

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

BAXTER

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this ____ day of _____, 19____, by Clear Springs - Baxter, LLC, a North Carolina limited liability company ("Declarant").

PART ONE: INTRODUCTION TO THE COMMUNITY

Clear Springs- Baxter, LLC , as the developer of the traditional neighborhood development known as Baxter, has established this Declaration to provide a flexible system of standards and procedures for the overall development and expansion of Baxter and for the governance, administration, maintenance, and preservation of Baxter as a neighborhood comprised of various land uses which complement and support one another and the larger community of which Baxter is a part.

Article I Creation of the Community

1.1. Purpose and Intent.

By recording this Declaration in the land records of York County, South Carolina, Declarant and the Declarant Affiliates identified on the signature pages of this Declaration intend to establish a general plan of development for, and to provide for the overall development, governance, administration, maintenance and preservation of, the planned community known as Baxter. An integral part of the development plan for Baxter is the creation of Baxter Community Association, Inc., an association comprised of all owners of real property in Baxter, to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration.

This document does not and is not intended to create a condominium under South Carolina law.

1.2. Binding Effect.

The Baxter community initially shall consist of the real property described in Exhibit "A," but the community may be expanded in the future, in accordance with the procedures established in this Declaration, to include additional real property. All property described in Exhibit "A," and any such additional property which is made a part of Baxter in the future, shall be owned, conveyed and used subject to the provisions of this Declaration, which shall constitute a covenant running with the title to

such property and shall be binding upon all Persons now or hereafter having any right, title, or interest in any portion of Baxter, and their heirs, successors, successors-in-title, and assigns.

This Declaration shall remain in effect and shall be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of 20 years from the date this Declaration is recorded in the land records of York County, South Carolina, subject to any amendments which may be adopted during such period in accordance with the procedures described in this Declaration. After such time, this Declaration shall be extended automatically for successive periods of 10 years each, unless an instrument signed by a majority of the then Owners is recorded within the year preceding any extension, agreeing to terminate this Declaration, in which case this Declaration shall terminate as of the date specified in such instrument.

Notwithstanding this, if any provision of this Declaration would be unlawful, void, or voidable by reason of any South Carolina law prohibiting covenants from extending more than 21 years beyond the death of a person identified in such covenant who is living at the time such covenant is made, such provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3. Governing Documents.

The Governing Documents for Baxter consist of:

- this Declaration and such Supplemental Declarations as may be recorded from time to time to expand the community or to supplement this Declaration with additional covenants, restrictions and easements applicable to particular areas within Baxter;
- the Articles of Incorporation and By-Laws of Baxter Community Association, Inc.;
- the Restrictions and Rules described in Article III;
- the Architectural Guidelines described in Article IV; and
- such resolutions as the Association's Board of Directors may adopt from time to time pursuant to this Declaration;

all as they may be amended.

Some areas within Baxter may be subject to additional covenants, restrictions and easements, which may be administered by another owners association. In such case, if there is a conflict between or among the Governing Documents and any such additional covenants, restrictions, and easements, or the governing documents or policies of such other association, the Governing Documents shall control. However, nothing in this Section shall preclude any Supplemental Declaration or other covenants applicable to any portion of Baxter from containing additional restrictions or provisions which are more

restrictive than the provisions of this Declaration, and in such case the more restrictive shall control. The Association may, but shall not be required to, enforce any such additional covenants or restrictions affecting any portion of the Baxter community.

The Governing Documents apply to all Owners and occupants of property within Baxter, as well as to their respective tenants, guests and invitees. Any lease relating to property within Baxter shall provide that the tenant and all occupants of the leased property are bound by and obligated to comply with the Governing Documents.

The Association, the Declarant, and every Owner shall have the right to take legal action to enforce the Governing Documents. The Association shall have the specific enforcement powers and remedies described in Section 7.5 and elsewhere in the Governing Documents.

If a court should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or other applications of such provision.

Throughout the Governing Documents there are diagrams to illustrate the concepts discussed and aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

Diagram 1.1 identifies the various Governing Documents and their functions.

GOVERNING DOCUMENTS	
Articles of Incorporation _____ (filed with Secretary of State)	establishes the Association as a non-profit corporation under South Carolina law
By-Laws _____ (adopted by the Board of Directors)	governs the Association's internal affairs, such as voting rights, elections, meetings, officers, etc.
Declaration _____ (recorded in land records)	creates obligations which are binding upon the Association and all present and future owners of property in Baxter
Supplemental Declaration _____ (recorded in land records)	adds property to Baxter and may create additional obligations or restrictions on such property
Architectural Guidelines _____ (adopted by Declarant)	establish architectural standards and guidelines for improvements and modifications to Units, including structures, landscaping and other items on Units
Restrictions and Rules _____ (initial set attached as Exhibit "C")	govern the use of property, activities, and conduct within Baxter
Board Resolutions _____ (adopted by the Board)	establish rules, policies and procedures for internal governance and Association activities, regulate operation and use of Common Area

Diagram 1.1 Governing Documents

Article II Concepts and Definitions

The terms used in the Governing Documents are intended to have their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

"Additional Association": A condominium association or other owners' association, if any, having jurisdiction over any property within Baxter concurrent with (but subject to) the jurisdiction of the Association. Nothing in this Declaration shall require the creation of an Additional Association for any property within Baxter.

"Architectural Guidelines": The architectural, design and construction guidelines and standards and review procedures adopted pursuant to Article IV, as they may be amended.

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contracts, or agreements.

"Articles": The Articles of Incorporation of Baxter Community Association, Inc., filed with the Secretary of State of the State of South Carolina, as they may be amended.

"Association": Baxter Community Association, Inc., a South Carolina nonprofit corporation, its successors or assigns.

"Base Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

"Baxter": The real property described in Exhibit "A," together with such additional property as is made subject to the terms this Declaration in accordance with Article IX.

"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under South Carolina corporate law.

"Builder": Any Person who purchases one or more Units for the purpose of constructing improvements for resale to consumers in the ordinary course of its business, or who purchases one or more parcels of land within Baxter for further subdivision, development, and/or resale in the ordinary course of its business.

"By-Laws": The By-Laws of Baxter Community Association, Inc., a copy of which is attached to this Declaration as Exhibit "E," as it may be amended.

"Class "C" Control Period": The period of time during which the Declarant, as the Class "C" Member, is entitled to appoint a majority of the members of the Board, as provided in the By-Laws. The Class "C" Control Period shall terminate on the first to occur of the following:

(a) when 75% of the total acreage of property described in the Master Plan has been conveyed to persons other than Declarant or a Declarant Affiliate *and* 75% of the total number of Residential Units permitted by applicable zoning for such property have been issued certificates of occupancy and have been conveyed to Class "A" Members other than Declarant Affiliates or Builders;

(b) 20 years after the date on which this Declaration is recorded in the land records of York County, South Carolina; or

(c) when, in its discretion, the Class "C" Member so determines.

"Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include the Limited Common Area, as defined below.

"Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "C" Control Period for initial development or other original construction costs (payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost) unless either included as a line item in the initial Association budget or approved by Voting Members representing a majority of the total votes in each class of membership which will be subject to assessment for such costs or expenses.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing within Baxter, or the minimum standards established pursuant to the Architectural Guidelines, Restrictions and Rules, and Board resolutions, whichever is a higher standard. Such standard shall be established initially by Declarant and may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within Baxter change.

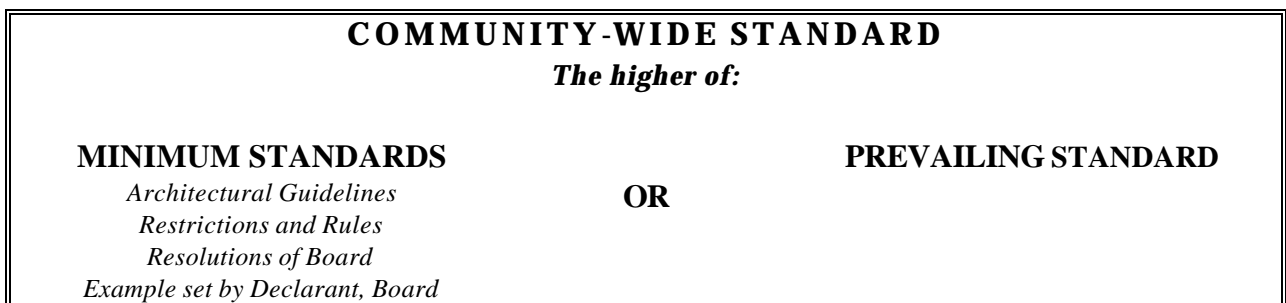


Diagram 1.2. Community-Wide Standard

"Covenant to Share Costs": Any declaration of easements and covenant to share costs or similar instrument executed and Recorded by Declarant which creates certain easements for the benefit of the Association and the present and future owners of the real property subject to such Covenant to Share Costs and which obligates the Association and such owners to share the costs of maintaining certain property described in such Covenant to Share Costs.

"Declarant": Clear Springs - Baxter, LLC, a North Carolina limited liability company, or any successor or assign who acquires title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant.

"Declarant Affiliate": Each of those Persons identified as Declarant Affiliates on the signature page of this Declaration or any Supplemental Declaration, their successors and assigns, and any other natural person, corporation, limited liability company, limited liability partnership, general partnership, limited partnership, or sole proprietorship (a) owning, owned by, or under common control with, the Declarant, (b) of which Declarant is a member or partner, or (c) which is a member of Declarant. The existence of an intermediary between Declarant and Declarant Affiliate shall not affect the Declarant Affiliate's status as such.

"Governing Documents": A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, the Architectural Guidelines, the Restrictions and Rules, and Board resolutions, all as they may be amended.

"Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Service Areas, as described in Article XII.

"Master Plan": That certain plan for the development of the property which is or may become a part of Baxter entitled "Baxter Master Plan" prepared for Declarant by Land Design, Inc., as it may be revised from time to time in Declarant's discretion and in accordance with applicable zoning. The Master Plan is a flexible document which may reflect Declarant's development plans at a particular time but is established only as a planning tool only for Declarant and is not intended to create any binding obligation to any Person. Inclusion of property on the Master Plan shall in no way obligate Declarant to submit it to the terms of this Declaration or the jurisdiction of the Association, and the fact that property described on Exhibit "B" is not included on the Master Plan shall in no way preclude its later inclusion or its submission to this Declaration.

"Member": A Person subject to membership in the Association pursuant to Section 6.2.

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

"Nonresidential Unit": A portion of the real property comprising Baxter which is intended for independent ownership, development and use for any permitted nonresidential purpose, including, without limitation, offices, retail stores, neighborhood businesses, churches, and schools, or for residential purposes as a rental apartment development or congregate care facility containing multiple apartments or residences with shared facilities, all of which apartments or residences are owned by a single owner and leased or otherwise operated on a commercial basis, whether or not for profit.

"Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Person": A natural person, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.

"Private Amenities": Any real property and improvements and facilities thereon located within or in the vicinity of Baxter which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a membership basis or otherwise.

"Record," "Recording," or "Recorded": The act of filing a legal instrument in the Registry of Mesne Conveyances of York County, South Carolina, or such other place as may be designated as the official location for recording deeds, plats and similar documents affecting title to real estate in Baxter, or a term describing an instrument which has been so filed.

"Residential Unit": A portion of Baxter, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family in a manner consistent with this Declaration and any applicable Supplemental Declaration. The term shall, unless otherwise specified, include (by way of illustration, but not limitation) condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such. The term shall include all portions of the lot owned as well as any structure thereon.

A parcel of vacant land under single ownership shall be considered a single Residential Unit until such time as a subdivision plat or condominium instrument are Recorded in the Public Records relating to all or a portion of such parcel, after which the portion which is the subject of such plat or condominium instrument shall be deemed to contain that number of Residential Units reflected therein and the remaining portion, if any, shall continue to be treated as a single parcel.

"Restrictions and Rules": The initial restrictions and rules set forth in Exhibit "C," as they may be supplemented, modified and repealed pursuant to Article III.

"Service Area": A group of Units designated as a separate Service Area pursuant to this Declaration for purposes of sharing Limited Common Areas or receiving other benefits or services from

the Association which are not provided to all Units within Baxter. A Service Area may be comprised of more than one land use or housing type and may include noncontiguous parcels of property. A Unit may be part of more than one Service Area. Where the context permits or requires, the term Service Area shall also refer to the Service Area Committee established in accordance with the By-Laws to represent the interests of the Owners of Units within a Service Area. Service Areas may be established and modified as provided in Section 7.3.

"Service Area Assessments": Assessments levied against the Units in a particular Service Area to fund Service Area Expenses, as described in Section 8.2.

"Service Area Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners of Units within a particular Service Area or Service Areas, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Service Area(s).

"Special Assessment": Assessments levied in accordance with Section 8.2.

"Specific Assessment": Assessments levied in accordance with Section 8.3.

"Supplemental Declaration": An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration, designate Service Areas, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument. The term shall also refer to an instrument Recorded by Declarant pursuant to Section 6.4 which designates Voting Clusters.

"Unit": An inclusive term referring to both Residential and Nonresidential Units, or to any one of them.

"Voting Cluster": A group of Residential Units so designated on Exhibit "A" to this Declaration or in any Supplemental Declaration for purposes of representative voting as described in Section 6.3(c). A Supplemental Declaration may add Residential Units to an existing Voting Cluster or may establish a new Voting Cluster. At such time as the Board determines it appropriate to implement a representative system of voting, the Owners of Residential Units within each Voting Cluster shall elect a Voting Member to represent and cast the votes attributable to such Units on those Association matters requiring a vote of the Class "A" members, as further described in Section 6.3(c). Voting Clusters may include any number of Units and may include Units within noncontiguous parcels of property.

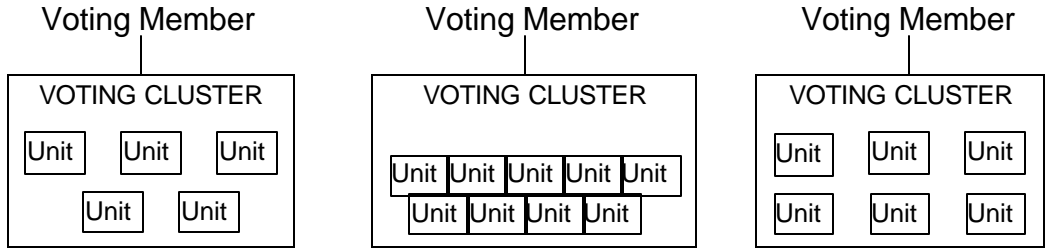


Diagram 2.1 - Voting Clusters

[Note: Number of Units shown in each Voting Cluster is for demonstrative purposes only. Actual numbers may vary from one Voting Cluster to another and could be substantially more or less than number of Units shown. Refer to Section 6.3(c) for a more detailed explanation of Voting Clusters.]

"Voting Member": The person entitled to cast the vote attributable to a particular Unit pursuant to Sections 6.3(b) and (c) on matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). In the case of Residential Units, the Voting Member shall be elected by the Owners of Residential Units within each Voting Cluster to represent and cast all votes attributable to the Residential Units in such Voting Cluster, as provided in Section 6.3. In the case of Nonresidential Units, the Voting Member shall be the Owner of the Nonresidential Unit. The term "Voting Member" shall also refer to an alternate Voting Member acting in the absence of the Voting Member and to any Owners authorized personally to cast the votes for their respective Units pursuant to Section 6.3(b) and (c).

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

The standards for use and conduct, maintenance, and architecture at Baxter set it apart from other developments and give it its identity. Each property owner, resident, and tenant participates in upholding such standards and can take pride in the results of that common effort. This Declaration establishes procedures for adopting, modifying, applying, and enforcing such standards while providing flexibility for the community standards to evolve as Baxter grows and changes over time.

Article III Use and Conduct

3.1. Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for Baxter, a framework of affirmative and negative covenants, easements and restrictions which govern Baxter. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends and technology which inevitably will affect Baxter, its Owners and residents. Toward that end, this Article establishes procedures for modifying and expanding the initial Restrictions and Rules set forth in Exhibit "C." This Article is not intended to apply to rules and regulations relating to use and operation of the Common Area which the Board may adopt by resolution pursuant to Section 7.1(c).

3.2. Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall send notice by mail to all Owners concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Voting Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless disapproved at a meeting by (i) Voting Members representing more than 50% of the total Class "A" votes or Voting Members representing more than 50% of the total Class "B" votes in the Association, and (ii) the Class "C" Member, if any. The Board shall have no obligation to call a meeting of the Voting Members to consider disapproval except upon receipt of a petition of the Voting Members as required for special meetings in the By-Laws. Upon such petition of the Voting Members prior to the effective date of any Board action under this Section 3.2(a), the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, Voting Members may, at an Association meeting duly called for such purpose, vote to adopt rules which modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules then in effect. Any such action shall require approval of Voting Members representing more than 50% of the total votes in each class of membership whose Units are or will be subject to the rule in question and by the Class "C" Member, if any.

(c) Prior to any action taken under this Section becoming effective, the Board shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner. The effective date shall be not less than 30 days following distribution to Owners. The Association shall provide, without cost, a copy of the Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(d) No action taken under this Article shall have the effect of modifying, repealing or expanding the Architectural Guidelines or any provision of this Declaration other than the initial Restrictions and Rules set forth in Exhibit "C." In the event of a conflict between the Architectural Guidelines and the Restrictions and Rules, the Architectural Guidelines shall control.

(e) The procedures required under this Section 3.2 shall not apply to the enactment and enforcement of administrative rules and regulations governing use of the Common Area unless the Board chooses in its discretion to submit to such procedures. Examples of such administrative rules and regulations shall include, but not be limited to, hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times. The Board shall exercise business judgment in the enactment, amendment, and enforcement of such administrative rules and regulations.

3.3. Owners' Acknowledgment and Notice to Purchasers.

All Owners are given notice that use of their Units and the Common Area is limited by the Restrictions and Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Restrictions and Rules may change from time to time. All purchasers of Units are on notice that changes may have been adopted by the Association. Copies of the current Restrictions and Rules may be obtained from the Association.

3.4. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Restrictions and Rules set forth in Exhibit "C," all Restrictions and Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; however, the Restrictions and Rules may vary by Service Area and may differ between residential and nonresidential uses, subject to the right of Voting Members representing each class of members to veto or withhold approval of proposed actions affecting their Units pursuant to Section 3.2.

(b) Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the structure.

(c) Signs. No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs and the Architectural Guidelines may establish design criteria for such signs.

(d) Household Composition. No rule shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all

occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Residential Unit on the basis of the size and facilities of the Residential Unit and its fair use of the Common Area.

(e) Activities Within Units. No rule shall interfere with the activities carried on within the confines of structures on Units, to the extent in compliance with local laws and ordinances, except that the Association may prohibit activities within Residential Units which are not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible from outside of the structures on Units, or that create an unreasonable source of annoyance to persons outside of the Unit.

(f) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments or abuse the Common Area or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(g) Alienation. No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided, the Association or the Board may require a minimum lease term of up to 12 months. The Association may require that Owners use lease forms approved by the Association.

(h) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(i) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop Baxter or other properties in the vicinity of Baxter.

(j) Interference with Private Amenities. No rule or action by the Association shall interfere with the use or operation of any Private Amenity.

The limitations in subsections (a) through (h) of this Section 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XIX.

Article IV **Architecture and Landscaping**

4.1. General.

No structure or thing shall be placed, erected, or installed upon any Unit after the date it is made subject to this Declaration, and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place on any property within Baxter after the date it is made subject to this Declaration, except in compliance with this Article and the Architectural Guidelines.

Any Owner may remodel, paint or redecorate the interior of such Owner's Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.

All buildings constructed on any property within Baxter after the date such property is made subject to this Declaration shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by Declarant or its designee in its sole discretion.

This Article shall not apply to Declarant's activities, nor to activities of the Association during the Class "C" Control Period.

4.2. Architectural Review.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of Baxter, acknowledges that as the developer of Baxter and as an Owner of portions of Baxter as well as other real estate within the vicinity of Baxter, Declarant has a substantial interest in ensuring that the improvements within Baxter enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article as described in Section 4.1 ("Work") shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such Work, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue so long as Declarant or a Declarant Affiliate owns any portion of Baxter or any real property adjacent to Baxter, unless earlier terminated in a written instrument executed and Recorded by Declarant.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may, but shall not be obligated to, delegate from time to time all or a portion of its reserved rights under this Article to (i) an architectural review committee appointed by the Board of Directors (the "ARC"), or (ii) a committee comprised of architects, engineers or other persons who may or may not be Members of the Association. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by Declarant.

(b) Architectural Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARC, shall assume jurisdiction over architectural matters hereunder. The ARC, when appointed, shall consist of seven persons. Three committee members shall be appointed, and may be removed and replaced, by the directors representing Class "A" Members and shall constitute the "Residential Subcommittee". Three committee members shall be appointed, and may be removed and replaced, by the directors representing the Class "B" Members and shall constitute the "Nonresidential Subcommittee". The seventh committee member shall be an independent architect, engineer or similar professional, whose compensation, if any, shall be established from time to time by the Board. Subject to the foregoing, the members of the ARC need not be Members of the Association or representatives of Members.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

4.3. Guidelines and Procedures.

(a) Architectural Guidelines. Declarant may prepare the initial Architectural Guidelines, which may contain general provisions applicable to all of Baxter as well as specific provisions which may vary according to land use and housing type and from one area of Baxter to another. The Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications hereunder. The Architectural Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Architectural Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it or any Declarant Affiliate owns any portion of Baxter or has a right to expand Baxter pursuant to Section 9.1, notwithstanding a delegation of reviewing authority to the ARC, unless Declarant also delegates the power to amend to the ARC. Upon termination or delegation of Declarant's right to amend, the ARC shall have the authority to amend the Architectural Guidelines with the consent of the Board. Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

The Reviewer shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within Baxter. In Declarant's discretion, such Architectural Guidelines may be Recorded, in which event the Recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Except as otherwise specifically provided in the Architectural Guidelines, no Work shall commence on any portion of Baxter until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Architectural Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall make a determination on each application within 30 days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. With respect to applications for which the ARC is the Reviewer under this Article, the Residential Subcommittee shall initially review and make recommendations to the full ARC regarding all applications and submissions relating to Residential Units and the Nonresidential Subcommittee shall initially review and make recommendations to the full ARC regarding all applications and submissions relating to Nonresidential Units. The ARC shall give great weight to the recommendation of the reviewing subcommittee in making the final determination on any application hereunder.

Until expiration of Declarant's rights under this Article, the ARC shall notify Declarant in writing within three business days after the ARC has approved any application relating to proposed Work within the scope of matters delegated to the ARC by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC.

The Reviewer shall notify the applicant in writing of the final determination on any application within five days thereafter or, with respect to any determination by the ARC subject to Declarant's veto right, within five days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of the 10-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given, subject to Declarant's right to veto approval by the ARC pursuant to this Section. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Architectural Guidelines unless a variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which Plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing the proposed Work. Once construction is commenced, it shall be diligently pursued to completion. All Work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved Work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or Plans

for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Baxter; they do not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design.

The Reviewer shall have sole and full authority to determine matters of aesthetic judgment and the determination of the Reviewer as to such matters shall be final and shall not be subject to judicial review so long as exercised in accordance with the procedures set forth in this Article.

Declarant, the Association, the Board, any committee, or any member of any of the foregoing, shall not be held liable for soil conditions; drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not such contractor has been approved or featured by Declarant to construct homes or other structures in Baxter; or any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the Board, the ARC, and the members of each shall be defended and indemnified by the Association as provided in Section 7.6.

4.7. Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Architectural Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate

shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

Article V Maintenance and Repair

5.1. Maintenance of Units.

Each Owner shall maintain his or her Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or an Additional Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit.

Each Owner of a Unit shall also be responsible for maintaining the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Unit boundary and any wall, fence, curb, lake or pond located on the Common Area or public right-of-way within 30 feet of the Unit boundary; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article IV.

Responsibility for maintenance of landscaping under this Section 5.1 shall include responsibility for watering of lawns and other landscaping as needed to maintain it in a healthy condition. It shall also include responsibility for removal and replacement of diseased or dead plant material, subject to the provisions of Article IV.

5.2. Maintenance by Additional Associations.

Any Additional Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants.

Any Additional Association shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the boundary of its common property and any wall, fence or curb located on the Common Area or public right-of-way within 30 feet of its boundary; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article IV.

The Association may assume the maintenance responsibility of any Additional Association, either by agreement with the Additional Association or because, in the opinion of the Board, the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Service Area Assessment only against the Units subject to the jurisdiction of the Additional Association. The provision of services in accordance with this Section shall not constitute discrimination within a class.

5.3. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either an Additional Association (if any) having jurisdiction over the Unit or the Association carries such insurance (which it may, but is not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this Section shall apply to any Additional Association in the same manner as if the Additional Association were an Owner and the property for which it has maintenance responsibility were a Unit. Additional covenants applicable to any portion of Baxter may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such area and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

PART THREE: NEIGHBORHOOD GOVERNANCE AND ADMINISTRATION

The Declaration establishes the Association as a mechanism by which each owner is able to participate in the governance and administration of Baxter. While many powers and responsibilities are vested in the Association's board of directors in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the owners of property in Baxter.

Article VI The Association and its Members

6.1. Function of Association.

The Association has been established for the purpose of administering Baxter in accordance with the Governing Documents. Its responsibilities include, but are not limited to:

- (a) management, maintenance, operation and control of the Area of Common Responsibility;
- (b) interpretation and enforcement of the Governing Documents;
- (c) upholding the Community-Wide Standard within Baxter; and
- (d) upon delegation or termination of Declarant's authority under Article IV, administering the architectural review process for Baxter.

6.2. Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(d) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting.

(a) Classes of Membership. The Association initially shall have three classes of membership, Class "A," Class "B," and Class "C," as follows:

Class "A". Class "A" Members shall be all Owners of Residential Units, except the Class "C" Member, if such exists. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2, except that there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under Section 8.7. All Class "A" votes shall be cast as provided in Sections 6.3(b) and (c) below.

Class "B". Class "B" Members shall be all Owners of Nonresidential Units, except the Class "C" Member, if such exists. Class "B" Members shall be allocated votes based on the formula set forth in Exhibit "D," except that no vote shall be exercised for any property which is exempt from assessment under Section 8.7.

Class "C". The sole Class "C" Member shall be the Declarant. The Class "C" Member shall not have voting rights relative to the number of Units it owns; rather, the consent of the Class "C" Member shall be required for various actions of the Board, the membership and committees, as specifically provided elsewhere in the Governing Documents. In addition, the Class "C" Member may appoint a majority of the members of the Board of Directors during the Class "C" Control Period, as specified in the By-Laws. Additional rights of the Class "C" Member are specified in the relevant sections of the Governing Documents. After termination of the Class "C" Control Period, the Class "C"

Member shall have a right to disapprove actions of the Board, the membership and committees as provided in the By-Laws. The Class "C" membership shall terminate upon the earlier of:

(i) two years after expiration of the Class "C" Control Period pursuant to Article III of the By-Laws; or

(ii) when, in its discretion, Declarant so determines and declares in a Recorded instrument.

Upon termination of the Class "C" membership, Declarant shall be entitled to Class "A" membership and voting rights for each Residential Unit which it owns and Class "B" membership and voting rights for each Nonresidential Unit which it owns.

Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any additional property made subject to this Declaration pursuant to Article IX, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

(b) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" or Class "B" Member shall be exercised by the Voting Member representing such Unit. The Owner of each Nonresidential Unit shall be the Voting Member for such Unit. The Voting Member representing each Residential Unit shall be determined in accordance with Section 6.3(c). Only the Voting Members representing Class "A" Members shall be permitted to vote on those issues which relate to and affect only Residential Units, and only the Voting Members representing Class "B" Members shall be permitted to vote on those issues which relate to and affect only Nonresidential Units. The Board's determination as to issues which affect only Class "A" or only Class "B" Members shall be conclusive.

In any situation where a Member is entitled personally to exercise the vote for his or her Unit, and there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

(c) Representative Voting. Due to the large number of Residential Units anticipated to be developed in Baxter, the Governing Documents provide for a representative system of voting for Residential Units. Until the Board determines it appropriate to implement such system, the Owner of each Residential Unit shall be the Voting Member for such Unit. At such time as the Board first calls for election of Voting Members by the Class "A" Members, Owners of Residential Units within each Voting Cluster shall elect:

(i) a Voting Member, who shall thereafter be responsible for casting all votes attributable to Residential Units in the Voting Cluster on all Association matters requiring a vote of Class "A" Members, except as otherwise specified in this Declaration or the By-Laws; and

(ii) an alternate Voting Member, who shall be responsible for casting such votes in the absence of the Voting Member.

Thereafter, the Board shall call for an election of Voting Members and alternates on an annual basis, either by written ballots cast by mail or at a meeting of the Class "A" Members owning Residential Units within such Voting Cluster, as the Board determines; provided, upon written petition signed by Class "A" Members holding at least 10% of the votes attributable to Residential Units within any Voting Cluster, the election for such Voting Cluster shall be held at a meeting. Candidates for election as Voting Members may be nominated by the Board, by a nominating committee which the Board may appoint, or by petition signed by Owners of at least 10% of the Residential Units within the Voting Cluster.

The presence, in person or by proxy, or the filing of ballots by Class "A" Members representing at least 25% of the total Class "A" votes attributable to Residential Units in the Voting Cluster shall constitute a quorum at any Voting Cluster meeting or election. In the event of a failure to obtain a quorum or a vacancy in the positions of Voting Member or alternate for any Voting Cluster, the Board may appoint a Voting Member or alternate Voting Member to represent such Voting Cluster until a successor is elected.

For any Voting Cluster election, each Class "A" Member shall be entitled to one equal vote for each Residential Unit which such Owner owns in the Voting Cluster. The candidate who receives the greatest number of votes shall be elected as Voting Member and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Member. The Voting Member and the alternate Voting Member shall serve a term of one year and until their successors are elected. Any Voting Member may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of Residential Units in the Voting Cluster which the Voting Member represents.

The Voting Member may cast all votes which he or she is entitled to cast as the Voting Member deems appropriate in its sole discretion, with or without surveying the Owners whom he or she represents; provided, unless the Board otherwise permits, the Voting Member shall vote all of the votes which he or she is entitled to cast as a block and shall not split the votes.

Article VII Association Powers and Responsibilities

7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property, subject to the provisions of Sections 16.9 and 18.4. The Board may enter into leases, licenses or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of owners, occupants and residents of Baxter.

(b) Declarant and its designees may convey to the Association personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B" and the Association shall accept any such property; provided, Declarant and its designees shall not convey any real property to the Association which Declarant or its designees know or have reason to believe is contaminated with hazardous substances in such amounts as would require remediation under state or federal law. If Declarant conveys property to the Association as Common Area at no cost to the Association, the Association shall, upon Declarant's written request, reconvey to Declarant any unimproved portions of such property, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

7.2. Maintenance and Operation of Area of Common Responsibility.

The Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) all portions of and structures situated on the Common Area;
- (b) all streets and roadways within Baxter until such time as they are accepted by a public body for perpetual maintenance, and any landscaping within the rights-of-way of streets or roads within or abutting Baxter, whether or not dedicated to the public;
- (c) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;

(d) all ponds, streams and/or wetlands located within Baxter which serve as part of the stormwater drainage system for Baxter, including improvements and equipment installed therein or used in connection therewith; and

(e) any property and facilities within or adjacent to Baxter which are owned by Declarant, or any organization designated by Declarant which is tax-exempt under Internal Revenue Code Section 501(c)(3), and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing 75% of the Class "A" and Class "B" votes in the Association, respectively, and the Class "C" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with Declarant's prior written approval as long as Declarant or any Declarant Affiliate owns any property described in Exhibits "A" or "B" of this Declaration.

Except as specifically provided herein, the costs associated with maintenance, repair, replacement, insurance and operation of the Area of Common Responsibility shall be a Common Expense, subject to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other Recorded covenants, or agreements with the owner(s) thereof. The cost of maintenance, repair, replacement and insurance of Limited Common Areas shall be a Service Area Expense assessed against the Units to which the Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

Upon resolution of the Board, Units within each Service Area may be assessed Service Area Assessments to fund the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Service Area. This may include, without limitation,

the costs of maintaining any signage, entry features, right-of-way and greenspace between the Service Area and adjacent public roads, private streets within the Service Area, and lakes or ponds within the Service Area, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Service Areas which are similarly situated shall be treated the same.

7.3. Provision of Benefits or Services to Service Areas.

(a) The Declarant, on Exhibit "A" to this Declaration and/or by Supplemental Declaration, may assign portions of the Properties to one or more Service Areas (by name or other identifying designation) as it deems appropriate, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to such Units in addition to those which the Association generally provides to all Units. The cost of providing such benefits or services shall be assessed against the Units within such Service Area as a Service Area Assessment.

(b) Any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiving from the Association (a) special benefits or services which are not provided to all Units, or (b) a higher level of service than the Association provides to all Units. Upon receipt of such petition signed by Owners of a majority of the Units within the proposed Service Area, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the cost thereof, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate as among Residential and Nonresidential Units, respectively, in all Service Areas receiving the same service). Upon written approval of the proposal by Owners of at least 75% of the Units within the proposed Service Area, the Association shall provide the requested benefits or services and shall assess the cost thereof among the Units in the proposed Service Area as a Service Area assessment pursuant to Section 8.2, subject to the right of the Owners of Units within the Service Area thereafter to veto the budget for their Service Area as provided in Section 8.2.

7.4. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-sixth of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Service Area, obtain and maintain property insurance on the insurable improvements within such Service Area which insurance shall comply with the requirements of Section 7.4(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that (i) premiums for property insurance on Units within a Service Area shall be a Service Area Expense; and (ii) premiums for insurance on Limited Common Areas may be included in the Service Area Expenses of the Service Area(s) to which such Limited Common Areas are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in York County, South Carolina. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.4(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage.

However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in South Carolina which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Service Area shall be for the benefit of the Owners of Units within the Service Area and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest as a member of the Association in the Common Area (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) provide a waiver of subrogation under the policy against any Owner or occupant of a Unit;

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which name the Owners, collectively, as additional insureds and provide:

- (i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;
- (ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;
- (iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- (iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;
- (v) a cross liability provision; and
- (vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless Voting Members representing at least 75% of the total votes attributable to Units entitled to use and enjoy the damaged portion of the Common Area, and the Class "C" Member, if any, decide within 60 days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units within the insured Service Area, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Voting Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.4(a).

7.5. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Article VII of the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities within the Common Area;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of Article IV and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Architectural Guidelines from continuing or performing any further activities in Baxter; and

(viii) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in Article VII of the By-Laws:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations), and entry onto any Unit for such purpose shall not be considered a trespass;

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails to perform properly his or her maintenance responsibility after written notice specifying the maintenance required and a reasonable opportunity to perform such maintenance, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. If an Additional Association fails to perform its maintenance responsibilities, the Association may perform such maintenance and assess the costs as a Specific Assessment against all Units within the jurisdiction of such Additional Association.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(b) The decision to have the Association pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;
or

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interest, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule, nor shall it preclude any Owner from taking action at law or in equity to enforce the Governing Documents.

The Association, by contract or other agreement, may enforce applicable town and county ordinances, if applicable, and permit York County or the Town of Fort Mill to enforce ordinances within Baxter for the benefit of the Association and its Members.

7.6. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in, mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Section 5.1 of the By-Laws.

7.7. Indemnification of Officers, Directors and Others.

Subject to South Carolina law, the Association shall indemnify and defend every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify and defend shall be limited to those actions for which liability is limited under this Section.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may

be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.8. Safety and Security.

Each Owner and occupant of a Unit, and their respective guests and invitees shall be responsible for their own personal safety and the security of their property in Baxter. The Association may, but shall not be obligated to, maintain or support certain activities within Baxter designed to enhance the level of safety or security which each person provides for himself and his property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within Baxter, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to Baxter, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not guarantors of security or safety and that each Person using Baxter assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

7.9. Powers of the Association Relating to Additional Associations.

The Association shall have the power to block any action taken or contemplated to be taken by any Additional Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Additional Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

An Additional Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Additional Association fails to comply, the Association shall have the right to effect such action on behalf of the Additional Association and levy Specific Assessments against the Units subject to the Additional Association's jurisdiction to cover the costs incurred, as well as an administrative charge and sanctions.

7.10. Provision of Services.

The Association may provide, or provide for, services and facilities for the Members and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided at the option of an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the Base Assessment if provided to all Units. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.11. Relationships with Other Properties.

The Association may enter into contractual agreements, easements and covenants to share costs with the owner of any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.12. Facilities and Services Open to the Public.

Certain facilities and areas within Baxter may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: roads, sidewalks, greenbelts, trails, paths, parks, and similar areas conducive to public gathering and interaction. Declarant may designate such facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate them at any time thereafter. The availability of such areas to the general public shall not relieve any Owner of responsibility for assessments levied to fund the Association expenses incurred in connection with such areas.

Article VIII Association Finances

8.1. Budgeting for and Allocating Association Expenses.

(a) Preparation of Budget. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses of the Association for the coming year, to be allocated among all Units, and separate budgets reflecting the estimated Service Area Expenses for each Service Area to which the Association expects to provide benefits or services during the budget period. Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected

from sources other than assessments levied against the Units, and the amount estimated to be generated through the levy of assessments against the Units.

The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense or as a Service Area Expense, respectively. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected life of each, the expected repair or replacement cost, and the contribution required to fund the projected need by annual contributions over the expected useful life of the asset.

(b) Calculation of Base Assessments. Upon determining the total amount of income required to be generated through the levy of Base Assessments, the Association shall initially allocate such amount between the Residential Units subject to assessment under Section 8.6, collectively, and the Nonresidential Units subject to assessment under Section 8.6, collectively, in the same proportion as the total acreage of each type of Unit (Residential vs. Nonresidential) bears to the total acreage of all Units subject to assessment under Section 8.6. The share allocable to Residential Units shall then be further allocated equally among all Residential Units subject to assessment under Section 8.6 and assessed as a Base Assessment. The share allocable to Nonresidential Units shall be further allocated among all Nonresidential Units in accordance with the formula set forth on Exhibit "D" and assessed as a Base Assessment.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.4(b)), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

(c) Calculation of Service Area Assessments. The total amount of estimated Service Area Expenses for each Service Area shall be allocated equally among all Units within the Service Area which are subject to assessment under Section 8.6 and assessed as a Service Area Assessment; provided, if so specified in the applicable Supplemental Declaration or if so directed by a petition signed by at least two-thirds of the Owners of Units in the Service Area, any portion of the Service Area Assessment intended for exterior maintenance, insurance or replacement reserves relating to structures on Units shall be levied on the benefited Units in proportion to the benefit received, as the Board may reasonably determine).

All amounts collected by the Association as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

(d) Notice of Budget and Assessment; Right to Disapprove. The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment and any Service Area Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget. The Common Expense budget shall automatically become effective unless disapproved at a meeting by Voting Members representing at least 75% of the total Class "A" and Class "B" votes in the Association, and by the Class "C" Member, if such exists. The Service Area Expense budget for each Service Area shall automatically become effective unless disapproved at a meeting by Owners of 67% of the Units within the Service Area, except that the right to disapprove shall apply on to those line items which are attributable to services or benefits requested by the Service Area and shall not apply to any item which the Governing Documents specifically require to be assessed as a Service Area assessment.

There shall be no obligation to call a meeting for the purpose of considering any budget except, in the case of the Common Expense budget, on petition of the Voting Members as provided for special meetings in Section 2.4 of the By-Laws, and in the case of any Service Area budget, on petition of Owners of at least 25% of the Units within the Service Area. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(e) Budget Revisions. The Board may revise the budget and adjust the assessments levied pursuant thereto from time to time during the year, subject to the same notice requirements and rights to disapprove the revised budget as set forth above.

8.2. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Service Area if such Special Assessment is for Service Area Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Voting Members (if a Common Expense) or Owners (if a Service Area Expense) representing more than 50% of the total votes in each class of membership allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "C" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.3. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit or Units as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b); and

(c) to cover costs incurred or expected to be incurred by the Association to set up, clean up, provide additional security, utilities or other services in connection with any festival or other special events sponsored by the Owners or tenants of any Unit or group of Units, upon the Board's determination, in the exercise of its business judgment, that such services are necessary are appropriate.

The Association may also levy a Specific Assessment against the Units within any Service Area to reimburse the Association for costs incurred in bringing the Service Area into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Units in, or the Voting Member representing, the Service Area and an opportunity for such Owners or Voting Member to be heard before levying any such assessment.

8.4. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of Baxter, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of South Carolina law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Service Area Assessments on the same basis as during the last year for which an assessment was made,

if any, until a new budget becomes effective and a new assessment is levied pursuant thereto. Any such budget may include as an expense item any shortfall in amounts previously collected.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Fund Budget Deficits. During the Class "C" Control Period, Declarant may satisfy its obligation for assessments on Units which it owns either by paying such assessments in the same manner as any other Owner or by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. Regardless of such election, the Association shall have a lien against all Units owned by Declarant to secure Declarant's obligations under this section, which lien shall have the same attributes and shall be enforceable in the same manner as the Association's lien against each Unit under Section 8.5. Regardless of Declarant's election, Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "C" Control Period, Declarant shall pay assessments on its unsold Units in the same manner as any other Owner.

8.5. Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of South Carolina law), and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any Recorded first Mortgage (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have

been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.6, including such acquirer, its successors and assigns.

8.6. Authority to Assess Owners; Time of Payment.

The obligation to pay assessments as provided for in this Article shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Service Area Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

- (a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility;
- (b) Any property dedicated to and accepted by any governmental authority or public utility;
and
- (c) Property owned by any Additional Association for the common use and enjoyment of its members, or owned by the members of a Additional Association as tenants-in-common.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.8. Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Residential Unit for that year or in such other amount as the Board may specify which may be a flat rate from year to year approximating one-sixth of the annual Base Assessment per Residential Unit levied during the first year in which the Association adopts a budget. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

8.9. Community Service Fees.

(a) Authority. The Board shall have the authority, on behalf of the Association, to establish and collect a community service fee from the transferring Owner upon each transfer of title to a Unit in Baxter, which fee shall be payable at the closing of the transfer and shall be secured by the Association's lien for assessments under Section 8.5.

(b) Fee Limit. The Board shall have the sole discretion to determine the amount and method of determining any such transfer fee, which may, but is not required to, be determined based upon a sliding scale which varies in accordance with the "Gross Selling Price" of the property or another factor as determined by the Board; provided, however, any such fee shall not exceed the greater of \$500 or twenty-five hundredths of a percent (.25%) of the Gross Selling Price of the property. For the purpose of determining the amount of the transfer fee, the Gross Selling Price shall be the total cost to the purchaser of the property, excluding taxes and title transfer fees as shown by the amount of tax imposed by York County, South Carolina.

(c) Purpose. All transfer fees which the Association collects shall be deposited into a segregated account to used for such purposes as the Board deems beneficial to the general good and welfare of Baxter, which the Governing Documents do not otherwise require to be addressed by the Association's general operating budget. By way of example and not limitation, such transfer fees might be used to assist the Association or one or more tax-exempt entities in funding:

(i) preservation and maintenance of natural areas, wildlife preserves, or similar conservation areas, and sponsorship of educational programs and activities which contribute to the overall understanding, appreciation and preservation of the natural environment at Baxter;

(ii) recreational facilities accessible by residents of Baxter, and programs and activities which serve to promote a sense of community within Baxter, such as recreational leagues, cultural programs, educational programs, festivals and holiday celebrations and activities, a community computer network, and recycling programs; and

(iii) social services, community outreach programs, and other charitable causes.

(d) Exempt Transfers. Notwithstanding the above, no community service fee shall be levied upon transfer of title to a Unit:

(i) by or to Declarant or an Initial Owner;

(ii) by a Builder who held title solely for purposes of development and resale;

(iii) by the co-owner of a Unit to any Person who was also a co-owner of such Unit immediately prior to such transfer;

(iv) to the Owner's estate, surviving spouse or child upon the death of the Owner;

(v) to an entity wholly owned by the grantor; provided, upon any subsequent transfer of an ownership interest in such entity, the transfer fee shall become due;

(vi) to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage.

PART FOUR: COMMUNITY DEVELOPMENT

The Declaration reserves various rights to the Declarant, as the developer of Baxter, in order to facilitate the smooth and orderly development of the neighborhood and to accommodate changes in the master plan for such development which inevitably will occur as the neighborhood grows and matures.

Article IX Expansion of the Neighborhood

9.1. Expansion by Declarant.

Declarant may from time to time expand Baxter to include all or any portion of the property described on Exhibit "B" by Recording a Supplemental Declaration describing the additional property and stating the intent to subject it to the provisions of this Declaration. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant. A Supplemental Declaration may add Residential Units to an existing

Voting Cluster or may establish a new Voting Cluster for purposes of representative voting as described in Section 6.3(c), and may assign Units to an existing Service Area or establish a new Service Area pursuant to Section 7.3.

Declarant's right to expand Baxter pursuant to this Section shall expire when all of the property described in Exhibit "B" has been subjected to this Declaration or 20 years after this Declaration is Recorded, whichever is earlier. Until then, Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibits "A" or "B." Any such transfer shall be memorialized in a written, Recorded instrument executed by Declarant.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

9.2. Expansion by the Association.

The Association may also expand Baxter to include additional property by Recording a Supplemental Declaration describing the additional property and the intent to subject it to the provisions of this Declaration. Any such Supplemental Declaration shall require the affirmative vote of Voting Members representing more than 50% of the Class "A" votes and more than 50% of the Class "B" votes represented at a meeting duly called for such purpose and the consent of the owner of the additional property. In addition, so long as Declarant or a Declarant Affiliate owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the additional property, and by Declarant, if Declarant's consent is necessary.

9.3. Additional Covenants and Easements.

Declarant may subject any portion of Baxter to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

Article X Additional Rights Reserved to Declarant

10.1. Withdrawal of Property.

So long as Declarant has a right to expand Baxter pursuant to Section 9.1, Declarant reserves the right to amend this Declaration for the purpose of withdrawing from the coverage of this Declaration any portion of Baxter which has not yet been improved with structures, provided such withdrawal does not reduce the total number of Units then subject to the Declaration by more than 10 percent. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Right to Approve Changes in Baxter Standards.

So long as Declarant or a Declarant Affiliate owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, no amendment to or modification of any Restrictions and Rules or Architectural Guidelines shall be effective without prior notice to and the written approval of Declarant.

10.3. Development and Sales Activities.

Until the Recording by Declarant of a written statement that all sales activity has ceased or 40 years from the date this Declaration is Recorded, whichever is earlier:

(a) Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area such facilities and activities as Declarant, in its sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities at no charge.

(b) Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

10.4. Control of and Changes in Development Plan.

(a) Every Person that acquires any interest in Baxter acknowledges that Baxter is a master planned community, the development of which is likely to extend over many years, and that changes in the master plan will likely occur as the development of Baxter proceeds. Each such Person therefore agrees not to protest, challenge or otherwise object to changes made or proposed by Declarant in the development plan or in the uses or density of property beyond the boundaries of that shown on the Recorded subdivision plat applicable to the Unit in which such Person holds an interest.

(b) No Person shall Record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of Baxter without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and Recorded by Declarant.

(c) The rights and limitations set forth in this Section 10.4 shall continue in effect until the Recording by Declarant of a written statement that all sales activity has ceased or 40 years from the date this Declaration is Recorded, whichever is earlier

10.5. Exclusive Rights To Use Name of Development.

Declarant, for itself, its successors, and assigns, hereby reserves sole and exclusive rights in and to the name "Baxter" and the name "Clear Springs" and no Person shall use the name "Baxter" or "Clear Springs" or any derivative of such names in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Baxter" or "Clear Springs" in printed or promotional matter where such term is used solely to specify that particular property is located within Baxter or is a part of the Clear Springs development and the Association shall be entitled to use the word "Baxter" in its name.

Likewise, no Person shall use the names "Clear Springs Development Company", "Springs Industries", "The Springs Company", or "Anne Springs Close Greenway" without the express permission of those entities or the owner of the Anne Springs Close Greenway.

10.6. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed and Recorded by Declarant. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.7. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Baxter in connection with or in anticipation of any potential or pending claim, demand or litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection pursuant to the rights reserved in Section 11.7.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a traditional neighborhood development, with various areas intended for shared use and the proximity of various land uses to one another, requires the creation of special property rights and provisions to address the relationships between various parcels of property and the rights and responsibilities of Owners and the Association.

Article XI Easements

11.1. Easements in Common Area.

Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The Board's right to:
 - (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws;
 - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;

(iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

(v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public;

(vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Sections 16.9 and 18.4; and

(d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas," as described in Article XII.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

11.2. Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant or a Declarant Affiliate owns any property described in Exhibit "A" or "B" of this Declaration, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout Baxter (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve Baxter, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, stormwater drainage systems, irrigation systems, sanitary sewer systems, street lights and signage on property which Declarant or a Declarant Affiliate owns or within public rights-of-way or easements reserved for such purpose on Recorded plats;

(ii) inspecting, maintaining, repairing and replacing the utilities, infrastructure and other improvements described in Section 11.3(a)(i); and

(iii) access to read utility meters.

(b) Right to Grant Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in Exhibits "A" and "B." The Owner of any property to be burdened by any easement granted pursuant to this subsection (b) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, a perpetual, nonexclusive easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing any and all utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such Property.

11.5. Easements for Maintenance, Emergency and Enforcement.

Declarant grants to the Association easements over Baxter as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have

the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

11.6. Easements for Lake and Pond Maintenance and Flood Water.

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, improve, maintain, and repair structures and equipment used for retaining or draining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any of Baxter abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 50 feet of bodies of water and wetlands within Baxter, in order to (a) temporarily flood and back water upon and maintain water over such portions of Baxter; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

11.7. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement or condition which may exist on any portion of the property within Baxter, including Units, and a perpetual, nonexclusive easement of access throughout Baxter to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

Article XII Limited Common Areas

12.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Service Area or Service Areas. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians, turnabouts and closes, lakes and other portions of the Common Area within a particular Service Area or Service Areas. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be a Service Area Expense allocated among the Owners in the Service Area(s) to which the Limited Common Areas are assigned.

12.2. Designation.

Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Units and/or Service Areas, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area upon approval of the Board and the vote of Voting Members representing a majority of the total Class "A" votes in the Association and a majority of the total Class "B" votes in the Association. Limited Common Area may be reassigned upon approval of the Owners of those Units to which the Limited Common Area is assigned and the approval of the Owners of those Units to which it is to be reassigned. As long as Declarant or any Declarant Affiliate owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, any such assignment or reassignment shall also require Declarant's written consent.

12.3. Use by Others.

Upon approval of a majority of Owners of Units within the Service Area to which any Limited Common Area is assigned, the Association may permit Owners of Units in other Service Areas to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

Article XIII Party Walls and Other Shared Structures

13.1. General Rules of Law to Apply.

Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the

extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XIV.

13.2. Maintenance; Damage and Destruction.

The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

If a party structure 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 insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The success of Baxter as a neighborhood in which neighbors care about one another and work together for the good of the entire community requires good faith efforts to resolve disputes amicably, acknowledgment of Baxter's role in and relationship to the larger community, and protection of the rights of others who have an interest in the community.

Article XIV Dispute Resolution and Limitation on Litigation

14.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving Baxter without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 14.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance or dispute arising out of or relating to

- (i) the interpretation, application, or enforcement of the Governing Documents;
- (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or
- (iii) the design or construction of improvements within Baxter, other than matters of aesthetic judgment under Article IV, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 14.2:

- (i) any suit by the Association to collect Assessments or other amounts due from any Owner;
- (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Declaration (relating to creation and maintenance of community standards);
- (iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;
- (iv) any suit in which any indispensable party is not a Bound Party; and
- (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 14.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

14.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

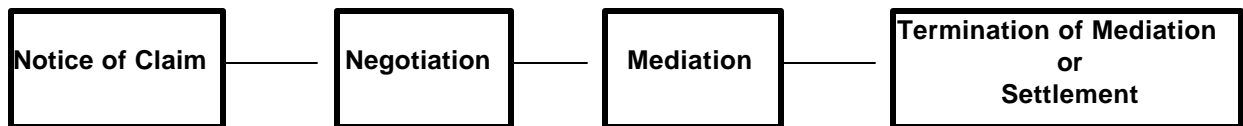
(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 14.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Charlotte, North Carolina area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator.

Alternative Dispute Resolution Process



(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

14.3. Initiation of Litigation by Association.

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Voting Members entitled to cast 75% of the total Class "A" and Class "B" votes in the Association, respectively, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class "C" Control Period;
- (b) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

Article XV Private Amenities

Various properties within, adjacent to, or in the vicinity of Baxter may be privately owned by Persons other than the Association ("Private Amenities") and may be made available for use by Owners and others for recreational purposes, pursuant to an agreement with the Association or otherwise. Access to and use of any Private Amenity is strictly subject to the rules and procedures of the owner of such Private Amenity, and except as may otherwise be set forth in a written agreement between the Association and the owner of the Private Amenity, no Person gains any right to enter or to use any Private Amenity solely by virtue of membership in the Association or ownership or occupancy of a Unit.

All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership, operation or availability of any Private Amenity. No purported representation or warranty in such regard, written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenity.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from

time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether. No consent of the Association, any Additional Association, the Voting Members, or any Owner shall be required to effectuate any change in ownership, operation or terms of access to any Private Amenity.

Article XVI Mortgage Provisions

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in Baxter. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

16.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of Baxter or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

16.2. Special FHLMC Provision.

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the first Mortgagees or Voting Members representing at least 67% of the total Association vote consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or

indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (a decision, including contracts, by the Board or provisions of any declaration subsequently Recorded on any portion of Baxter regarding assessments for Service Areas or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration);

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Units and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

16.3. Other Provisions for First Lien Holders.

To the extent not inconsistent with South Carolina law:

(a) Any restoration or repair of Baxter after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

16.4. Amendments to Documents.

The following provisions do not apply to amendments to the constituent documents or termination of the Association as a result of destruction, damage, or condemnation pursuant to Section 16.3(a) and (b), or to the addition of land in accordance with Article IX.

(a) The consent of Voting Members representing at least 67% of the Class "A" and Class "B" votes, respectively, and of the Class "C" Member, so long as it or a Declarant Affiliate owns any land subject to this Declaration, and the approval of the Eligible Holders of first Mortgages on Units to which at least 67% of the votes of Units subject to a Mortgage appertain, shall be required to terminate the Association.

(b) The consent of Voting Members representing at least 67% of the Class "A" and the Class "B" votes, respectively, and of the Class "C" Member, so long as it or a Declarant Affiliate owns any land subject to this Declaration, and the approval of Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to a Mortgage appertain, shall be required to amend in any material respect any provisions of the Declaration, By-Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of Baxter;
- (vii) expansion or contraction of Baxter or the addition, annexation, or withdrawal of Properties to or from the Association;
- (viii) boundaries of any Unit;
- (ix) leasing of Units;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or

(xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

16.5. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.6. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

16.7. Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

16.8. Construction of Article XVI.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the By-Laws, or South Carolina law for any of the acts set out in this Article.

16.9. HUD/VA Approval.

As long as there is a Class "C" membership, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either such agency is insuring or guaranteeing the Mortgage on any Unit: merger, consolidation or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; dedication, conveyance or mortgaging of Common Area; or material amendment of this Declaration or the By-Laws. The granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a conveyance within the meaning of this Section.

PART SEVEN: CHANGES IN THE COMMUNITY

Communities such as Baxter are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. Baxter and its Governing Documents must be able to adapt to these changes while protecting the things that make Baxter unique.

Article XVII Changes in Ownership of Units

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

Article XVIII Changes in Common Area

18.1. Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 67% of the total Class "A" votes in the Association and at least 67% of the total Class "B" votes in the Association, and of Declarant, as long as Declarant or any Declarant Affiliate owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking Declarant, so long as Declarant or a Declarant Affiliate owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and Voting Members representing at least 75% of the total Class "A" votes and the at least 75% of the total Class "B" votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.4(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement

is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

18.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for the partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

18.3. Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to York County, South Carolina, the Town of Fort Mill, or to any other local, state, or federal governmental or quasi-governmental entity or to any organization which is tax-exempt under the provisions of Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code, subject to such approval as may be required by Sections 16.9 and 18.4.

18.4. Actions Requiring Owner Approval.

If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees the Mortgage on any Unit, then the following actions shall require the prior approval of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association, and the consent of the Class "C" Member, if such exists: merger, consolidation or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; and dedication, conveyance or mortgaging of Common Area. Notwithstanding anything to the contrary in Section 18.1 or this Section, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

Article XIX Amendment of Declaration

19.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until conveyance of the first Unit to a Person other than a Builder, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage

Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, so long as Declarant or a Declarant Affiliate owns property described in Exhibits "A" or "B" for development as part of Baxter, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner without such Owner's consent in writing.

19.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing at least 75% of the total Class "A" votes in the Association, at least 75% of the total Class "B" votes in the Association, and the consent of Declarant, so long Declarant or a Declarant Affiliate owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1. In addition, the approval requirements set forth in Article XVI shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

19.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "C" Member without the written consent of the Declarant or the Class "C" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

19.4. Exhibits.

Exhibits "A," "B," and "E" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. All other exhibits are attached for

informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

DECLARANT: CLEAR SPRINGS - BAXTER, LLC, a North Carolina limited liability company

BY: Clear Springs Development Company, LLC, a North Carolina limited liability company, its managing member

By: _____

Name: _____

Its: _____

Attest: _____

Name: _____

Its: _____

STATE OF SOUTH CAROLINA

YORK COUNTY

PERSONALLY appeared before me _____ and made the oath that (s)he saw the within-named named Clear Springs Development Company, LLC, a North Carolina limited liability company, managing member of Clear Springs - Baxter, LLC, a North Carolina limited liability company, by its duly authorized officer, _____ as _____, sign and seal and, as the act and deed of said limited liability company, deliver the within instrument, and that (s)he with _____, the other witness named above witnessed the execution thereof.

Sworn to before me this _____ day of _____, 199____:

Notary Public for the State of South Carolina
My Commission Expires: _____

EXHIBIT "A"

Property Initially Submitted

All those tracts or parcels of land lying and being in Fort Mill Township, York County, South Carolina, and being more particularly described as follows:

Lots 73 through 123, inclusive; Lots 187 through 189, inclusive; such lots being assigned to **Voting Cluster No. 1**; and

Civic Lot 148 and PUL-1;

all as shown on that certain plat of Baxter Area Subdivision, Phase II-A, recorded in the Office of the Clerk of Court for York County, South Carolina, on October 20, 1998, in Book B-24, at Pages 1-2, as it may be revised or amended.

EXHIBIT "B"

Property Subject to Annexation

Any real property lying within a 5-mile radius of the perimeter boundaries of the property described on Exhibit "A".

EXHIBIT "C"

Initial Restrictions and Rules

The following restrictions shall apply to all of Baxter until such time as they are amended, modified, repealed or limited pursuant to Article III of the Declaration.

1. Restricted Activities. The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Any activity which tends to cause an unclean, unhealthy or unsafe condition to exist outside of enclosed structures on the Unit;

(b) Any activity which emits foul or obnoxious odors, fumes, dust, smoke, or pollution outside the Unit or which creates noise, unreasonable risk of fire or explosion, or other conditions which are a nuisance provided, nothing herein shall preclude normal and customary operation of any restaurant;

(c) Any activity which violates local, state or federal laws or regulations;

(d) Outside burning of trash, leaves, debris or other materials;

(e) Outdoor storage of goods, materials, or equipment, except that (1) outdoor storage of building materials shall be permitted during construction on the Unit on which such materials are being stored; and (2) outdoor retail displays shall be permitted; and (3) and outdoor dining facilities shall be permitted;

(f) Fishing, swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams or other bodies of water within Baxter. Neither Declarant nor the Association shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams or other bodies of water within Baxter;

(g) Any activity which would constitute a public or private nuisance;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any storm sewer, drainage ditch, or other component of the

storm drainage system serving Baxter, any stream, pond, or lake, or elsewhere within Baxter, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;

(k) Subdivision of a Residential Unit into two or more Units, or changing the boundary lines of any Residential Unit after a subdivision plat including such Residential Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;

(l) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;

(m) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(n) On-site storage of gasoline, heating, or other fuels on Residential Units, except that a reasonable amount of propane gas and other fuel may be stored on each Unit for emergency purposes and operation of gas cooking grills, lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV;

(o) Use of any Residential Unit for a business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Residential Unit may conduct business activities within the Residential Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for Baxter; (iii) the business activity does not involve door-to-door solicitation of residents of Baxter; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in Baxter which is noticeably greater than that which is typical of Residential Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of Baxter and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Baxter, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder

approved by Declarant with respect to its development and sale of Baxter or its use of any Units which it or any Declarant Affiliate owns within Baxter;

(p) Capturing, trapping or killing of wildlife within Baxter, except in circumstances posing an imminent threat to the safety of persons using Baxter;

(q) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within Baxter or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(r) Operation of motorized vehicles on pathways or trails maintained by the Association;

(s) Overnight or regular parking of commercial vehicles or equipment, motor homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than enclosed garages or such other areas, if any, as the Board may designate within the Common Area; provided, the Board may (but shall not be obligated to) grant permission for visitors to temporarily park such vehicles overnight on driveways or streets for a period not to exceed seven days or nights while visiting the occupants of a Unit;

(t) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except as specifically authorized in Paragraph 3(d) of this Exhibit and otherwise in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind.

2. Prohibited Uses. In addition to uses which are inconsistent with applicable zoning or are prohibited or restricted by other recorded covenants, conditions, restrictions or easements, the following uses are prohibited within Baxter:

(a) trailer courts, mobile home parks, and recreation vehicle campgrounds;

(b) oil, gas or mineral exploration; drilling, boring, excavation, development, refining, quarrying, or mining operations, and all construction and equipment incident thereto; and oil or gas wells or related equipment or facilities, except that nothing herein shall preclude the operation of automobile service stations or water wells, to the extent permitted under the Architectural Guidelines and approved pursuant to Article IV;

(c) junk yards, scrap metal yards, automobile used parts and/or dismantling operations and sanitary landfills, except that nothing herein shall preclude recycling centers established solely for the collection and sorting of household recyclable materials provided that the same are not unsightly;

(d) commercial excavation of building or construction materials, except in the usual course of construction of improvements;

(e) dumping, storage, disposal, incineration, treatment, processing or reduction of garbage, or refuse of any nature, except as is incidental to the use, operation and ownership of any property (or a portion thereof) in accordance with this Declaration and in a manner which is not unsightly and does not result in noxious odors emitting from the subject property;

(f) lumberyards, sawmills, or outdoor storage of building or construction materials (except in the usual course of construction on the site where stored);

(g) flea markets, and ongoing fire and bankruptcy sale operations;

(h) truck terminals and truck stop-type facilities (specifically excluding loading docks and similar facilities incidental to the use, operation and ownership of any property or a portion thereof in accordance with this Declaration);

(i) massage parlors, and any establishment which offers entertainment or service which includes nude or partially dressed male or female persons;

(j) any industrial use; and

(k) "adult entertainment uses," which terms shall mean, for the purposes of this Declaration, any theater or other establishment which shows, previews, or prominently displays, advertises, or conspicuously promotes for sale or rental: (i) movies, films, videos, magazines, books, or other medium (whether now or hereafter developed) which is rated "X" by the movie production industry (or any successor rating established by the movie production industry) or is otherwise of a pornographic or obscene nature; or (ii) sexually explicit games, toys, devices, or similar merchandise.

3. Prohibited Conditions. The following shall be prohibited at Baxter:

(a) Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Baxter;

(b) Structures, equipment or other items on the exterior portions of a Unit which have become rusty, dilapidated or otherwise fallen into disrepair; and

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within Baxter, except that Declarant and the Association shall have the right to draw water from such sources and the Reviewer pursuant to Article IV may, in its discretion, approve a private water well on certain Units

which the Reviewer determines to be of sufficient size to accommodate a well without adversely impacting neighboring property;

(d) Satellite dishes, antennae and similar devices for the transmission of television, radio, satellite, or other signals of any kind, except that (i) Declarant and the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of Baxter, and (ii) antennae or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (b) antennae or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; or (c) antennae or satellite dishes designed to receive television broadcast signals ("Permitted Devices") shall be permitted, *provided that* any such Permitted Device is placed in the least conspicuous location on the Unit in which an acceptable quality signal can be received and is screened from the view of adjacent Units, streets and Common Areas in a manner consistent with the Community-Wide Standard and the Architectural Guidelines.

4. Leasing of Units. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing and shall have an initial term of at least six months. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the Restrictions and Rules.

EXHIBIT "D"

Formula For Determining Liability for Assessments and Voting Rights for Nonresidential Units

(A) **Determination of Equivalent Units.** Assessment obligations and voting rights for Nonresidential Units shall be based upon the number of "Equivalent Units" assigned to a particular Unit relative to a Residential Unit, with each Residential Unit constituting 1.00 Equivalent Unit. Each Nonresidential Unit shall be assigned "Equivalent Units" based upon the land use classification into which it falls, as determined by applicable zoning or actual use. In the event that the land use classification for a particular Unit is not clear, the determination of land use classification made by the Board shall be controlling; provided, the land use classification of a Unit hereunder shall not be changed once established unless there has been a change in the predominant use of the Unit. Each Unit shall be assigned a minimum of one (1.00) Equivalent Unit.

<u>Land Use Classification</u>	<u>Equivalent Units</u>
Attached or detached single family dwelling (occupied or certified for occupancy by appropriate governmental authority)	1.00
Restaurant, retail and/or service establishments, financial services and institutions, health clubs, sports, recreation, and entertainment	1.0 per acre of land comprising the Unit*
Lodging, office space, clinics, hospitals and other medical facilities, research laboratories	1.0 per acre of land comprising the Unit*
Office/warehouse, warehouse, mini-storage or manufacturing facilities	1.0 per acre of land comprising the Unit*
Public pay parking lots and garages	1.0 per acre of land comprising the Unit*
Art galleries, museums, places of worship, libraries, nonprofit educational and cultural institutions and facilities	1.0 per acre of land comprising the Unit*
Multi-family residential (improved) (for sale or rent)	1.0 per 3 dwelling units (rounded up to nearest 3)
Unimproved land intended for multi-family residential use (for sale or rent)	1.0 per 3 dwelling units permitted by applicable zoning (rounded up to nearest 3)
Other unimproved land intended for nonresidential use *(rounded to the nearest full Equivalent Unit).	1.0 per acre of land comprising the Unit*

Any Unit assigned Equivalent Units on the basis of acreage and exceeding 4 acres in size shall be assigned 50% of the Equivalent Units otherwise specified above for any acreage in excess of 4 acres on which no structures are constructed.

For example, a residential rental apartment complex consisting of 212 apartments would be assigned 71 Equivalent Units ($212/3 = 70.66$, rounded up to 71). A mixed-use building on a 2.5 acre parcel consisting of retail space on the ground floor with offices on the second floor would be assigned 3 Equivalent Units ($2.5 \text{ acres} \times 1 = 2.5$, rounded up to 3).

In the case of Units within a condominium, each such Unit shall be deemed to contain the area of land determined by multiplying the Unit's percentage interest in the common elements of such condominium by the total square footage of land comprising the condominium. In the case of Units subject to the jurisdiction of an Additional Association which holds title to common property for the benefit of such Units, each such Unit shall be deemed to include, in addition to the land within the boundaries of the Unit, its pro rata share of the common property of such Additional Association, based upon the percentage liability for common expenses of such owners association attributable to the Unit.

The land use classification of a Nonresidential Unit shall be deemed to be unimproved land until the earlier of:

- (a) the date upon which a certificate of occupancy is issued by the appropriate governmental authority for the improvements constructed on or comprising the Unit; or
- (b) the date upon which the Unit is actually used or occupied for purposes other than construction of improvements thereon;

at which time it shall be reclassified under the land use for which the improvements were designed and intended, if vacant, or the actual use, if occupied.

If an occupied Unit is subsequently vacated, it shall continue to be classified under the last land use classification assigned to such Unit prior to it being vacated, until the date of commencement of a new business, operation or activity in or from such Unit which more appropriately falls under a different land use classification.

(B) Calculation of Assessments and Votes. The Base Assessment and any Special Assessment for Common Expenses shall be determined for each Nonresidential Unit by multiplying the total amount of the assessment allocable to Nonresidential Units under Section 8.1 of the Declaration by a fraction, the numerator of which is the number of Equivalent Units assigned to the particular Nonresidential Unit and the denominator of which is the total number of Equivalent Units assigned to all Nonresidential Units subject to such assessment. For all other assessments, the liability of a Nonresidential Unit shall be determined by multiplying the total amount to be assessed by a fraction, the numerator of which is the number of Equivalent Units assigned to such Nonresidential Unit and the denominator of which is the total number of Equivalent Units assigned to all Units subject to such

assessment under Article VIII, with each Residential Unit having an Equivalent Unit of 1.00. The votes attributable to each Nonresidential Unit shall be equal to the number of Equivalent Units assigned to the Unit.

(C) **Computation by Board.** The Land Use Classification and number of Equivalent Units assigned to each Unit, and the percentage of assessments to be levied on each Unit subject to assessment shall be computed at least annually by the Board of Directors as of a date which is not less than 60 days prior to the beginning of each fiscal year. If the use of the Unit changes during the fiscal year, the Board shall be authorized to adjust the assessment against the Unit effective with such change in use, but the Board need not reallocate assessments against all Units to take into account such change until the budget is redetermined. Notice of the percentages for each Unit (including a summary of the computations) shall be sent to each Owner together with the notice of the assessment.

In the event that additional real property is made subject to this Declaration between annual cutoff dates for computation of Equivalent Units, the Board shall recompute assessment and voting percentages for each Unit and send notice of such recomputed percentages to each Owner; provided, however, no adjustments shall be made in any assessments previously levied to reflect such recomputation.

EXHIBIT "E"

By-Laws of Baxter Community Association, Inc.

Upon recording, please return to:

Clear Springs Development Company, L.L.C.
One Peach Lane
Fort Mill, South Carolina 29715

**DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS**

FOR

BAXTER

HYATT & STUBBLEFIELD, P.C.
Attorneys and Counselors
1200 Peachtree Center South Tower
225 Peachtree Street, N.E.
Atlanta, Georgia 30303

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