homes. The exterior of the two walls on either side of this small air space are unfinished so that if one of the Patio Homes is destroyed and not rebuilt, an unsightly condition will exist. Therefore, if a structure is destroyed in whole or in part, and the Owner thereof elects not to rebuild, such Owner shall be responsible for the cost of finishing the exterior of those walls on contiguous Patio Homes which are unfinished and which are exposed to view as the result of such destruction. The finish placed on these exterior walls shall be subject to the approval of the Architectural Review Board and shall be compatible with the finish of the other visible exterior walls of the structure. In addition, the Owner of the damaged or destroyed structure shall be responsible for the cost of immediately weatherproofing the exposed unfinished walls on contiguous Patio Homes, if necessary.

3. **Decision Not to Reconstruct.** An Owner shall not be required to reconstruct a damaged Patio Home only if 80% or more of the Patio Homes in Fairhaven are rendered uninhabitable by such damage.

ARTICLE IX **MAINTENANCE**

1. **Owner's Responsibility.** Unless specifically identified herein as being the responsibility of the Association, all maintenance and repair of a Lot, together with all portions of the Patio Home, and other improvements thereon shall be the responsibility of the Owner of such

Lot. The responsibility of each Owner shall include the maintenance, repair, and replacement of all siding, exterior doors, fixtures, equipment, and appliances (including, without limitation, the heating and air-conditioning system for his Patio Home) and all chutes, flues, ducts, conduits, wires, pipes, plumbing or other apparatus which are deemed to be a part of his Lot. The responsibility of the Owner shall also include the maintenance, repair, and replacement of all glass, lights and light fixtures (exterior or interior), awnings, window boxes, window screens, and all screens or glass- enclosed porches, balconies, or decks which are a part of the Patio Home. Each Owner shall maintain his roof in a good state of repair and replacing his roof as such need is caused by a hazard which is normally covered under the Owner's hazard insurance. Each Owner shall maintain and keep the exterior and grounds of his Patio Home in good, neat, clean and sanitary condition and such responsibility shall include the maintenance and care of all lawns, trees, shrubs, hedges, grass, and other landscaping contained within such Lots other than those responsibilities of the Association as set forth in Article III, Section 2. Each Owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining or cleaning any portion of the Lot or the Patio Home which is the responsibility of the Owner, but which responsibility such Owner fails or refuses to discharge; the Association may specially assess the Owner for any amounts expended by the Association to discharge the responsibility of the Owner defined herein. In the event of any such assessment as herein provided and the non-payment by the Owner within 30 days after notice and demand from the Association, the Association shall have the rights set forth in Article V, Section 7 hereof.

2. Landscaping Maintenance.

- a. The Association shall be responsible for basic maintenance of the landscaping in the front and sides of a Lot including:
 - i. Keeping the grass mowed in the front, side and unfenced backyards;
 - ii. Edging;
 - iii. Trimming with an edger;
 - iv. Normal pruning of shrubs to maintain size and shape in the front and sides of a house;
 - v. Fertilization and weed control
- b. The Owner shall be responsible for:
 - i. Keeping the lawn watered;
 - ii. Additional pruning of shrubs/bushes when necessary;
 - iii. Weeding mulched areas and flower beds;
 - iv. Maintaining and replacing mulch in the front and side of the house when necessary; and
 - v. Replacing grass, trees, shrubs that have died.

3. **Fence Maintenance.** For the purpose of this Section, walls, gates and fences (hereinafter, "Fencing") shall refer only to those walls, gates and fences that are not a part of a Dwelling (though they may be attached to the Dwelling). Though an alternative agreement for the maintenance responsibility for Fencing may be reached between a Lot Owner and an adjoining Lot Owner upon the mutual consent of both parties, each Lot Owner shall remain responsible for maintaining and repairing any Fencing, or portion thereof, constructed for or by such Owner, but

not by an adjoining Lot Owner, regardless of whether the Fencing or the portion thereof is located on their Lot or on an adjoining Lot or Common Area. Fencing of this type that borders the Community shall be deemed "Community Perimeter Fencing" and may be deemed, if so determined by the Board of Directors the responsibility of the Lot Owner. The Association shall not be bound by or obligated to enforce any agreement between adjoining Lot Owners, but may choose, in the absolute discretion of the Board of Directors to deem an agreement between or among adjoining Lot Owners effective as to the assignment or apportionment of maintenance responsibilities for any Fencing and to enforce such agreement.

With respect to Fencing located on an adjoining Lot or Common Area constructed for or by an Owner, the Lot Owner's responsibility shall only apply to the portions of the Fencing on the adjoining Lot or Common Area that are constructed to attach the Fencing of that Lot Owner to the existing Fencing on that adjoining Lot or Common Area. This provision shall in no way limit, however, the responsibility of an Owner to maintain any portion of the Fencing that is deemed to be that Owner's responsibility by the Board of Directors.

At the sole discretion of the Board of Directors, the Association may, without the consent of the Lot Owner, assume maintenance responsibility for some or all portions of Fencing located on the Lot of that Owner that borders a roadway or that is located near the perimeter of the Community. The Association shall not, however, be obligated to maintain such Fencing, unless so determined by the Board of Directors and then only for such period and to the degree or to a standard determined appropriate by the Board of Directors. The standard set by the Board of Directors for the maintained condition of Fencing that is the responsibility of the Association may be different than the standard set by the Board of Directors for Fencing on lots that is to be maintained by Lot Owners, for different types of Fencing or for Fencing located in different portions of the Community.

Though normal maintenance of such fencing should be performed routinely; upon receipt of written notice from the Association that maintenance is required for any Fencing that is deemed to be the responsibility of an Owner by the Board of Directors said Owner shall promptly perform such maintenance within the timeframe allowed in such notice. To protect the integrity and the appearance of any Community Perimeter Fencing, prior to commencing any form of maintenance that will change the appearance of any portion of the Community Perimeter Fencing; an Owner must obtain written approval from the Board of Directors for such maintenance.

ARTICLE X **GENERAL PROVISIONS**

1. **Easements for Encroachment.** If any portion of a Patio Home now encroaches upon any other Patio Home or Lot as a result of the construction of the buildings, or if any such encroachment shall occur hereafter as a result of settling or shifting of the buildings, there shall exist a valid easement for these encroachments and for the maintenance of same so long as the buildings stand.

2. **Enforcement of Covenants.** Enforcement of these restrictions, the By-Laws, and the Rules and Regulations, in addition to any other remedy set out herein, may be carried out by

the Association or any Owner through arbitration or any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction in the Covenants, Bylaws, or Rules and Regulations, either to prevent or restrain violations, to recover damages or to compel a compliance to the terms thereof. Any failure by the Association or any Owner to enforce any covenant or restriction herein contained or contained in the Covenants or Bylaws or to enforce any of the Rules and Regulations shall in no event be deemed a waiver of a right to do so thereafter. In the event the Association exercises said enforcement powers, all costs incurred by the Association, including reasonable attorneys' fees and charges by the management company shall be the responsibility of the Lot Owner(s) against whom enforcement was sought and shall be added to the lien filed by the Association against said Lot Owner, if applicable.

In addition to the foregoing, the Association may levy against the Owner of the Lot a reasonable monetary fine, and such fine shall constitute a lien upon the Lot. All costs incurred by the Association in enforcing the Covenants, Bylaws, Architectural Guidelines, and Rules and Regulations, including reasonable attorneys' fees and charges by the management company, shall be the responsibility of the Lot Owner against whom enforcement was sought and shall be a lien against said Lot Owner.

3. **Reservation of Easement.** The Association hereby reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, over and under the ground to erect, maintain and use electric service, community television antenna, and telephone poles, wires, cables, conduits, drainage ways, sewers, water mains, sprinkler systems, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, storm drainage or other public conveniences or utilities on, in or over those portions of such Property as may be reasonably 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; or (b) such portion of the Property as may be designated as the site for a Patio Home. These easements and rights expressly include the right to cut any trees, bushes and shrubbery, make any gradings 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.

The Association shall have the power and authority to grant and establish upon, over and across the Common Area such additional easements as are necessary or desirable for the providing of service or utilities to the Common Area or Lots.

All residential units in Fairhaven Patio Homes Subdivision must be connected to the Municipal Sewer System operated by the Town of Chapin, the regional sewer service provider pursuant to Lexington County Ordinance 87-12. No individual Septic Tanks or Drain Fields shall be permitted on any lot. The Town of Chapin, its agents, successors, or assigns, shall have the right of access to all portions of the Municipal Sewer System located within the Subdivision, in accordance with easements as reserved by the Developer, and as shown on all recorded plats. The Owner of each platted Lot shall be subject to all sewer fees and charges assessed upon the property by including uniform "Sewer Availability Fees" assessed upon each unimproved platted lot. At the time of Issuance of a Building Permit, or upon the purchase of a Water Tap Certificate from

the City of Columbia, whichever first occurs, the Owner of the Lot is then subject to "Sewer User Fees" assessed upon each improved Lot. All such fees and charges, including late charges, lien filing fees, and attorney fees, shall constitute a lien upon the property assessed, and such lien shall be superior to all other liens except liens for unpaid property taxes, as authorized by statute/ordinance. And the Town of Chapin reserves the right to refuse or terminate sewer service to a Lot for failure of the owner to pay the sewer fees and charges as set by Town Ordinance.

4. **Duration.** The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a period of twenty (20) years from the date this Declaration is recorded. Upon the expiration of said twenty (20) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) renewal periods hereunder shall be unlimited and this Declaration shall be automatically renewed and extended upon the expiration of each ten (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 (20) year period or during the last year of any subsequent ten (10) year renewal period, two-thirds (2/3rds) of the votes cast at a duly held meeting of the Association vote in favor of terminating this Declaration at the end of its ten current term and all holders of first priority deeds to secure debt of any Owner or successor to such Owner consent in writing to the termination of this Declaration. 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 a proposal will be considered, shall be given each Member at least thirty (30) days in advance of said meeting. In the event that the Members of the Association vote 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, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Office of the Register of Deeds for Lexington 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.

5. **Amendments.** In all instances, 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 two-thirds (2/3rds) of the votes cast at such meeting vote in favor of such proposed amendment subject to the consent of the United States Department of Housing and Urban Development, if applicable. Notice shall be given each Member at least thirty (30) days prior to the date of the meeting at which such proposed amendment is to be considered. 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 prior to the date on which such addendum is recorded in the Office of the Register of Deeds for Lexington

County, South Carolina, the date of the meeting of the Association at which such amendment 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 Members, the total number of votes necessary to adopt the amendment, the total number of votes cast in favor of the amendment, and the total number of votes cast against the amendment. Such addendum shall be recorded in the Office of the Register of Deeds (ROD) for Lexington County, South Carolina.

6. **Notices.** Any notice required to be sent to any Member under the provisions of the Declaration shall be deemed to have been properly, sent and notice thereby given when personally delivered or when mailed, with the proper postage affixed, to the address appearing on the Association's Membership list. Notice to one of two or more co-owners or co-tenants of a Lot shall constitute notice to all co-owners. It shall be the obligation of every Member to immediately notify the secretary of the Association or the Association's designee, in writing on the Association's form, of any change of address. Any person who becomes a 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. Members may sign a form authorizing the Association to deliver notices electronically, which shall be considered equivalent to written notice delivered via U.S. Mail.

7. **Severability.** Should any covenant or restriction herein contained, or any article, section, subsection, sentence, clause, phrase or term of 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 way affect the other provisions thereof which are hereby declared to be severable and which shall remain in full force and effect.

8. **Interpretation.** The Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration of Covenants and Restrictions and to construe and interpret its provisions, and its determination, construction or interpretation, shall be final and binding. In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best tend toward the consummation of the general plan of this Declaration.

9. **Authorized Action.** All actions which the Association is allowed or required to take under this instrument and all approvals or disapprovals which the Association is authorized to make shall be authorized actions of the Association only if approved by the majority of Members of the Board of Directors of the Association present at a duly held meeting of such Board of Directors, unless the terms of this Declaration provide otherwise.

10. **Limited Liability.** In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Association contemplated under this Declaration, the Association, nor any director or officer thereof, shall be liable to an Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way

relating to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld.

11. **Annexation**. Additional residential property and Common Area may be annexed to the Properties only with the consent of two-thirds (2/3rds) of each class of Members, and, if applicable, the consent of the United States Department of Housing and Urban Development.

