

COUNTY OF RICHLAND

**AMENDMENT TO DECLARATION OF
COVENANTS, RESTRICTIONS,
RESERVATIONS, GRANTS AND
EASEMENTS SMALLWOOD
VILLAGE PHASE 3, PATIO HOMES,
A CLUSTER HOUSING
DEVELOPMENT LOCATED IN
SMALLWOOD VILLAGE**

WHEREAS, On May 27, 1988, a Corrective Declaration was recorded in the Office of the Register of Deeds for Richland County, South Carolina at Book D889 Page 818; and

WHEREAS, The Board of Directors of the Association has recommended the adoption of this amendment to the Declaration; and

NOW THEREFORE, the Association does hereby amend the Declaration as follows:

Article XII – Use Restrictions, is added as follows:

12.01 No structure shall be erected on any Lot other than one single-family dwelling and attached or detached garage of similar design, including servants' quarters, if desired; and no use shall be made of any Lot or of any right or privilege appurtenant thereto, other than for private residential purposes of a single family.

12.02 No Lot shall be subdivided or reduced in size without the written consent of the Board, provided, however, that adjacent Lot owners or purchasers may acquire an additional Lot or Lots, or a portion thereof, for the purpose of adding said lot or lots, or such portion to the lots already owned or purchased by them. In such case, where less than a full Lot is involved, the portion of said additional Lot shall become merged with and integral part of the Lot which is already owned or is purchased by the buyer of such additional Lot, and subject to these restrictions as one Lot.

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State Tax: \$0.00

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Richland County R.O.D.

Page 1 of 6

06/30/09

12.03 In order to maintain a high-level residential development to assure that all houses and other structures are of appropriate size and are of harmonious design, properly located in relationship to neighboring structures, and adapted to the terrain of each Lot, the Association retains full architectural control in order to achieve these objectives. Accordingly, no building, out-building, fence, wall, garage or structure of any kind or alteration or additions thereto shall be erected or placed on any Lot until the complete plan, specifically proposed design and location thereof on the Lot, shall have been submitted to the Board or its Architectural Review Committee for approval. Such approval shall not be unreasonably withheld and shall be given or denied in writing within twenty (20) days of their submission to the Board or its Architectural Review Committee as the case may be.

12.04 The placement, design, type, color and lettering of any mailbox or delivery receptacles and its support must be approved by the Board or its Architectural Review Committee, together with property identification markers. Typical designs will be supplied upon requests.

12.05 No noxious or offensive activity or other thing shall be had or done upon any Lot hereby conveyed, and nothing shall be had or done thereon which constitutes or becomes an annoyance or nuisance to the neighborhood. No hogs, goats, cows, horses, or other such animals shall be allowed or kept on any Lot hereby conveyed. Nothing shall be done, or allowed, and no conditions or situations shall be permitted on any such Lot which shall constitute, cause or become a nuisance as a residential section, or any condition permitted on said Lot which shall pollute the water of any lake, stream or pond.

12.06 No tent, shack, trailer, school bus, camper, boat or motor home, or temporary structure of any kind shall be erected, kept, had or allowed at any time on any Lot hereby conveyed; provided, however, that a camper, boat, or motor home may be parked in an enclosed garage where such recreational vehicle is not visible from the street or adjoining homes, and also provided such garage meets all requirements for buildings and improvements contained elsewhere in these restrictions. All rubbish, garbage and trash shall be kept in closed cans or other suitable containers, which shall be placed and kept behind the house, out of sight from the street or neighbors' house, at all times. No clotheslines shall be allowed to be visible from any street or neighbors' house. The Lot, property and premises shall be kept clean at all times. If such litter or other materials is found on any Lot, the same shall be removed by the Residential Owner, at his or her own expense, upon the written request of the Board or its Architectural Review Committee.

12.07 The Grantors reserve any water rights which they may have in any lake or pond. No conveyance, anything to the contrary notwithstanding, shall grant a property line closer than two (2) feet above the high water mark of any lake or pond. If such Lot borders within two (2) feet, as aforesaid, of such lake or pond, the Residential Owner shall have an easement appurtenant thereto with the right to cross said intervening two (2) feet strip for the privilege of fishing, swimming or boating in such lake or pond subject to the following conditions:

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- (a) The use of said lake or pond, as aforesaid, shall be entirely at the risk of the Residential Owner, his or her heirs and assigns, and the Association shall not be responsible for the purity or cleanliness of the water of the aforesaid lake or pond, or for any substance therein.
- (b) The Residential Owner may not construct a dock, float, or raft, or any projection of any kind from his property into, extended, or over said lake or pond.
- (c) The use of such lake shall be subject at all times to reasonable rules and regulations of the Association, which may provide, among other things, for closed seasons or terms for fishing, and restrict or prohibit the use of boats, motor boats, and other kinds of craft and provide reasonable rules and regulations for swimming.
- (d) The Residential Owner may not withdraw water from such lake or pond without the written approval of the Board.
- (e) The Association shall not be held responsible for any damages caused the Residential Owner by reason of the flooding of the Lot through causes beyond the control of the Association. The Association similarly shall not be held responsible for damages by reason of breaks in the dam of such lake or pond caused the waters therein to subside.

12.08 The Association at its option may in the future convey the intervening two (2) foot strip around the pond or lake to the adjoining Lot owners. At such time, said adjoining Lot owners will own a percentage of such lake or pond determined by the numbers of Lots surrounding such lake or pond, and will assume the same prorata share for the maintenance of said lake and its dam.

12.09 If a security and/or protection system is put into operation for the protection of the Residential Owners in the development, the Residential Owners will be responsible for paying their prorata share of such protection. The Residential Owners' obligation for payment of such prorata share shall be a continuing lien upon each Residential Owners' Lot, subject only to the lien of a first mortgage thereon given to an institutional lender, said lien may be enforced by the Association in all respects as though secured by a recorded mortgage as provided by the laws of the State of South Carolina, and the Association shall have the right but not the obligation to file notice of such lien in the office of the Register of Deeds for Richland County.

12.10 It is understood that these restrictions shall be appurtenant to and run with the land, and in the event of the violation of any of the said restrictions, the Association shall have the right to abatement and the right to enforce compliance by injunction or any other appropriate remedy without liability for damages. The restrictions, however, shall be constructed to be for the benefit of the Association alone, which reserves the right to alter, amend, or release the same at will.

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12.11 No sale, rent, advertising signs, or billboards shall be erected on any Lot or displayed in any form to the public, except as specifically approved in writing by the Board or its Architectural Review Committee. No signs, as above described, shall be nailed or fastened to any tree at any time.

12.12 The lower branches of trees or other vegetation shall not be permitted to obstruct the view at intersections.

12.13 No Residential Owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding Lots unless approved in writing by the Board or its Architectural Review Committee.

12.14 No radio or television transmission or reception towers or antennae shall be erected on any Lot without the prior written approval of the Board or its Architectural Review Committee. In no event shall free standing transmission or receiving towers be permitted.

12.15 Neither the Board, the Association, nor any member of the Architectural Review Committee shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Review Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Review Committee. Further, neither the Board, the Association, nor any member of the Architectural Review Committee shall be liable in damages to anyone submitting plans or specifications for approval under this section, or to any owner of property affected by this declaration by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the Architectural Review Committee for approval agrees, by submission of such plans and specifications, and every owner of any Lot agrees, that he will not bring any action or suit against the Board, the Association, or any member of the Architectural Review Committee to recover for any such damages.

12.16 All driveways, sidewalks and entrances to garages or houses shall be concrete or a substance approved in writing by the Architectural Review Committee and of a uniform quality.

12.17 Each Residential Owner shall comply strictly with the covenants, conditions, restrictions, and easements set forth in this Declaration. In the event of a violation or breach, or threatened violation or breach, of any of the same, the Board, the Architectural Review Committee, or any aggrieved Residential Owner, jointly and severally, shall have the right to proceed in law or equity for the recovery of damages, or for injunctive relief, or both.

12.18 If any sentence, clause, or paragraph of this Declaration shall be found by a court of competent jurisdiction to be invalid or unenforceable, it shall in no way affect the validity or enforceability of any other sentence, clause, or paragraph hereof.

12.19 Any wall which runs alongside a Lot is the property of the individual Residential Owner.

- (a) Each Residential Owner is responsible for the maintenance and repair of his portion of the wall's interior from corner pin to corner pin.
- (b) There shall be no alterations, modifications, or color scheme changes except as specifically approved in writing by the Board or its Architectural Review Committee.
- (c) When and if the Board deems the wall is in need of repair or repainting, the Board shall present the corrective measures to be performed, in writing, to the individual Residential Owners. The Residential Owners shall have such work performed as directed within ninety (90) days of said directive. The Board may, at its discretion, have work performed on said wall by subcontractors as he may employ.
- (d) No Residential Owner shall permit trees, limbs, and/or clinging vines/vegetation to touch any wall. The Association shall maintain the Common Area and shall not permit trees, limbs, and/or clinging vines/vegetation to touch any wall.

Article XIII – Rentals, is added as follows:

13.01 No Residential Owner shall lease a Residential Unit except by a lease agreement for a term of no fewer than twelve (12) months, which lease agreement shall be in writing and shall expressly require the lessee to abide by the terms of the Declaration and the bylaws of the Association.

13.02 Prior to executing a lease agreement for a Residential Unit, the Residential Owner shall submit the proposed lease agreement to the Board of Directors of the Association for approval, which approval shall not be unreasonably withheld so long as the proposed lease agreement complies with the requirements of this article.

13.03 Upon approval of a proposed lease agreement by the Board of Directors of the Association, the Residential Owner shall remit a security deposit to the Association in an amount five times (5x) the current annual assessment for owner-occupied Residential Units. The security deposit shall be used by the Association solely for the purposes stated in Section 8.01 of this Declaration and shall be refundable upon the vacation of the Residential Unit by the lessee.

13.04 Prior to occupancy, the lessee must complete an orientation with a member of the Board of Directors of the Association and receive a copy of the Declaration and the bylaws of the Association. Any Residential Owner who permits occupancy of a Residential Unit without first ensuring compliance with this requirement is subject to a fine in an amount two times (2x) the current annual assessment for owner-occupied Residential Units.

13.05 Occupancy of a Residential Unit by a lessee shall be subject to the continuing approval of the Board of Directors of the Association, which approval may be revoked at any time for violation of the Declaration or the bylaws of the Association by said lessee.

WITNESS my hand and seal this 30 day of June, 2009.

WITNESSES:

**White Birch Circle
Homeowners Association, Inc.**

Pat Cavanaugh
Faye P. Baldwin

By: Roger E. Orman (SEAL)

Its: President

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 30th day of June, 2009 by Roger E. Orman, President of White Birch Circle Homeowners Association, Inc., a South Carolina nonprofit corporation, on behalf of the corporation.

Faye P. Baldwin
Notary Public for South Carolina
My commission expires: 12-10-12