

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

AMENDMENT TO THE DECLARATION OF  
COVENANTS, CONDITIONS, AND  
RESTRICTIONS OF EAGLES HARBOR  
SUBDIVISION AND THE DECLARATION  
OF RESTRICTIVE COVENANTS OF  
EAGLES HARBOR SUBDIVISION (CROSS  
REFERENCE DEED BOOK 493 AT PAGE 147 AND  
DEED BOOK 493 AT PAGE 157.)

THESE AMENDMENTS TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF EAGLES HARBOR SUBDIVISION and THE DECLARATION OF RESTRICTIVE COVENANTS (the "**Amendments**") are made on the Execution Date (hereinafter defined) by the Owners of the Eagles Harbor Homeowners Association (the "**Association**").

WHEREAS, The DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF EAGLES HARBOR SUBDIVISION is dated September 18, 1997, and was recorded September 19, 1997, in the Office of the Clerk of Court for Greenwood County in Deed Book 493 at Page 147 (as further amended and supplemented the "**Declaration**"); and

WHEREAS, The DECLARATION OF RESTRICTIVE COVENANTS OF EAGLES HARBOR SUBDIVISION is dated September 18, 1997, and was recorded September 19, 1997, in the Office of the Clerk of Court for Greenwood county in Deed Book 493 at Page 157 (as further amended and supplemented the "**Restrictions**"); and

WHEREAS, Article VII, Section 5 of the Declaration provides that the Declaration may be amended by affirmative vote of at least sixty-six (66%) percent of the Lot Owners; and

WHEREAS, the Restrictions provide that they may be amended by the affirmative vote of the owners representing sixty-six (66%) percent of the Lots at the time of the vote.

NOW THEREFORE, having met the aforementioned requirements, the Owners and the Association hereby declare that the Declaration and Restrictions are amended as follows:

**Amendments Specific to Declaration**

**1. Amend Article I, Definitions by adding the following as defined terms:**

"A-Lot" shall mean and refer to a parcel used exclusively as a septic drain field and being designated with the letter "A" on any plat of the Property. "A-Lot" ownership alone does not entitle the Owner to any rights of membership, including but not limited to voting rights, nor is there any assessment obligation for "A-Lots."

"Costs of Collection" shall mean and refer to all costs and expenses incurred by the Association in collecting Assessments or any other charges authorized herein whether or not any action at law and/or in equity instituted and whether incurred before or after any action at law and/or equity is instituted, including, without limitation, attorney's fees, management company/management agent charges, administrative fees and charges, court costs, and any other costs incurred by the Association.

"Construction Process" shall mean and refer to the set of policies, rules and procedures which may be promulgated and/or amended by the Board of Directors, from time to time, which shall act as a guide for the architectural control and review process and for the maintenance, construction or renovation of improvements on the Property.

"Rules and Regulations" shall mean and refer to the rules, policies, guidelines and procedures adopted and modified by the Board of Directors, from time to time, governing the use of the Property and the facilities thereon, and the conduct of Owners, tenants, and guests on the Property.

**2. Amend Article II, Section 2 by adding a new subsection (f) as follows:**

(f) Notwithstanding the foregoing, any Director who completes one (1) year of service on the Board of Directors will not be required to pay the next annual assessment that comes due for one (1) Lot owned. This assessment waiver shall apply to each complete year that the Director serves on the Board, but shall not apply to special assessments levied pursuant to Section 3 below.

**3. Amend Article II, Sections 6 and 7 by deleting them in their entirety and replacing with the following:**

Section 6. Creation of the Lien and Personal Obligation for Assessments.

Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, jointly and severally, covenants and agrees to pay to the Association: (a) annual assessments and/or (b) special assessments and (c) charges incurred for their collection. All such assessments, together with "Costs of Collection", shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made in favor of the Association and the Association shall be entitled to file a document evidencing such lien in the land records of the County in which the Lot is located. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes; or (b) liens for all sums unpaid on a first mortgage recorded in the land records of the County where the Property is located. All other persons acquiring liens or encumbrances on any Lot after this Amendment shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Each such assessment, together with Costs of Collection shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment came due. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings.

Annual assessments shall be levied at a uniform rate per Lot, with the exception of A-Lots which are not assessed, and shall be made in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the annual assessment for delinquents. Unless otherwise provided by the Board of Directors, the annual assessment shall be paid in annual installments.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessments or installments thereof, which are not paid when due, shall be delinquent. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board of Directors may from time to time determine. The Association may cause a notice of delinquency to be given to any member who has not paid within (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include interest, not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due from the date first due and payable, and all other Costs of Collection. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board of Directors shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the right, but not the obligation, to bid on the Lot at any foreclosure sale to acquire, hold, lease, mortgage or convey the same.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under the Covenants or Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any

law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of the Owner.

All payments shall be applied first to attorney's fees and costs, then to late charges, then to interest and then to delinquent assessments.

**4. Amend Article II, Section 4 by adding the following at the end of subsection (c):**

In the event that the Association exercises its right of entry to bring a Lot into compliance with this Declaration, Restrictions, Construction Process, or the Rules and Regulations, the Association may charge back its actual costs, including Costs of Collection, against the Owner, which shall become part of the lien on the Owner's Lot.

**5. Amend Article III, Section 1 by adding the following to the end of that Section:**

Notwithstanding the foregoing, any property designated as an A-Lot on any Plat of the Property is to be utilized only for septic drain field purposes and does not entitle the Owner therefore to any voting or membership rights.

**6. Amend Article III, by adding a new Section 6 as follows:**

Section 6. How Notice is Given. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when dispatched by electronic message (email) to the member at the email address provided to the Association. In the event that a member wishes not to receive notice by electronic message, the member shall be required to provide written notice of his/her election to opt for written notice by First Class Mail. If the Owner does not provide an email address, this will be considered election of receiving communication by First Class Mail. The Board of Directors shall subject such Owners who opt to not receive notifications by email to a fee added to each Owner's annual assessment. Notice shall be deemed to have been properly sent, and notice thereby given for members who have opted out of electronic communication or for members who have provided an email address but the email was returned as undeliverable, when notice is mailed, with the proper postage affixed, to the last known address of the person or entity of the owner on the Association records, on the first day of the calendar month on which said notice is mailed.

**7. Amend Article V by adding new Sections (g), (h) and (i) as follows:**

(g) The Committee shall have complete discretion to approve or disapprove Plans for any Improvement and to withhold review of any and all Plans submitted to it from an Owner who is not in good standing as a Member of the Association, including without limitation Members who owe past due assessments on any Lot. Upon approval of the Board of Directors, the Committee may issue from time to time Construction Process regulations to assist it in the approving of Improvements and may change such Construction Process regulations at any time and from time to time with notice to the Owners. An aggrieved Owner may appeal the final decision of the Committee to the Board of Directors through the processes required by the Committee or as set forth in the Construction Process regulations.

(h) The Committee may charge a reasonable review fee for its initial and any subsequent review, the amount of which shall be established by the Board of Directors or set forth in the Construction Process. The Committee may, at its option, employ outside professional services for the review of Plans and specifications and may pay for them accordingly for this service. The charging of fees and the hiring of professionals for this purpose by the Committee must be approved by the Board of Directors.

(i) The Committee may, per the Construction Process, require the Owner to make a deposit to insure compliance. The setting of an amount as a compliance deposit or of conditions for compliance for any one Lot, shall not in any way act to set a precedent or effect in any way the setting of an amount or conditions of compliance for any other Lot or for any other set of Plans which are to be or have been approved within the Committee. If collected, the compliance deposit may be retained and/or utilized by the Board of Directors in any manner that they may so determine to be reasonable, including the payment of attorney fees, to insure that any violation of the Declaration by that Lot Owner is remedied, including the failure of the Owner to pay assessments levied by the Association against their Lot.

**8. Amend Article VI, by adding the following to the end of the existing paragraph:**

In addition to the foregoing, the Board of Directors shall have the authority to adopt and publish reasonable Rules and Regulations governing the use of the Common Property and the facilities thereon, and the personal conduct of members, tenants and guests thereon, and to establish penalties for the infraction thereof, including monetary fines, which form a lien on the Owner's Lot and are collected in the same manner as assessments.

**9. Amend Article VII, Section 3 by deleting it in its entirety and replacing with the following:**

Enforcement of the Declaration, Restrictions, By-Laws, the Rules and Regulations, and Construction Process, in addition to any other remedy set out herein, may be carried out by the Association through arbitration or any proceeding at law or in equity, against any Owner of his/ her tenants or guests who are violating or attempting to violate the Declaration, Restrictions, By-Laws, the Rules and Regulations, and Construction Process, either to prevent or restrain violations, to recover damages or to compel a compliance to the terms thereof. Any failure by the Association to enforce any Covenant or Restriction herein contained or contained in the Declaration, Restrictions or By-Laws or to enforce any of the Rules and Regulations or Construction Process, 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 of Collection 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 also constitute a lien upon the Lot.

**AMENDMENT SPECIFIC TO DECLARATION OF RESTRICTIVE COVENANTS**

**1. Delete Paragraph 26 in its entirety and replace with the following:**

Enforcement of these Restrictions in addition to any other remedy set out herein, may be carried out by the Association through arbitration or any proceeding at law or in equity, against any Owner or his/her tenants or guests who are violating or attempting to violate these Restrictions either to prevent or restrain violations, to recover damage or to compel a compliance to the terms thereof. Any failure by the Association to enforce any Covenant or Restriction herein contained or contained in the Restrictions 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 of Collection incurred by the Association 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 also constitute a lien upon the Lot.