

WATERWAY ARMS TOWNHOUSES

STATE OF SOUTH CAROLINA)
) DECLARATION OF COVENANTS, CONDITIONS AND
COUNTY OF CHARLESTON) RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS: That this declaration, made on the date hereinafter set forth by Harvin Enterprises, Inc. hereinafter referred to as "DECLARANT".

Whereas declarant is the owner of certain property in the County of Charleston, State of South Carolina, known as Waterway Arms and which is more particularly described as follows:

All that tract, piece, or parcel of land, lying and being on the Southside of Center Street in the Town of Mt. Pleasant, Christ Church Parish, Charleston County, South Carolina subject to the following metes and bounds:

Starting at an iron pipe on Center Street, A 50 foot street; in an easterly direction along Center Street 558.7 feet to an iron pipe; in a southerly direction 278.33 feet to a point; in a westerly direction 507.24 feet back to the point of the beginning. Said parcel of land is butted and bounded on the north by Center Street, on the east by lands now or formerly of Katherine S. Shaw, on the south by lands of Harvin Enterprises, Inc. and on the west by lands now or formerly of Rebecca H. Simmons.

And whereas, declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth.

Now therefore; declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, restrictions, and conditions shall be binding on all parties having or acquiring any right title or interest in the above described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

SECTION 1. "ASSOCIATION" shall mean and refer to Waterway Arms Townhouse Company, It's successors and assigns.

SECTION 2. "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 3. "PROPERTIES" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the association.

SECTION 4. "COMMON AREA" shall mean all real property owned by the association for the common use and enjoyment of the owners. The common area

to be owned by the association at the time of the conveyance of the first lot is described as follows:

All those pieces or parcels of land, lying and being, on the south side of Center Street in the Town of Mt. Pleasant, Christ Church Parish, Charleston County, South Carolina subject to the following metes and bounds:

Starting at an iron pipe 95.06 feet south of Center Street, a 50 foot street, in a easterly direction 204.85 feet to an iron pipe; in a southerly direction 30.00 feet to an iron pipe; in a westerly direction 204.85 feet to an iron pipe; and in a northerly direction 30.00 feet back to the point of the beginning. Said parcel of land is butted and bounded on the north by Lots 1, 2, 3, 4, 5, 6, 7, and 8 Block A of Waterway Arms Subdivision owned by Harvin Enterprises, Inc.1 on the east by Waterway Blvd., a 50 Foot street; on the south by Lots 9, 10, 11, 12, 13, 14, 15, and 16 Block A of Waterway Arms Subdivision owned by Harvin Enterprises, Inc.; and on the west by lands now or formerly of Rebecca H. Simmons.

Starting at an iron pipr 219.12 feet south of Center Street, in an easterly direction 204.85 feet to an iron pipe; in a southerly direction 288.12 feet to a point; in a westerly direction 204.85 feet to a point; in a northerly direction 288.12 feet back to the point of the beginning. Said parcel of land is butted and bounded on the north by Lots 9, 10, 11, 12, 13, 14, 15, and 16 Block A of Waterway Arms Subdivision owned by Harvin Enterprises, Inc; on the east by Waterway Blvd., a 50 foot street; on the south by Inlet Drive, a 50 foot street; and on the west by lands now or formerly of Rebecca H. Simmons.

Starting at an iron pipe 94.72 feet south of Center Street, a 50 foot street; in an easterly direction 303.88 feet to an iron pipe; in a southerly direction 30.00 feet to an iron pipe; in a westerly direction 303.80 feet to an iron pipe; in a northerly direction 30.00 feet back to the point of the beginning. Said parcel of land is butted and bounded on the north by Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 Block B of Waterway Arms Subdivision owned by Harvin Enterprises, Inc.; on the east by lands now or formerly of Katherine S. Shav; on the south by Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 Block B of Waterway Arms Subdivision owned by Harvin Enterprises, Inc.; and on the west by Waterway Blvd., a 50 foot street.

SECTION 5. "LOT" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common area.

SECTION 6. "DECLARANT" shall mean and refer to Harvin Enterprises, Inc., it's successors or assigns if such successors or assigns should acquire more than one undeveloped lot from the declarant for the purpose of development.

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

SECTION 1. Additional residential property and common area may be annexed to the properties with the consent of two-thirds (2/3) of each class of members.

lot is described as follows:

All those pieces or parcels of land, lying and being, on the south side of Center Street in the Town of Mt. Pleasant, Christ Church Parish, Charleston County, South Carolina subject to the following metes and bounds:

Starting at an iron pipe 95.06 feet south of Center Street, a 50 foot street, in a easterly direction 204.85 feet to an iron pipe; in a southerly direction 30.00 feet to an iron pipe; in a westerly direction 204.85 feet to an iron pipe; and in a northerly direction 30.00 feet back to the point of the beginning. Said parcel of land is butted and bounded on the north by Lots 1, 2, 3, 4, 5, 6, 7, and 8 Block A of Waterway Arms Subdivision owned by Harvin Enterprises, Inc.1 on the east by Waterway Blvd., a 50 Foot street; on the south by Lots 9, 10, 11, 12, 13, 14, 15, and 16 Block A of Waterway Arms Subdivision owned by Harvin Enterprises, Inc.; and on the west by lands now or formerly of Rebecca H. Simmons.

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Starting at an iron pipe 94.72 feet south of Center Street, a 50 foot street; in an easterly direction 303.88 feet to an iron pipe; in a southerly direction 30.00 feet to an iron pipe; in a westerly direction 303.80 feet to an iron pipe; in a northerly direction 30.00 feet back to the point of the beginning. Said parcel of land is butted and bounded on the north by Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 Block B of Waterway Arms Subdivision owned by Harvin Enterprises, Inc.; on the east by lands now or formerly of Katherine S. Shaw; on the south by Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 Block B of Waterway Arms Subdivision owned by Harvin Enterprises, Inc.; and on the west by Waterway Blvd., a 50 foot street.

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ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

SECTION 1. Additional residential property and common area may be annexed to the properties with the consent of two-thirds (2/3) of each class of members.

SECTION 2. Additional land within the area described in the metes and bounds description attached hereto as schedule A and incorporated herein by reference may be annexed by the declarant without the consent of members within five (5) years of the date of this instrument provided that the FHA and VA determine that the annexation is in accord with the general plan heretofore approved by them.

ARTICLE III
MEMBERSHIP.

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the association, including contract sellers, shall be a members of the association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the association. Ownership of such lot shall be the sole qualification for membership.

ARTICLE IV
VOTING RIGHTS

The association shall have two classes of voting membership:

CLASS A: Class A members shall be all those owners as defined in Article III with the exception of the declarant. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership by Article III. When more than one person holds such 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 vote be cast with respect to any one lot.

CLASS B: The Class B member shall be the declarant. The Class B member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Article III, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier.

- (a) When the total votes outstanding in the Class A membership equal the Class B membership:
- (b) December 31, 1974.

ARTICLE V
PROPERTY RIGHTS

SECTION 1. Members Easements of enjoyment: Every owner shall have a right and easement of enjoyment in and to the common area and such easement shall be appurtenant to and shall pass with the title to every assessed lot, subject to the following provisions:

- (a) The right of the association to limit the number of guests of members;

- (b) The right of the association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common area;
- (c) The right of the association to suspend the voting rights and rights to use of the recreational facilities by a member for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 30 days for any infraction of its published rules and regulations;
- (d) The right of the association to dedicate or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;
- (e) The right of the individual owners to the exclusive use of the patio and parking spaces as provided in this article.

SECTION 2. Delegation of use: Any member may delegate, in accordance with the by-laws, his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

SECTION 3. Title to the common area: The declarant here by covenants for itself, its heirs and assigns, that it will convey fee simple title to the common area to the association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot. The common area shall remain undivided, and shall at all times be owned by the association or its successors it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the common area.

SECTION 4. Parking rights: Ownership of each lot shall entitle the owner or owners thereof to the use of not more than two (2) automobile parking spaces, which shall be as near and convenient to said lot as reasonably possible, together with the right of ingress and egress in and upon said parking area.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. Creation of the lien and personal obligation of assessment: The declarant, for each lot owned within the property hereby covenants and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the association: (1) Annual assessments or charges, and (2) special assessments for capital improvement, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be continuing lien upon the property against which each such assessment is made. Each such assessment together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successor in title unless expressly assumed by them.

SECTION 2. Purpose of Assessments: The assessments levied by the association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose for the use and enjoyment of the common area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the common area, the procurement and maintenance of insurance in accordance with the by-laws, the payment of charges for water furnished and sewer services rendered to the common area, the employment of attorneys to represent the association when necessary, and such other needs as may arise.

SECTION 3. Basis and maximum of annual assessment:

- (a) Until January 1 of the year immediately following the conveyance of the first lot to an owner the maximum annual assessment shall be two hundred forty and no/100 (240.00) dollars per lot. The maximum annual assessment for the calendar year immediately following the conveyance of the first lot to an owner and for each calendar year thereafter shall be established by the board of directors and may be increased by the board of directors without approval by the membership by an amount not to exceed three percent (3%) of the maximum assessment of the previous year.
- (b) The maximum annual assessment for the calendar year immediately following the conveyance of the first lot to an owner and for each calendar year thereafter may be increased without limit by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The board of directors may fix the annual assessment at an amount not in excess of the maximum.

SECTION 4. Special Assessments for capital improvements: In addition to the annual assessments authorized above, the association may levy, in any calendar year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments shall be fixed at a uniform rate for all lots and may be collected on a monthly basis.

SECTION 5. Uniform rate of assessment: Except as hereinafter provided in Section 7, all annual assessments shall be fixed at a uniform rate for all lots and shall be collected on a monthly basis.

SECTION 6. Notice and quorum for any action authorized under sections Three and Four: Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting

may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

SECTION 7. Date of commencement of annual assessments; due dates:

The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the common area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The board of directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the board of directors and, unless otherwise provided, the association shall collect each month from the owner of each lot 1/12th of the annual assessment for such lot. The association shall upon demand at any time furnish a certificate in writing signed by an officer of the association setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made by the board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

SECTION 8. Effect of nonpayment of assessments; remedies of the

association: Any assessments which are not paid when due shall be delinquent. If the assessment shall bear interest from the date of delinquency at the rate of seven (7%) percent per annum, and the association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such owner, by his acceptance of a deed to a lot, hereby expressly vests in the Waterway Arms Townhouse Company, or its agents the right and power to bring all actions against such owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods foreclosure by an action brought in the name of the association in a like manner as a mortgage or deed of trust lien on real property, and such owner hereby expressly grants to the association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the association and shall be for the benefit of all other lot owners. The association, acting on behalf of the lot owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

SECTION 9. Subordination of the lien to mortgages:

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sales or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

SECTION 10. Exempt Property: The following property subject to this declaration shall be exempt from the assessment created herein:

- (a) All properties dedicated to and accepted by a local public authority;
- (b) The common area; and
- (c) All properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of South Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

SECTION 11. Management Agreements: Each owner of a lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the association. A copy of all such agreements shall be available to each owner. Any and all management agreements entered into by the association shall provide that said management agreement may be cancelled prior to the effecting by the association or its board of directors of a new management agreement with a party or parties, which new management agreement will become operative immediately upon the cancellation of the preceding agreement. It shall be the duty of the association or its board of directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this type.

ARTICLE VII

PARTY WALLS

SECTION 1. General rules of law to apply: Each wall which is built as a part of the original construction of the townhouse upon the property and placed on the dividing line between the lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

SECTION 2. Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in equal proportions.

SECTION 3. Destruction by fire or other casualty: If a party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such owners to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

SECTION 4. Weatherproofing: Notwithstanding any other provision of this article, to the extent that such damage is not covered and paid by the insurance provided for herein, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

SECTION 5. Right to contribution runs with land: The right of any owner to contribution from any other owner under this article shall be appurtenant to the land and shall pass to such owner's successors in title.

SECTION 6. Arbitration: In the event of any dispute arising concerning a party wall, or under the provisions of this article, each party shall choose one additional arbitrator, and the decision shall be by a majority of all arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request thereof, the board of directors of the association shall select an arbitrator for the refusing party.

ARTICLE VIII ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon any lot or the patio use in connection with any lot after the purchase of any lot from declarant, its successors or assigns, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, 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 board of directors of the association, or by an architectural committee composed of three (3) or more representatives appointed by the board. In the event said board, or its designated committee, fails to approve or disprove such design and location within thirty (30) days after said plans and specification have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with. Provided that nothing herein contained shall be construed to permit interference with the development of the properties by the declarant so long as said development follows the general plan of development of the properties previously approved by the FHA.

ARTICLE IX EXTERIOR MAINTENANCE

SECTION 1. In addition to the common area and recreational facilities, the association shall provide exterior maintenance upon each lot which is subject to assessment hereunder as follows: Care of grass, shrubs, and trees (excluding planting of same) and maintenance of sidewalks and parking areas. In order to enable the association to accomplish the foregoing, there is hereby reserved to the association the right to unobstructed access over and upon each lot at all reasonable times to perform maintenance as provided in this article.

In the event that the need for maintenance, repair, or replacement is caused through the willful or negligent act of the owner, his family, guests or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircrafts, vehicles, and smoke,

as the foregoing are defined and explained in South Carolina standard fire and extended coverage insurance policies, the cost of such maintenance, replacement, or repair, shall be added to and become a part of the assessment to which such lot is subject.

SECTION 2. Maintenance, upkeep, and repairs of the exterior, roof, patio, and fencing appurtenant to any lot shall be the primary responsibility of the individual owner of the lot. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the common area, recreation and parking areas, and walks, shall be taken by the board of directors or by its duly delegated representatives.

SECTION 3. The board of directors of the association, or the architectural committee composed of three or more representatives appointed by the board, shall devise written minimum standards for upkeep required from each property owner. These standards shall be a part of the records of the association on file with its secretary. In the event that an owner fails to maintain his unit in accordance with the minimum standards, and does not respond to written notices from the board of directors or the architectural committee within the notice period provided in the standards, the association shall contract for and provide the required maintenance or repairs. A special assessment for the cost of such maintenance and repairs plus an interest charge equal to the highest yearly rate allowable under state law shall be levied on the lot owner. Such assessment shall constitute a lien against the property, as per article VI, Section 1 and 8.

ARTICLE X USE RESTRICTIONS

SECTION 1. Said property is hereby restricted to residential dwellings for residential use. All buildings or structures erected upon said property shall be of new construction and no buildings or structures shall be moved from other locations onto said property and no subsequent buildings or structures other than townhouse apartment buildings, being single family townhouses joined together by a common exterior roof and foundation, shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of said property at any time as a residence either temporarily or permanently. No dwelling shall be permitted, costing less than \$12,000.00 based on current building costs and having a ground area of the main structure, exclusive of one-story open porches of less than 900 square feet for a one-story dwelling nor less than 450 square feet for a dwelling of more than one story.

SECTION 2. Each lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions herein.

SECTION 3. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for declarant or the builder of said townhouse to maintain during the period of construction and sale of said townhouse, upon such portion of the premises as declarant deems necessary,

such facilities as in the sole opinion of declarant may be reasonably required convenient or incidental to the construction and sale of said townhouse, including but without limitations, to a business office, storage area, construction yards, signs, model units and sales office.

SECTION 4. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said lots, except that dogs, cats or other normal household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose. No dogs will be allowed to run loose. All dogs must be kept on the owners property at all times.

SECTION 5. No advertising signs (Except one of not more than five square feet ~~"For Rent"~~ or "For Sale" sign per parcel), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on said property, nor shall said property be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any townhouse or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of said property; provided however, the foregoing covenants shall not apply to the maintenance of buildings, if any, of declarant, its agents and assigns during the construction and sale period, and of waterway arms townhouse company a non-profit corporation, incorporated or to be incorporated under the laws of the State of South Carolina its successors, and assigns, in furtherance of its powers and purposes as hereinafter set forth.

SECTION 6. All clothlines, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring townhouses and streets. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas. If the foregoing provisions of article six (6) are violated by a property owner, the association can cause said violation to be removed or remedied and the costs incurred by the association in this action will be assessed to the lot owner in violation of this article.

SECTION 7. Except in the individual patio areas and flower beds appurtenant to a townhouse and except for sowing of grass on an individual lot, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the association's board of directors or their designated representatives. Except for the right of ingress and egress, the owners of lots are hereby prohibited and restricted from using any of said property outside the exterior building lines, patio and carport areas, except as may be allowed by the association's board of directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all owners of lots in Waterway Arms and is necessary for the protection of said owners.

SECTION 8. Maintenance, upkeep and repairs of any patio shall be the sole responsibility of the individual owner of the lot appurtenant thereto

and not in any manner the responsibility of the board of directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of adjoining lots or the lots constituting one building structure (Upkeep on fences, roofs, storage areas, weatherboarding, etc.) shall be channeled through the board of directors and the architectural committee for approval and/or arbitration of any dispute concerning said cooperative upkeep.

SECTION 9. All fixtures and equipment installed within a townhouse commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a townhouse, shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of another townhouse or impair any easement or hereditement nor do any act nor allow any condition to exist which will adversely effect the other ~~townhouses or their~~ owners.

SECTION 10. No action shall at any time be taken by the association or its board of directors which in any manner would discriminate against any owner or owners in favor of the other owner.

SECTION 11. No noxious or offensive activity shall be conducted upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

ARTICLE XI

EASEMENTS

SECTION 1. Each townhouse and the property included in the common area shall be subject to an easement for encroachments created by construction, settling and overhands, as designed for construction by the declarant. A valid easement for said encroachments and for the maintenance of same, so long as it does not exceed twelve (12) inches, shall and does exist. In the event the multi-family structure containing two or more townhouses is partially or totally destroyed, and then rebuilt, the owners of the townhouses so affected agree that minor encroachments of parts of the adjacent townhouse units or common areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

SECTION 2. There is hereby created a blanket easement upon, across, over and under all of said property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, and electricity. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits, and conduits on, above, across and under the roofs and exterior walls of said townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and common area in the performance of their duties. Further, an easement is hereby granted to the association, its officers, agents, employees, and to any management company selected by the association to enter in or to

cross over the common area and any townhouse to perform the duties of maintenance and repair of the townhouses or common area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as located prior to the sale of a lot to a purchaser and prior to the conveyance of the common area. The easements provided for in this article XI shall in no way affect any other recorded easement on said premises.

SECTION 3. Underground electric service:

- (a) Underground single phase electric service shall be available to 104 residential townhouses on the aforesaid 104 lots and to the recreation area on the common area, and the metering equipment shall be located on the exterior surface of the wall at a point to be designated by the utility company. The utility company furnishing the service shall have a three (3) foot wire easement along and centered on the underground electric power service conductors installed from the utility company's easement to the designated point of service on the townhouse structure.
- (b) For so long as such underground service is maintained, the electric service to each townhouse and the recreation building shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle alternating current.
- (c) Easements for the underground service may be crossed by driveways and walkways provided the declarant or builder makes prior arrangements with the utility company furnishing electric service. Such easements for the underground service shall be kept clear of all other improvements, including buildings, patios, or other paving, other than crossing walkways or driveways, and neither declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, or other improvements, of the owner located on the land covered by said easements.

ARTICLE XII

No abandoned, broken, defective or incapacitated automobile may remain parked within the boundaries of Waterway Arms for more than 30 days. After said time, the association will cause to be removed the offending vehicle, taking it to a licensed garage or storage facility, and all costs incurred will become a lien on the property of the owner of the vehicle.

ARTICLE XIII

GENERAL PROVISIONS

SECTION 1. Enforcement: The association, or any owner, shall have the right to enforce, by any proceeding at law or equity, all restructions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this declaration. Failure by the association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of right to do so thereafter.

SECTION 2. Severability: Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way effect any other

provision which shall remain in full force and effect.

SECTION 3. Amendment: 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 the owner of any lot subject to this declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of then (10) years. The covenants and restrictions of this declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90%) percent of the lot owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the lot owners. Any amendment must be properly recorded in the RMC office for Charleston County.

SECTION 4. Gender and Grammer: The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

SECTION 5. FHA or VA approval: As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or Veterans Administration: Annexation of additional properties, dedication of common area, and amendment of this declaration of covenants, conditions, and restrictions.

STATE OF SOUTH CAROLINA)
) AMENDMENT TO DECLARATION OF COVENANTS,
COUNTY OF CHARLESTON) CONDITIONS AND RESTRICTIONS

WHEREAS, the undersigned are owners in a townhouse community known as WATERWAY ARMS, located in the City of Mount Pleasant, County of Charleston, State of South Carolina; and

WHEREAS, the said WATERWAY ARMS is covered by a Declaration of Covenants, Conditions and Restrictions, as is evidenced by instrument dated November 9, 1970 and duly recorded in the RMC Office for Charleston County, South Carolina in Book D-97, at Page 20; and

WHEREAS, ARTICLE XIII, SECTION 3, provides that said Declaration may be amended by instrument signed by not less than ninety (90%) percent of the lot owners; and

WHEREAS, the undersigned, comprising ninety (90%) percent of the present lot owners, desire to amend said Declaration as set forth below;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the undersigned, as owners in WATERWAY ARMS COMMUNITY, for valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, have and by these presents do amend the Declaration of Covenants, Conditions and Restrictions as above set forth in the following particulars:

SECTION 2. of ARTICLE VI - PURPOSE OF ASSESSMENTS; is hereby deleted, and inserted in lieu thereof is the following section:

ARTICLE VI

"SECTION 2. PURPOSE OF ASSESSMENTS: THE ASSESSMENTS LEVIED BY THE ASSOCIATION SHALL BE USED EXCLUSIVELY TO PROMOTE THE RECREATION, HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE PROPERTIES AND IN PARTICULAR FOR THE ACQUISITION, IMPROVEMENT AND MAINTENANCE OF PROPERTIES, SERVICES AND FACILITIES DEVOTED TO THIS PURPOSE FOR THE USE AND ENJOYMENT OF THE COMMON AREA, INCLUDING BUT NOT LIMITED TO, THE COST OF REPAIRS, REPLACEMENTS AND

ADDITIONS, THE COST OF LABOR, EQUIPMENT, MATERIALS, MANAGEMENT AND SUPERVISION, THE PAYMENT OF TAXES ASSESSED AGAINST THE COMMON AREA, THE PROCUREMENT AND MAINTENANCE OF INSURANCE IN ACCORDANCE WITH THE BY-LAWS, THE PAYMENT OF CHARGES FOR WATER FURNISHED AND SEWER SERVICES RENDERED TO THE COMMON AREAS, THE EMPLOYMENT OF ATTORNEYS TO REPRESENT THE ASSOCIATION WHEN NECESSARY, AND SUCH OTHER NEEDS AS MAY ARISE."

ARTICLE IX, EXTERIOR MAINTENANCE, is hereby deleted, and inserted in lieu thereof is the following Article:

ARTICLE IX

EXTERIOR MAINTENANCE

"SECTION 1. IN ADDITION TO THE COMMON AREA AND RECREATIONAL FACILITIES, THE ASSOCIATION SHALL PROVIDE EXTERIOR MAINTENANCE UPON EACH LOT WHICH IS SUBJECT TO ASSESSMENT HEREUNDER AS FOLLOWS: CARE OF GRASS, SHRUBS, AND TREES (EXCLUDING PLANTING OF SAME) AND MAINTENANCE OF SIDEWALKS AND PARKING AREAS. IN ORDER TO ENABLE THE ASSOCIATION TO ACCOMPLISH THE FOREGOING, THERE IS HEREBY RESERVED TO THE ASSOCIATION THE RIGHT TO UNOBSTRUCTED ACCESS OVER AND UPON EACH LOT AT ALL REASONABLE TIMES TO PERFORM MAINTENANCE AS PROVIDED IN THIS ARTICLE.

IN THE EVENT THAT THE NEED FOR MAINTENANCE, REPAIR, OR REPLACEMENT IS CAUSED THROUGH THE WILLFUL OR NEGLIGENT ACT OF THE OWNER, HIS FAMILY, GUESTS OR INVITEES, OR IS CAUSED BY FIRE, LIGHTNING, WINDSTORM, HAIL, EXPLOSION, RIOT, RIOT ATTENDING A STRIKE, CIVIL COMMOTION, AIRCRAFTS, VEHICLES, AND SMOKE, AS THE FOREGOING ARE DEFINED AND EXPLAINED IN SOUTH CAROLINA STANDARD FIRE AND EXTENDED COVERAGE INSURANCE POLICIES, THE COST OF SUCH MAINTENANCE, REPLACEMENT, OR REPAIR, SHALL BE ADDED TO AND BECOME A PART OF THE ASSESSMENT TO WHICH SUCH LOT IS SUBJECT.

SECTION 2. MAINTENANCE, UPKEEP, AND REPAIRS OF THE EXTERIOR, ROOF, PATIO, AND FENCING APPURTENANT TO ANY LOT SHALL BE THE PRIMARY RESPONSIBILITY OF THE INDIVIDUAL OWNER OF THE LOT. ANY COOPERATIVE ACTION NECESSARY OR APPROPRIATE TO THE PROPER MAINTENANCE AND UPKEEP OF THE COMMON AREA, RECREATION AND PARKING AREAS, AND WALKS, SHALL BE TAKEN BY THE BOARD OF DIRECTORS OR BY ITS DULY DELEGATED REPRESENTATIVES.

SECTION 3. THE BOARD OF DIRECTORS OF THE ASSOCIATION, OR THE ARCHITECTURAL COMMITTEE COMPOSED OF THREE OR MORE REPRESENTATIVES APPOINTED BY THE BOARD, SHALL DEVISE WRITTEN MINIMUM STANDARDS FOR UPKEEP REQUIRED FROM EACH PROPERTY OWNER. THESE STANDARDS SHALL BE A PART OF THE RECORDS OF THE ASSOCIATION ON FILE WITH ITS SECRETARY. IN THE EVENT THAT AN OWNER FAILS TO MAINTAIN HIS UNIT IN ACCORDANCE WITH THE MINIMUM STANDARDS, AND DOES NOT RESPOND TO WRITTEN NOTICES FROM THE BOARD OF DIRECTORS OR THE ARCHITECTURAL COMMITTEE WITHIN THE NOTICE PERIOD PROVIDED IN THE STANDARDS, THE ASSOCIATION SHALL CONTRACT FOR AND PROVIDE THE REQUIRED MAINTENANCE OR REPAIRS. A

SPECIAL ASSESSMENT FOR THE COST OF SUCH MAINTNANCE AND REPAIRS PLUS AN INTEREST CHARGE EQUAL TO THE HIGHEST YEARLY RATE ALLOWABLE UNDER STATE LAW SHALL BE LEVIED ON THE LOT OWNER. SUCH ASSFSMENT SHALL CONSTITUTE A LIEN AGAINST THE PROPERTY, AS PER ARTICLE VI, SECTION 1 AND 8."

SECTION 7 of ARTICLE X is hereby deleted and inserted in lieu thereof is the following section:

"SECTION 7. EXCEPT IN THE INDIVIDUAL PATIO AREAS AND AND FLOWER BEDS APPURTENANT TO A TOWNHOUSE AND EXCEPT FOR SOWING OF GRASS ON AN INDIVIDUAL LOT, NO PLANTING OR GARDENING SHALL BE DONE, AND NO FENCES, HEDGES OR WALLS SHALL BE ERECTED OR MAINTAINED UPON SAID PROPERTY EXCEPT SUCH AS ARE INSTALLED IN ACCORDANCE WITH THE INITIAL CONSTRUCTION OF THE BUILDINGS LOCATED THEREON OR AS APPROVED BY THE ASSOCIATION'S BOARD OF DIRECTORS OR THEIR DESIGNATED REPRESENTATIVES. EXCEPT FOR THE RIGHT OF INGRESS AND EGRESS, THE OWNERS OF LOTS ARE HEREBY PROHIBITED AND RESTRICTED FROM USING ANY OF SAID PROPERTY OUTSIDE THE EXTERIOR BUILDING LINES, PATIO AND CARPORT AREAS, EXCEPT AS MAY BE ALLOWED BY THE ASSOCIATION'S BOARD OF DIRECTORS. IT IS EXPRESSLY ACKNOWLEDGED AND AGREED BY ALL PARTIES CONCERNED THAT THIS PARAGRAPH IS FOR THE MUTUAL BENEFIT OF ALL OWNERS OF LOTS IN WATERWAY ARMS AND IS NECESSARY FOR THE PROTECTION OF SAID OWNERS."

SECTION 8 of ARTICLE X is hereby deleted and inserted in lieu thereof is the following section:

"SECTION 8. MAINTENANCE, UPKEEP AND REPAIRS OF ANY PATIO SHALL BE THE SOLE RESPONSIBILITY OF THE INDIVIDUAL OWNER OF THE LOT APPURTENANT THERETO AND NOT IN ANY MANNER THE RESPONSIBILITY OF THE BOARD OF DIRECTORS. ANY COOPERATIVE ACTION NECESSARY OR APPROPRIATE TO THE PROPER MAINTENANCE AND UPKEEP OF ADJOINING LOTS OR THE LOTS CONSTITUTING ONE BUILDING STRUCTURE (UPKEEP ON FENCES, ROOFS, STORAGE AREAS, WEATHERBOARDING, ETC.) SHALL BE CHANNELED THROUGH THE BOARD OF DIRECTORS AND THE ARCHITECTURAL COMMITTEE FOR APPROVAL AND/OR ARBITRATION OF ANY DISPUTE CONCERNING SAID COOPERATIVE UPKEEP."

THE UNDERSIGNED do hereby confirm said Declaration and amendments.

IT IS UNDERSTOOD AND AGREED that the effective date of this instrument shall be entered in the paragraph hereinbelow as the date of the last signature obtained hereon.

NOTE:

BKG118 PG 1/10

There are 64 units w/ one vote ea.

90% of votes required for amendments to *Constitution*

90% of 64 = 57.6

Hence 58 votes required.

There are here 58 votes.

J. L. Linton

Feb 8, 1979