

# TOWN OF SEABROOK ISLAND

Planning Commission Regular Meeting

January 8, 2020 – 1:30 PM

Town Hall, Council Chambers

2001 Seabrook Island Road



## AGENDA

### CALL TO ORDER

### ELECTION OF CHAIR & VICE-CHAIR FOR 2020

### APPOINTMENT OF SECRETARY FOR 2020

### APPROVAL OF MINUTES

1. Regular Meeting: December 4, 2019

[Pages 2–6]

### OLD BUSINESS ITEMS

*There are no Old Business Items*

### NEW BUSINESS ITEMS

1. PUD Amendment: Village at Seabrook

[Pages 7–85]

An ordinance adopting a second amendment to the Planned Unit Development for the Village at Seabrook (Formerly known as “Area Six” and the “Lake Entry Tract”)

### ITEMS FOR INFORMATION / DISCUSSION

*There are no Items for Information / Discussion*

### ADJOURN

# TOWN OF SEABROOK ISLAND

## Planning Commission Regular Meeting

December 4, 2019 – 1:30 PM

Town Hall, Council Chambers  
2001 Seabrook Island Road



## MINUTES

Present: Robert Driscoll (Chair), Ken Otstot (Vice Chair), Cathy Patterson, Joe Cronin (Town Administrator)

Absent: Wayne Billian, Stan Ullner

Guests: Heather Paton (SIPOA), Katrina Burrell (SIPOA), Andrew Dupps (The Greenery), Kenneth Miller (Kenneth Miller Architecture, LLC)

Chairman Driscoll called the meeting to order at 1:30 PM and welcomed everyone in attendance. Town Administrator Cronin confirmed that the requirements of the Freedom of Information Act were fulfilled, and the meeting agenda was properly posted.

### APPROVAL OF MINUTES

1. **Regular Meeting: November 6, 2019:** Ms. Patterson noted an error in the third paragraph on page 3 of the draft minutes and offered a correction. Ms. Patterson made a motion to approve the minutes from the November 6, 2019, meeting as amended. Mr. Otstot seconded the motion. The motion was **APPROVED** by a vote of 3-0.

### OLD BUSINESS ITEMS

*There were no Old Business Items.*

### NEW BUSINESS ITEMS

1. **Commercial Review: Salty Dog Café (Walkway Extension and Fire Pit):** Chairman Driscoll called on representatives from the Salty Dog Café to present their request. Mr. Andrew Dupps from the Greenery (contractor) spoke on behalf of the applicants. Mr. Dupps stated that the applicants were seeking to extend a five-foot wide composite walkway at the rear of the restaurant. This material would be similar in size and appearance to the existing walkways on the property. The applicants were also seeking approval to install a 56-inch fire pit inside a new concrete patio which was proposed to be 13-feet in diameter. The fire pit and patio would also be located at the rear of the restaurant, between an existing patio and the boardwalk along Bohicket Creek.

Chairman Driscoll asked whether staff had any comments and recommendations. Town Administrator Cronin noted that the plans presented during today's meeting were slightly different than those submitted in advance of the meeting. He stated that he did not have any concerns about the walkway, but that a concrete patio would need to be set back at least 25 feet from the critical line. Based on the location of the critical line, a 13-foot patio in the proposed location would encroach into the setback. To install a patio in this location, the applicants would first need to apply for a variance from the Board of Zoning Appeals. He noted that if the applicants instead chose to install a paver patio with pervious base, it would only need to be 15 feet from the critical line. Otherwise, absent a variance, the concrete patio would either need to be reduced in size or placed further back from the critical line. Mr. Dupps stated that he would need to take these comments back to the Salty Dog to determine how they would like to proceed.

Chairman Driscoll asked if there was anything that the Planning Commission could approve today. Town Administrator Cronin responded that the Planning Commission could authorize the Town Administrator to issue the permit for an alternate patio design and/or location that conforms to the town's setback requirements.

Chairman Driscoll made a motion to approve the walkway extension, and to authorize the Town Administrator to issue a permit for a *pervious* patio located at least 15 feet from the critical line, or a *concrete* patio located at least 25 feet from the critical line. Mr. Otstot seconded the motion. The motion was **APPROVED** by a vote of 3-0.

2. **Architectural Review: Village at Seabrook "Garden Gem" Model:** Town Administrator Cronin provided a brief overview of the request, the purpose of which was to review and approve a new single-family home design for use in the Village at Seabrook. Town Administrator Cronin stated that the proposed "Garden Gem" model, which was prepared by Kenneth Miller of Kenneth Miller Architecture, LLC, had been reviewed and approved by both the Village at Seabrook Regime Board, as well as the SIPOA Architectural Review Committee. Therefore, town staff recommended in favor of approval.

Ms. Patterson stated that she was the president of the Village at Seabrook Board and, therefore, would be recusing herself from voting on this item. ***(See attached recusal statement.)***

Chairman Driscoll asked Ms. Patterson, as president of the Village at Seabrook Board, to confirm that the model had in fact been approved by the regime. Ms. Patterson responded in the affirmative, noting that the regime board required that the chimney shroud must match the roof, consistent with the regime standard. Chairman Driscoll also asked Ms. Katrina Burrell, ARC Administrator for SIPOA, to confirm whether the model had been approved by the ARC. Ms. Burrell also responded in the affirmative.

Chairman Driscoll made a motion to approve the architectural design of the Garden Gem model on Lot B-26 in the Village at Seabrook (3037 Seabrook Village Drive). Mr. Otstot seconded the motion. The motion was **APPROVED** by a vote of 2-0, with Ms. Patterson recused.

Chairman Driscoll then made a subsequent motion to classify the Garden Gem model as an “approved model” within the Village at Seabrook, and to authorize the Town Administrator to approve the use of this model on other lots within the Village without the necessity of additional review and approval by the Planning Commission. Mr. Otstot seconded the motion. The motion was **APPROVED** by a vote of 2-0, with Ms. Patterson again recusing herself from voting on this matter.

- 3. 2020 Planning Commission Meeting Schedule:** Town Administrator Cronin provided a draft meeting schedule for 2020. He stated that the regularly scheduled Planning Commission meeting was proposed to be moved from the first Wednesday of each month to the second Wednesday of each month, but that the start time of each meeting would remain at 1:30 PM. The only month that would deviate from this schedule would be November, due to the Veterans Day holiday falling on the second Wednesday. Therefore, the November meeting was proposed for November 4, 2020. Chairman Driscoll made a motion to approve the meeting schedule as presented. Ms. Patterson seconded the motion. The motion was **APPROVED** by a vote of 3-0.

#### **ITEMS FOR INFORMATION / DISCUSSION**

- 1. Request for Zoning Text Amendment: SIPOA LED Signs:** Town Administrator Cronin noted that the Planning Commission had previously requested additional information from SIPOA regarding their request to amend the Development Standards Ordinance (DSO) to allow LED signs within the town limits. Town Administrator Cronin stated that he had received a letter from SIPOA in response to this request and a copy of the letter was included in the agenda packet. Chairman Driscoll recognized Ms. Heather Paton, the Executive Director of SIPOA, who was in the audience. Ms. Paton provided additional information regarding this request. Prior to drafting a text amendment, Town Administrator Cronin stated that he wanted to get some guidance from the Planning Commission regarding 1) whether they believe the DSO should be amended to allow LED signs; and 2) if so, what types of restrictions (if any) should be put in place to govern their use. A detailed discussion took place regarding types and potential locations of LED signs, general restrictions, pros and cons, and legal considerations. The general consensus of the Planning Commission was that the DSO should be amended to allow LED signs, but only in very limited circumstances. Town Administrator Cronin stated that he would work with the SIPOA and the Town Attorney to prepare a draft text amendment that achieves these objectives.
- 2. Freshfields Senior Living Facility Encroachment Permit Update:** Town Administrator Cronin notified members of the Planning Commission that he had issued a formal encroachment permit to Atlantic Partners II on November 22, 2019, subject to the terms and conditions of the settlement agreement. This was the final step in the approval process for this project. He stated that representatives from the town also met with representatives from Atlantic Partners II, Big Rock, Balfour Beatty, the Reveer Group and the Town of Kiawah Island on November 14<sup>th</sup> to discuss “next steps” and timelines for the project.
- 3. PUD Amendment: Village at Seabrook:** Town Administrator Cronin stated that he was



continuing to work on the PUD amendment for the Village at Seabrook and would likely have it ready for the January meeting. He stated that he intended to have it on the agenda for today's meeting; however, he was unable to complete the draft ordinance due to an unexpected medical emergency in mid-November that kept him out of the office for the better part of two weeks.

- 4. Commissioner Recognition:** Town Administrator Cronin presented Chairman Driscoll with a Certificate of Community Service from Mayor John Gregg in recognition for his six years of service on the Planning Commission. Chairman Driscoll's term on the Planning Commission was scheduled to expire at the end of the year and he had elected not to seek reappointment for an additional term. Ms. Patterson announced that today would also be her last meeting as a member of the Planning Commission. She stated that she intended to resign at the end of the year in order to care for a member of her family who was ill. Town Administrator Cronin also recognized Ms. Patterson and thanked her for her service to the town.

There being no further business, Chairman Driscoll asked for a motion to adjourn. Ms. Patterson made a motion to adjourn the meeting. Mr. Otstot seconded the motion. The motion was **APPROVED** by a vote of 3-0, and the meeting was adjourned at 3:16 PM.

Minutes Approved:



Joseph M. Cronin  
Town Administrator





## MEMORANDUM

**TO:** Town of Seabrook Island Planning Commission Members  
**FROM:** Joseph M. Cronin, Town Administrator  
**SUBJECT:** PUD Amendment: Village at Seabrook  
**MEETING DATE:** January 8, 2020

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The Planning Commission is asked to review and provide a recommendation to Town Council on an ordinance to amend the Planned Unit Development (PUD) ordinance for the Village at Seabrook subdivision.

The original PUD for the Village at Seabrook, previously known as “Area Six” or the “Lake Entry Tract,” was originally adopted by Town Council on February 22, 2000 (Ord. 2000-01). The PUD ordinance was subsequently amended by Council on June 5, 2000 (Ord. 2000-08). A final subdivision plat was recorded in December of 2001, and construction of new residential units began shortly thereafter.

Because the Village was developed as a PUD, it is subject to a variety of project-specific zoning requirements. Among these are the following setback requirements, which were incorporated into the concept plan attached as Exhibit B to Ordinance 2000-08:

- Front Yard Setback: 30 feet
- Side Yard Setback: 15 foot separation between structures
- Rear Yard Setback: 25 feet (15 feet for open decks when abutting open space areas)

One of the primary concerns raised by some residents in the Village has been the absence of a defined side yard setback requirement. In June of 2019, the Zoning Administrator issued a written determination that the current PUD ordinance does not establish a minimum side yard setback, and instead requires only a 15-foot separation between structures. A resident of the Village at Seabrook regime subsequently filed an appeal of this determination. The Board of Zoning Appeals considered this appeal on August 15, 2019, at which time they unanimously upheld the Zoning Administrator’s determination.

The Village PUD also contains a provision that in the event of conflict between the PUD ordinance and the DSO, the more restrictive shall prevail. Over time, there have been several text amendments to loosen the requirements of the DSO. One of these amendments allows uncovered steps to encroach up to 10’ into the required front yard setback. Another amendment allows a reduced front yard setback along secondary frontages for corner lots. Because the Village PUD was never amended to incorporate these changes, the PUD is more restrictive and, at least technically, should control. However, previous Zoning Administrators have applied these changes to new development within the Village, even though it conflicts with the PUD ordinance.

The Village PUD also contains a provision which incorporates the private covenants and restrictions for the regime into the ordinance as Exhibit C. This is a highly unusual situation which has caused additional confusion. For example, the covenants and restrictions require architectural review and approval by the Planning Commission, even though detached single-family residences are exempt by ordinance. Inclusion of the covenants and restrictions into the PUD ordinance also creates confusion as to whether the regime can unilaterally amend its covenants, or whether the town must also amend the PUD ordinance. For example, the regime board has amended its covenants to implement maximum square footage requirement for residential dwellings; however, this requirement was never incorporated into the PUD.

For these reasons, Town Council requested in 2019 that the Planning Commission review and prepare a draft ordinance to amend the requirements of the Village PUD. The attached ordinance, if adopted, will accomplish the following:

- Incorporates a provision from the current DSO to allow corner lots to take advantage of a reduced front yard setback (20 feet) along the secondary street frontage;
- Incorporates a provision from the current DSO to allow uncovered front steps to encroach into a front yard setback;
- Establishes a minimum side yard setback of 7.5 feet, unless, however, a structure on a neighboring lot is situated less than 7.5 feet from the shared side property line. In such instances, an additional setback will be required to ensure that no two structures are situated less than 15 feet apart;
- Incorporates a provision from the current DSO to allow a reduced rear yard setback for uncovered decks when the lot abuts an open space area;
- Clarifies the rear yard setback requirement for pie-shaped lots which do not have a defined rear property line;
- Clarifies that corner lots are defined to have two front yards and two side yards, consistent with the requirements of the DSO;
- Removes the private covenants and restrictions for the Village at Seabrook regime from the text of the PUD ordinance;
- Exempts detached residential units in the Village from the architectural review requirements of Section 14 of the DSO, as long as the architectural plans have been reviewed and approved by a duly constituted architectural review board (similar to all other single-family homes); and
- Specifies that in the event of conflict between the PUD ordinance and the Town Code and/or DSO, the provisions of the PUD ordinance shall prevail.

### **Staff Recommendation**

While the majority of these changes may be considered minor “clarifications” or “updates” to bring the PUD into conformity with the DSO, there will inevitably be some impacts to existing property owners.

To date, there have been 57 homes completed in the Village. Of these, a total of 23 (40.4%) contain at least one side yard setback that is less than 7.5 feet. As a result, these 23 homes will become non-conforming with the requirements of the amended PUD ordinance. While any existing home would

be considered existing non-conforming (ie. “grandfathered”), all future modifications and/or improvements to those homes (including additions, accessory structures and HVAC and generator stands) would need to conform to the new setback requirements. Therefore, this ordinance has the *potential* to create a hardship for the owners of those 23 homes.

On the other hand, the imposition of a 7.5 minimum side yard setback creates more certainty for the owners of vacant lots, as well as those abutting vacant lots. These amendments will ensure that all new structures (and modifications to existing structures) are located at least 7.5 feet from a shared property line. In the event there is an existing home on a neighboring lot which is less than 7.5 feet from the shared property line, a larger setback would still be required to ensure that no two structures are situated less than 15 feet apart.

This ordinance has been prepared at the request of the Mayor and Council and, therefore, is a policy decision of Council.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Cronin', written in a cursive style.

Joseph M. Cronin  
Town Administrator

**TOWN OF SEABROOK ISLAND**

**ORDINANCE NO. 2020-01**

**ADOPTED \_\_\_\_\_**

**AN ORDINANCE ADOPTING A SECOND AMENDMENT TO THE PLANNED UNIT DEVELOPMENT FOR THE VILLAGE AT SEABROOK (FORMERLY KNOWN AS “AREA SIX” AND THE “LAKE ENTRY TRACT”)**

**WHEREAS**, on February 22, 2000, the Mayor and Council for the Town of Seabrook Island adopted Ordinance 2000-01, entitled “An Ordinance to Adopt a Planned Unit Development Within Area Six (Lake Entry Tract)”; and

**WHEREAS**, on June 5, 2000, the Mayor and Council for the Town of Seabrook Island adopted Ordinance 2000-08, entitled “An Ordinance to Amend the Planned Unit Development Within Area Six for the Lake Entry Tract (Developed as the Village at Seabrook)”; and

**WHEREAS**, the Mayor and Council for the Town of Seabrook Island now wish to amend the Planned Unit Development ordinance for Lake Entry Tract, now known as the “Village at Seabrook,” so as to modify the setback requirements and other development standards related to the the Village at Seabrook; and

**WHEREAS**, the Mayor and Council for the Town of Seabrook Island believe it is fitting and proper to amend the requirements of the Planned Unit Development for the Village at Seabrook so as to clarify and standardize the setback requirements for future development; and

**WHEREAS**, the Mayor and Council for the Town of Seabrook Island advertised and held a public hearing on the proposed amendments during a duly called meeting on February 25, 2020, with public comments duly noted;

**NOW, THEREFORE**, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, **BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE TOWN OF SEABROOK ISLAND:**

**SECTION 1. Purpose**

This ordinance is adopted to amend the Planned Unit Development for the Village at Seabrook (formerly known as “Area Six” and the “Lake Entry Tract”), which was established by Ordinance 2000-01 on February 22, 2000, and amended by Ordinance 2000-08 on June 5, 2000.

**SECTION 2. PUD Amended**

The ~~Lake Entry Tract~~ Village at Seabrook PUD (Application #1739 as amended) (Exhibit A) is hereby approved and adopted. The approved amendments to the application which shall constitute the PUD for this property are shown on the map attached as Exhibit B and incorporated herein by reference; provided, however, the Land Use Summary contained within the attached Exhibit B is hereby amended to read as follows:



## LAND USE SUMMARY

**TMS #:** [Formerly known as](#) 147-00-00-009

**Total Area (Including Lake):** 42.219 AC

- Common Area and Lake: 8.33 AC
- Seabrook Island Road: 2.5 AC
- Residential: 22.84 AC
- Buffers: 3.0 AC
- Residual Tract (Ground Lease): 5.54 AC

**Proposed Land Use:** Detached Multi-Family Residential

**Minimum Lot Size:** 6,000 S.F.

**Maximum Lot Coverage:** 40%

**Setbacks:** ~~30' Front~~  
~~15' Side (To Total 15')~~  
~~25' Rear~~

- [Front Yard Setbacks: The minimum front yard setback shall be 30 feet from the street right-of-way; provided, however:](#)
  - [For corner lots wherein one street frontage is a cul-de-sac street, the minimum front yard setbacks shall be 30 feet from the cul-de-sac street right-of-way and 20 feet from the intersecting street right-of-way; and](#)
  - [Uncovered front steps may extend into a front yard setback, but must be set back at least 20 feet from the street right-of-way.](#)
- [Side Yard Setbacks: The minimum side yard setback shall be 7.5 feet from all side property lines; provided, however:](#)
  - [In instances where an existing structure on a neighboring lot is situated less than 7.5 feet from the shared property line, a larger setback shall be required in order to ensure a minimum separation of at least 15 feet between structures.](#)
- [Rear Yard Setbacks: The minimum rear yard setback requirement shall be 25 feet from the rear property line; provided, however:](#)

- For lots abutting an open space area (lake, lagoon, golf course, trail, etc.), an uncovered deck may encroach no more than 10 feet into the required rear yard setback; and
- For pie-shaped lots that do not have a defined rear property line from which to apply a rear yard setback, the rear yard setback shall be measured from the point where the side property lines intersect at the rear of the property; and
- Pursuant to Section 7.60.10.10 of the DSO, corner lots are defined to have two front yards and two side yards. Therefore, a rear yard setback shall not be required for any corner lot.

The Lake Entry Tract PUD is subject to all of the requirements of the Town Code and DSO ~~including but not limited to DSO Sections (7) and (8);~~ provided, however, all detached residential units within the Village at Seabrook shall be treated as “single-family detached residential units” and, therefore, shall not be subject to the architectural review requirements for multi-family development, as outlined in Section 14 of the DSO, as long as the architectural plans have been reviewed and approved by a duly constituted architectural review board. In the event of conflict between this ordinance and the Town Code and/or DSO, the provisions of this ordinance shall prevail. The applicant further agrees that all roads within the PUD as well as the six-acre lake shall be deeded to the Seabrook Island Property Owner’s Association. ~~In addition, subject to the provisions set forth above, the terms and conditions of the Declarations as approved and modified by the Planning Commission, a copy of which is attached as Exhibit C and incorporated herein by reference, are hereby adopted as additional terms and restrictions of this PUD and the zoning granted therein. In the event of any conflict between the terms of the Declarations and the DSO or Town Code, the more restrictive shall apply.~~

**SECTION 3. Codification**

The Development Standards Ordinance of the Town of Seabrook Island, South Carolina; Article 6, Approved Planned Developments; Section 6.80, The Village at Seabrook, a/k/a Lake Entry Tract, PDD, is hereby amended so as to replace the existing language in Section 6.80 with the language contained in Section 2 of this ordinance.

**SECTION 4. Severability.**

If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, it shall be construed to have been the legislative intent of Town Council to pass said ordinance without such unconstitutional provision, and the validity of all remaining sections, subsections, paragraphs, clauses, or provisions of said ordinance shall not be affected thereby. If said ordinance, or any provision thereof, is held by the final decision of a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

**SECTION 5. Conflicting Ordinances Repealed.**



All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 5. Effective Date.**

This ordinance shall be effective from and after the date of adoption.

**SIGNED AND SEALED** this \_\_\_\_ day of \_\_\_\_\_, 2020, having been duly adopted by the Town Council for the Town of Seabrook Island on the \_\_\_\_ day of \_\_\_\_\_, 2020.

First Reading: January 28, 2020  
Public Hearing: February 25, 2020  
Second Reading: February 25, 2020

TOWN OF SEABROOK ISLAND

\_\_\_\_\_  
John Gregg, Mayor

ATTEST

\_\_\_\_\_  
Faye Allbritton, Town Clerk

**TOWN OF SEABROOK ISLAND**

**ORDINANCE NO. 2020-01**

**Exhibit A**

PUD Application (As Amended)

Town of Seabrook Island - Zoning Permit

Permit Date: 03/27/1997 Permit #, Town: 1739 License #: 0  
TMS Number: 147-00-00-009 Thru: And: Paid Date: 03/27/1997  
App Fee: \$820.00 Cash: No Check #: 1008

Applicant Name: Seabrook Island I.L.C. Phone:  
Contact Name: Hank Hofford or Dave Savitz  
App Address1: 17 Lockwood Dr. The Rice Hill  
App Address2:  
App City: Charleston St: SC Zip: 29402

Property Owner: Seabrook Island I.L.C. Phone: 722-8200  
Owner Address1: P.O. Box 1707  
Owner Address2:  
Owner City: Charleston St: SC Zip: 29455

Property Location: Lot: Block:  
Property Address: 56 acre lake entry tract

Purpose: Submittal of a Planned Unit Development for property presently known as the Lake Entry Site. This property is just past the gate on the left leading into the Island.

Work Value: \$0.00 Const Cost: \$0.00 Flood Elev: 13 Zone: A8

Architectural Review Board:

Comments: Requires Recommendation of Planning Commission and approval of Town Council

The Town Council voted on June 24, 1997 to accept the Planning Commission recommendation that this application be denied because it did not meet sec 8.10.0 \*\*\*\* March 22, 2000, The Town Council voted to approve the amended PUD which changes the development from a Health Care Facility to a development of 106 Multi-Family lots. \*\*\*\*  
Amendment: 2/4/2000 to amend this application for a planned development of a health care facility to a planned multi-family development of 106 units.

This Zoning Permit is valid for six (6) months. The action for which this permit was obtained must be taken within that time period.  
If this zoning permit is for issuance of a building permit, such building permit is valid for a period of one (1) year as described in the town code.  
Any extentions, alterations, or amendments must be approved in writing by the Town of Seabrook Island Zoning Administration.

I hereby certify that the above information and any plan or drawing submitted herewith are true and accurate indications of existing or proposed improvements to the above identified property.

Owner/Applicant's Signature  
Wednesday, January 12, 2000

*Jay M. Smith*  
Zoning Administrator  
Wednesday, January 12, 2000

*Jana Aggs*  
Printed Name

APPROVED BY TOWN COUNCIL  
OK ~~JAN 25, 2000~~  
MARCH 22, 2000  
P.M.D.

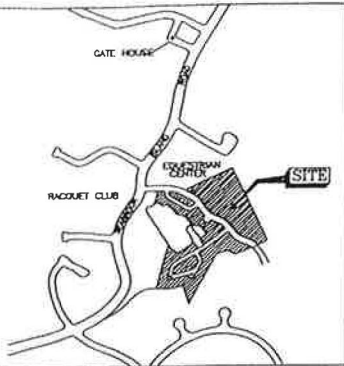
**TOWN OF SEABROOK ISLAND**

**ORDINANCE NO. 2020-01**

**Exhibit B**

Village at Seabrook Project Map (As Amended)

Exhibit B



LOCATION MAP  
NOT TO SCALE

CURVE	RADIUS	LENGTH	DELTA	TANGENT	BEARING	CHORD
C1	428.97	355.86	47°31'49"	188.89	N24°55'06"E	345.74
C2	20.09	27.89	79°32'57"	16.72	S48°10'32"W	25.71
C3	288.97	112.04	22°12'51"	58.73	N02°42'22"W	111.34
C4	20.09	28.12	80°11'48"	16.92	S51°57'37"E	25.88
C5	597.62	317.07	30°23'53"	162.36	N78°51'02"W	313.36
C6	584.64	32.22	03°09'29"	16.12	N46°16'09"W	32.22
C7	720.00	395.74	31°29'32"	203.01	N83°52'16"E	390.78

LINE	BEARING	LENGTH
L1	N 32°24'41" W	21.84
L2	N 56°14'33" W	25.47
L3	N 17°15'55" W	33.85
L4	N 36°39'48" W	90.90
L5	N 27°06'39" W	39.80
L6	N 32°04'28" W	96.59
L7	N 31°14'07" W	66.76
L8	N 30°10'53" W	45.61
L9	N 34°48'32" W	53.30
L10	N 32°21'48" W	72.61
L11	N 26°41'33" W	31.76
L12	S 87°57'01" W	129.99
L13	S 60°10'16" W	82.44
L14	N 64°10'56" W	116.67
L15	S 75°59'04" W	115.77
L16	S 48°30'19" W	110.58

**OWNER:**  
SEABROOK ISLAND I, L.L.C.  
P.O. BOX 1707  
CHARLESTON, SC 29402

**DEVELOPER:**  
BENNETT HOFFORD CONSTRUCTION CO.

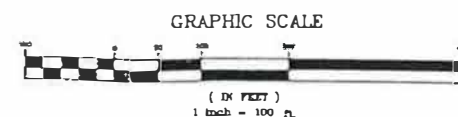
**LAND PLANNER/LANDSCAPE ARCHITECT:**  
HLA, INC.  
CHARLESTON, SC

**CIVIL ENGINEER/SURVEYOR:**  
G. ROBERT GEORGE & ASSOCIATES  
CHARLESTON, SC



**Land Use Summary**  
**See Ordinance 2020-01**

TOPOGRAPHIC AND TREE SURVEY INFORMATION  
PROVIDED BY G. ROBERT GEORGE AND  
ASSOCIATES, INC. MARCH 1997  
(UPDATED OCTOBER 1999)



**HLA** HOFFMAN LESTER ASSOCIATES, INC.  
Land Planning • Civil Engineering • Landscape Architecture  
Wetland Consulting • Land Surveying  
29 LEINBACH DRIVE • CHARLESTON, S.C. • 29407 • (843) 763-1166

AMENDMENT TO P.U.D.  
AND LAND USE PLAN  
VILLAGE AT SEABROOK  
(LAKE ENTRY TRACT)  
SEABROOK ISLAND, SOUTH CAROLINA

<b>PROJECT</b>	97050.00
<b>DATE:</b> 12-22-99	
<b>SCALE:</b> 1"=100'	
<b>DESIGN:</b> DLL	
<b>DRAWN:</b> DRC/ADB	
<b>CHECK:</b>	
<b>REVISIONS</b>	
<b>SHEET</b>	1 of 1



# NOTICE OF DECISION

Board of Zoning Appeals  
Town of Seabrook Island

**TO:** Catherine Patterson, 4064 Bridle Trail Drive, Seabrook Island, SC 29455  
**FROM:** Walter Sewell, Chairman, Board of Zoning Appeals  
**SUBJECT:** Notice of Decision – Appeal #39 (Village at Seabrook Setbacks)  
**DATE:** August 19, 2019

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Catherine Patterson (hereafter, the “Appellant”) is the owner of real property located at 4064 Bridle Trail Drive (Tax Map # 147-00-00-125), located within the Village at Seabrook Subdivision (hereafter, the “Village at Seabrook”) in the Town of Seabrook Island (hereafter, the “Town”), County of Charleston, State of South Carolina.

On June 3-4, 2019, the Town’s Zoning Administrator (hereafter, the “Zoning Administrator”) issued the following Letters of Determination relative to the setback requirements for certain lots within the Village at Seabrook subdivision:

- **Letter of Determination for Setback Requirements – Village at Seabrook Lot B-23**
  - To: Bob Nitkewicz, NV Realty, 1900 Seabrook Island Road, Seabrook Island, SC 29455
  - Issued: June 3, 2019
  
- **Letter of Determination for Setback Requirements – Village at Seabrook Lot B-26**
  - To: K.C. Miller, Kenneth Miller Architecture, 1912 Planters Drive, Charleston, SC 29414
  - Issued: June 3, 2019
  
- **Letter of Determination for Setback Requirements – Village at Seabrook Lots A-06 & B-01**
  - To: Kevan Hoertdoerfer, Kevan Hoertdoerfer Architects, 538 King St, Charleston, SC 29403
  - Issued: June 4, 2019

In each of the above referenced Letters of Determination, the Zoning Administrator determined that the following setback requirements would apply to all lots within the Village at Seabrook:



- Front Yard Setbacks: The minimum front yard setback requirement shall be 30 feet from the street right-of-way for all lots within the Village at Seabrook; provided, however:
  - For corner lots wherein one street frontage is a cul-de-sac street, the minimum setback shall be 30 feet from the cul-de-sac street and 20 feet from the intersecting street; and
  - Uncovered front steps may extend into the front setback but may not be less than twenty 20' from the property's front lot line.
  
- Side Yard Setbacks: There is no minimum side yard setback requirement for lots within the Village at Seabrook; provided, however:
  - In instances where a side yard is required, the total of both side yard setbacks shall be at least 15 feet, and no detached structure may be situated closer than 15 feet to another structure; and
  - For the sake of consistency among neighboring lot owners, a minimum side yard setback of 7.5 feet is recommended, though not required by the PUD or DSO.
  
- Rear Yard Setbacks: The minimum rear yard setback requirement shall be 25 feet from the rear property line; provided, however:
  - For lots abutting an open space area (lake, lagoon, golf course, etc.), an open deck may encroach no more than 10 feet into the required rear yard setback;
  - For pie-shaped lots that do not have a defined rear property line from which to apply a rear yard setback (Lots B-22, B-23, B-26 and C-24), the Zoning Administrator interpreted that the rear yard setback shall be measured from the point where the two side property lines intersect at the rear of the property. This will ensure that the rear setback line is roughly parallel to the (curvilinear) front setback line, consistent with non-pie-shaped lots; and
  - Corner lots are defined by ordinance to have two front yards and two side yards. Therefore, a rear yard setback shall not be required for any corner lot within the Village at Seabrook. The requirements for front and side yard setbacks were further outlined elsewhere in the Letters of Determination.

Copies of the above referenced Letters of Determination were sent by the Zoning Administrator to the Appellant (in her role as President of the Village at Seabrook Regime) and to representatives of the Seabrook Island Property Owners Association.

On July 1, 2019, the Appellant submitted a Notice of Appeal (Appeal #39) to the Town's Board of Zoning Appeals (hereafter, the "Board") contesting the Zoning Administrator's determination. In her Notice of Appeal, the Appellant argued that:

- The Zoning Administrator’s determination was inconsistent with the Master Plan for the Village at Seabrook;
- The Zoning Administrator’s determination may make some lots unbuildable, may decrease the value of some lots and homes, and would change the uniform appearance of the Village at Seabrook;
- The setback requirements illustrated on the final plat are what should be applied to lots in the Village at Seabrook; and
- The master plan and original intent of the Village at Seabrook, as shown on the plat map, should be followed and all existing non-conformities should be grandfathered.

A public hearing on Appeal #39 was advertised, pursuant to § 19.40 of the Town’s Development Standards Ordinance (hereafter, the “DSO”) and held at 2:30 PM on August 15, 2019, at Seabrook Island Town Hall. During the public hearing, the Board heard testimony from the Zoning Administrator and the Appellant, as well as from interested property owners and their representatives. An agenda packet, including supporting materials, was prepared and distributed to members of the Board and the Applicants in advance of the meeting. These materials were also made available for public inspection prior to the meeting.

Pursuant to § 19.30.10 of the DSO, the Board has the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination by the Zoning Administrator in the enforcement of the DSO. In exercising these powers, the Board may reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and in case of contempt may certify such fact to the circuit court having jurisdiction.

**DECISION**

Following a thorough review of the Appeal, including all supporting materials received in advance of the meeting, and all testimony received during the public hearing, Mr. Fox made a motion to approve Appeal #39, as requested by the Appellant. Mr. Finkelstein seconded the motion. The vote on the motion to approve the appeal was as follows:

**IN FAVOR (YES)**

**OPPOSED (NO)**

Kleinman  
 Fox  
 Leggett  
 Finkelstein

The motion to approve the appeal **FAILED** by a vote of 0-4.



Mr. Fox then made a motion to deny the appeal. Mr. Leggett seconded the motion. The vote on the motion to deny the appeal was as follows:

**IN FAVOR (YES)**

Kleinman  
Fox  
Leggett  
Finkelstein

**OPPOSED (NO)**

The motion to deny the appeal was **APPROVED** by a vote of 4-0.

Therefore, the Zoning Administrator’s determination relating to the setback requirements in the Village at Seabrook are hereby **AFFIRMED**.

**RIGHT TO APPEAL**

Pursuant to §6-29-800 of the South Carolina Code of Laws, a property owner whose land is the subject of a decision by the Town’s Board of Zoning Appeals may appeal that decision to the circuit court for Charleston County by filing with the Clerk of Court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. An appeal must be filed within thirty days from the postmark date of this notice. In filing an appeal, a property owner may also request pre-litigation mediation in accordance with §6-29-825 of the South Carolina Code of Laws.

**IT IS SO ORDERED**

Respectfully submitted,

Walter Sewell  
Chairman, Board of Zoning Appeals

CC: Bob Nitkewicz, NV Realty  
K.C. Miller, Kenneth Miller Architecture  
Kevan Hoertdoerfer, Kevan Hoertdoerfer Architects  
Trey Seabrook  
Lawrence and Rebecca LaRoche  
Heather Paton, SIPOA  
Katrina Burrell, SIPOA ARC

# Village at Seabrook

## Zoning Conformity Status of Existing Structures

### Current Status

**Conforming**  
42 of 57 (73.7%)

**Non-Conforming (>10%)**  
6 of 57 (10.5%)

**Non-Conforming (<=10%)**  
9 of 57 (15.8%)

**Under Construction**  
1

### Non-conforming Lots

**Primary Front (30')**  
C-24 (15.3'), C-27 (29.8'), C-33 (29.9')

**Secondary Front (20')**  
None

**Uncovered Steps (20')**  
B-05 (18.8'), C-08 (17.0'), C-21 (17.6')  
C-23 (16.5'), C-24 (13.4')

**Side Separation (15')**  
B-02/03 & B-04 (11.6'), C-05 & C-06 (14.6')  
C-09 & C-10 (13.6')

Note: Separation >15' between ALL principal dwellings

**Rear (25')**  
A-16 (24.8')

**Open Space Deck (15')**  
A-09 (13.8')



Charleston South Carolina  
Office of Register Messe Conveyance  
Plat recorded this 19 day of December, 2001 at  
1:52 o'clock in Plat Book LI Page 246 and tracing cloth  
copy filed in File 2 Drawer Folder 55, Drawing No. 39  
Original plat (a White Print) delivered to Village at Seabrook, Inc.  
Sheet 2 of 2

Register Messe Conveyance



**Village at Seabrook**

**Zoning Conformity Status of Existing Structures**

**If Ord. 2020-01 is Adopted**

**Conforming**  
25 of 57 (43.9%)

**Non-Conforming (>10%)**  
26 of 57 (45.6%)

**Non-Conforming (<=10%)**  
6 of 57 (10.5%)

**Under Construction**  
1

**Non-Conforming Lots**

**Primary Front (30')**  
C-24 (15.3'), C-27 (29.8'), C-33 (29.9')

**Secondary Front (20')**  
None

**Uncovered Steps (20')**  
B-05 (18.8'), C-08 (17.0'), C-21 (17.6')  
C-23 (16.5'), C-24 (13.4')

**Side (7.5')**  
A-05 (5.4'), A-08 (2.1'), A-15 (6.4'), A-18 (5.5')  
A-21 (4.7'), B-03 (2.0'), B-19 (4.3'), B-40 (1.5')  
C-04 (4.8'), C-05 (5.6'), C-07 (7.1'), C-08 (5.0')  
C-09 (4.0'), C-13 (1.1'), C-17 (6.1'), C-21 (6.0')  
C-22 (5.8'), C-23 (5.8'), C-27 (1.5'), C-28 (1.3')  
C-29 (3.4'), C-30 (2.8'), C-34 (2.2')

**Side (15')**  
A-05 (6.5'), C-18 (8.3')

**Rear (25')**  
A-01 (8.6'), A-16 (24.8'), B-25 (24.5')

**Open Space Deck (15')**  
A-01 (7.9'), A-09 (13.8')



Charleston South Carolina  
Office of Register Messe Conveyance  
Plat recorded this 19 day of December, 2001 at  
1:52 o'clock in Plat Book LI Page 246 and tracing cloth  
copy filed in File 2 Drawer Folder 55, Drawing No. 39  
Original plat (a White Print) delivered to Tn of Seabrook Island  
Sheet 2 of 2  
*Chris Lyford*  
Register Messe Conveyance



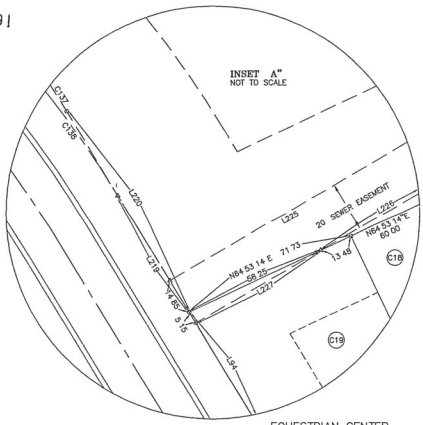
**REFERENCES**

1. PLAT SHOWING SUBDIVISION OF A 16.424 ACRE TRACT OWNED BY SEABROOK ISLAND DEVELOPMENT GROUP BY DANIEL C. FORSBERG DATED APRIL 8 1987 RECORDED IN PLAT BOOK EB PAGE 35
2. PLAT OF A 56.150 ACRE TRACT AND A 1.452 ACRE BUFFER ZONE OWNED BY SEABROOK ISLAND COMPANY BY JOSHUA M. WILLIAMS III DATED AUGUST 21 1985 RECORDED IN PLAT BOOK OF PAGE 32
3. FRESHWATER WETLAND CERTIFICATION N/R SAC-811-92-0949 DATED JANUARY 7 1993 BY THE REGULATORY BRANCH OF THE U.S. ARMY CORPS OF ENGINEERS AND REVISIONS SHOWING A FINAL DATED SEPTEMBER 30 1992 AND REVISED OCTOBER 8 1992 ENTITLED "ALUMINUM LAND TREATMENT SHOWING 54.414 ACRES BY ENGINEERING SURVEYING AND PLANNING INC.
4. PRELIMINARY LOT LAYOUT & EXISTING WETLANDS THE ROOKEY AT SEABROOK ISLAND DATED JANUARY 27 1995 BY A.H. SCHWARTZ & ASSOCIATES INC. DRAWING IS UNRECORDED
5. PLAT SHOWING THE RESUBDIVISION OF A 56.150 ACRE TRACT LOCATED IN THE TOWN OF SEABROOK ISLAND DATED MARCH 29 1993 BY G. ROBERT GEORGE & ASSOCIATES INC. RECORDED ON SEPTEMBER 17 1995 IN THE REC. OFFICE OF CHARLESTON COUNTY IN PLAT BOOK EB AT PAGE 327
6. CHARLESTON COUNTY TAX MAP 147-00-00
7. PRELIMINARY PLAT SHOWING THE SUBDIVISION OF THE VILLAGE AT SEABROOK CONTAINING 42.328 ACRE TRACT LOCATED IN THE TOWN OF SEABROOK ISLAND DATED MAY 25 2000 BY G. ROBERT GEORGE & ASSOCIATES INC. RECORDED ON IN THE REC. OFFICE OF CHARLESTON COUNTY IN PLAT BOOK LE PAGE 41

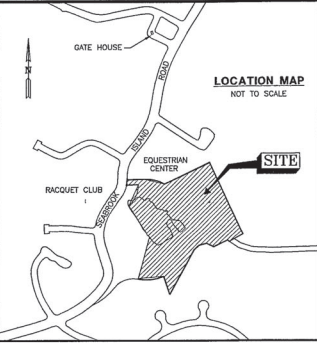
**LEGEND**

- PROPERTY LINE AND IRON PIN SET
- PROPERTY LINE PIN NOT SET DUE TO SEWER CO.
- PROPERTY LINE AND IRON PIN FOUND
- TRVERSE POINT ON LINE
- ADJACENT RIGHT-OF-WAY LINE
- ADJACENT PROPERTY LINE
- EASEMENT LINE
- - - NEW DRAINAGE EASEMENT LINE
- - - JURISDICTIONAL FRESHWATER WETLANDS
- - - APPROXIMATE FLOOD ZONE BOUNDARY
- - - LAGOON PERIMETER COMMON AREA

EX L 391PC591



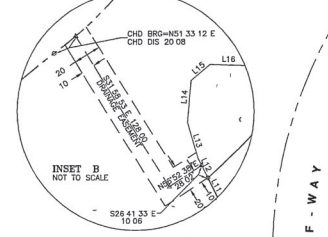
Charleston South Carolina  
Office of Register Mensu Conveyance  
Plat recorded this 19 day of December 2001 at  
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copy filed in File 2 Drawer Folder 25 Drawing No 38  
Original plat (a White Print) delivered to Town of Seabrook Island  
*Chad Johnson*  
Register Mensu Conveyance



**NOTICE**  
THE APPROVAL OF THIS PLAT IN NO WAY GUARANTEES THE TOWN OF SEABROOK ISLAND TO ACCEPT FOR CONTINUED MAINTENANCE ANY OF THE ROADS OR EASEMENTS SHOWN HEREON

**LAND USE SUMMARY**

TMS# 147-00-00-009		
GROUND LEASE AREA	5 886 ACRE	256 377 72 S F
TOTAL PERIMETER BUFFER AREA	2 880 ACRE	116 756 80 S F
COMMON AREA	0 122 ACRE	5 305 97 S F
TOTAL RESIDENTIAL	18 234 ACRE	794 285 86 S F
ROADWAY RIGHT-OF-WAY AREA	6 457 ACRE	281 285 73 S F
LAGOON PERIMETER COMMON AREA	2 334 ACRE	101 850 89 S F
LAGOON AREA	6 615 ACRE	288 140 97 S F
<b>TOTAL AREA (INCLUDING LAGOON)</b>	<b>42 328 ACRE</b>	<b>1 843 793 74 S F</b>
<b>PROPOSED LAND USE:</b> DETACHED MULTIFAMILY RESIDENTIAL		
MINIMUM LOT SIZE:	6 000 S F	
MAXIMUM LOT COVERAGE:	40%	
SETBACK:	30 FRONT 15 SIDE (TO TOTAL 15) 65 REAR	
LOT REQUIRING ZERO LOTLINE RETRACTION:	A1 A6 A14 B38 C19 & C26	

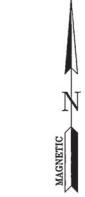
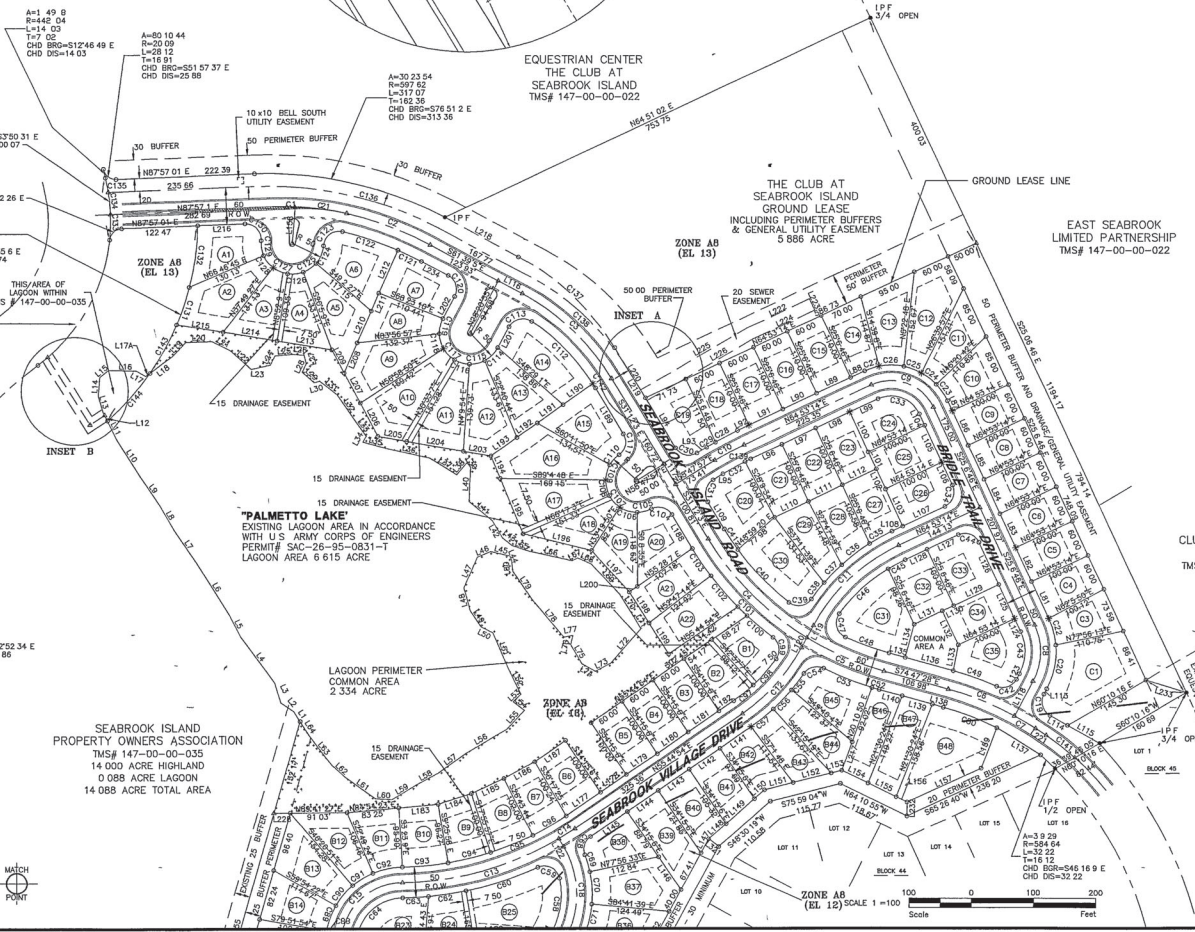


**FLOOD ZONE DATA**  
THIS PROPERTY IS IN FLOOD ZONES AB (ELEV 13) AND AB (ELEV 12) AS INDICATED ON THE FLOOD INSURANCE RATE MAP IN ACCORDANCE WITH PANEL NUMBER 45413 0440 H FOR UNINCORPORATED AREAS OF CHARLESTON COUNTY SOUTH CAROLINA BEARING THE EFFECTIVE DATE OF SEPTEMBER 2 1993. ZONE LIMITS ARE ESTABLISHED BY GRADING INTERSECTION FROM SAID FLOOD INSURANCE RATE MAP AND WERE NOT LOCATED BY FIELD SURVEY OR COORDINATE GEOMETRY

I DO HEREBY CERTIFY THAT THE METHOD OF AREA DETERMINATION HAS BEEN COMPLETED USING THE PRINCIPLES OF COORDINATE GEOMETRY

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE INFORMATION AND BELIEF THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN ALSO THERE ARE NO VISIBLE ENCUMBRANCES OR PROJECTIONS OTHER THAN SHOWN

SURVEY PRECISION IS IN EXCESS OF 1/30 000



TOWN OF SEABROOK ISLAND  
DATE 12/13/2001  
APPROVED BY Chad Johnson  
ZONING ADMINISTRATOR  
TOWN OF SEABROOK ISLAND

PLAT SHOWING THE SUBDIVISION OF THE VILLAGE AT SEABROOK CONTAINING 42.328 ACRE TRACT LOCATED IN THE TOWN OF SEABROOK ISLAND CHARLESTON COUNTY, SOUTH CAROLINA PREPARED FOR SEABROOK ISLAND I, LLC NOV 13, 2001 SCALE 1"=100' SHEET 1 OF 2

G ROBERT GEORGE AND ASSOCIATES INC  
CONSULTING ENGINEERS LANDSCAPE ARCHITECTS  
PLANNERS AND LAND SURVEYORS  
P O BOX 38168 (803) 556-4261  
CHARLESTON SOUTH CAROLINA 29417-2168

JOB NO 1171-41 THL DRAWING 1171-4F-PLAT DWG



L 391P6592

CURVE TABLE with columns: NUMBER, DELTA, CHORD BRG, RADIUS, LENGTH, TANGENT, CHD LENGTH. Includes data for curves C1 through C144.

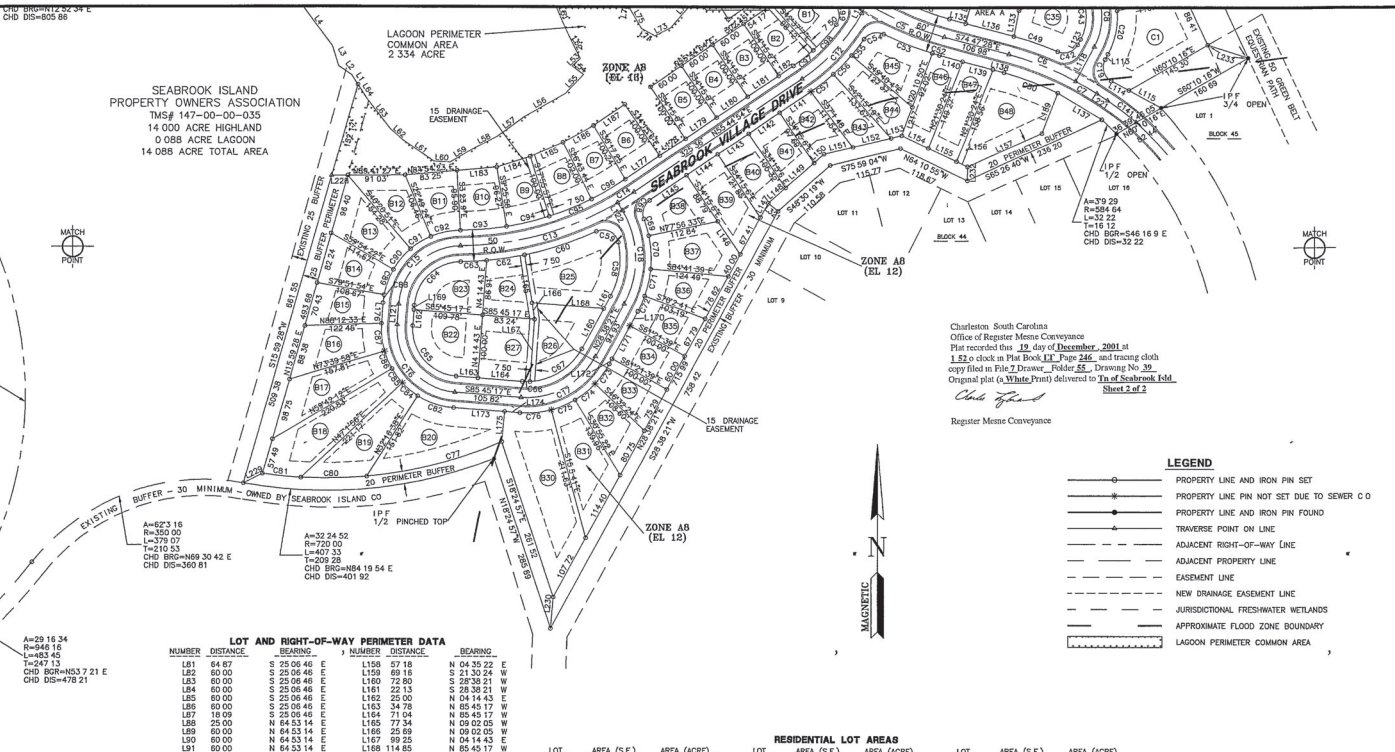
LAGOON PERIMETER DATA with columns: NUMBER, DISTANCE, BEARING. Lists perimeter points for the lagoon area.

LOT AND RIGHT-OF-WAY PERIMETER DATA with columns: NUMBER, DISTANCE, BEARING. Lists perimeter points for individual lots.

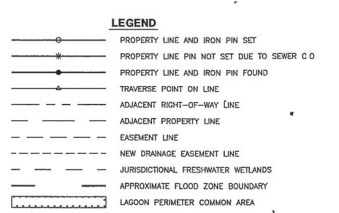
RESIDENTIAL LOT AREAS with columns: LOT, AREA (S.F.), AREA (ACRES). Lists area data for lots 1 through 112.

COMMON AREAS with columns: AREA (S.F.), AREA (ACRES). Lists area data for common areas 1 through 11.

FLOOD ZONE DATA with columns: LOT, AREA (S.F.), AREA (ACRES). Lists area data for flood zones 1 through 11.



Charleston South Carolina Office of Register Mense Conveyance... Register Mense Conveyance

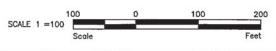


TOWN OF SEABROOK ISLAND DATE 12/13/2001 APPROVED BY Douglas M. Smith

ZONING ADMINISTRATOR TOWN OF SEABROOK ISLAND

PLAT SHOWING THE SUBDIVISION OF THE VILLAGE AT SEABROOK CONTAINING 42.328 ACRE TRACT LOCATED IN THE TOWN OF SEABROOK ISLAND CHARLESTON COUNTY, SOUTH CAROLINA PREPARED FOR SEABROOK ISLAND I, LLC NOV 13, 2001 SCALE 1"=100'

G ROBERT GEORGE AND ASSOCIATES, INC CONSULTING ENGINEERS LANDSCAPE ARCHITECTS PLANNERS AND LAND SURVEYORS

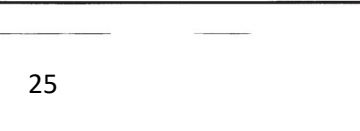


I DO HEREBY CERTIFY THAT THE METHOD OF AREA DETERMINATION HAS BEEN COMPLETED USING THE PRINCIPLES OF COORDINATE GEOMETRY

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE INFORMATION AND BELIEF THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND METES OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPICED BY THE BOARD OF SURVEYING AND MAPPING ENGINEERS OF THE STATE OF SOUTH CAROLINA



SURVEY PRECISION IN EXCESS OF 1/10000 No. 6517



TOWN OF SEABROOK ISLAND

ORDINANCE NO. 2000-01

ADOPTED FEBRUARY 22, 2000

AN ORDINANCE TO ADOPT A PLANNED UNIT  
DEVELOPMENT WITHIN AREA SIX  
(LAKE ENTRY TRACT)

WHEREAS, Seabrook Island I L.L.C. submitted a zoning application to the Town of Seabrook Island for the Lake Entry Tract Planned Unit Development ("PUD"), the application for which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, Seabrook Island I L.L.C. proposes that the Lake Entry Tract be developed as 106 multi-family residential lots provided such development complies with all applicable provisions of the Town's Code and DS0; and

WHEREAS, pursuant to Section 5.50.30 of the Development Standards Ordinance, this property must be developed as a planned unit development and approved by the Town Council; and

WHEREAS, the approval of this PUD will constitute the zoning for this property; and

WHEREAS, Town Council is authorized to amend its zoning ordinance; and

WHEREAS, a properly noticed public hearing was held on this ordinance as proposed on February 22, 2000; and

WHEREAS, Seabrook Island I L.L.C.'s application for a PUD has been reviewed by the Planning Commission and recommended to Town Council for approval.

NOW THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF SEABROOK ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID COUNCIL:

SECTION 1. Purpose

This Ordinance is adopted to approve the Lake Entry Tract PUD (Application # 1739 as amended).

SECTION 2. PUD Adopted

The Lake Entry Tract PUD (Application # 1739 as amended)(Exhibit A) is hereby approved and adopted. The approved amendments to the application which shall constitute the PUD for this property are shown on the map attached as Exhibit B and incorporated herein by reference. The Lake Entry Tract PUD is

  
26

subject to all of the requirements of the Town Code and DSO including but not limited to DSO Sections (7) and (8). The applicant further agrees all roads within the PUD as well as the six-acre lake shall be deeded to the Seabrook Island Property Owner's Association.

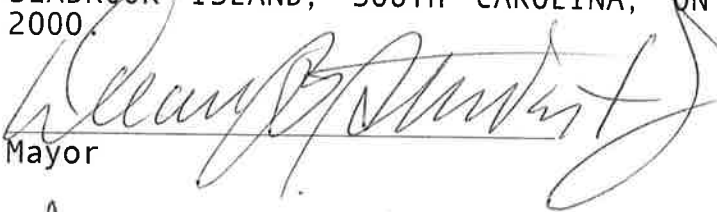
SECTION 3. Severability

If any part of this ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

SECTION 4. Effective Date

This Ordinance shall be effective upon its enactment by the Town Council of the Town of Seabrook Island.

PASSED, APPROVED AND ADOPTED BY THE COUNCIL FOR THE TOWN OF SEABROOK ISLAND, SOUTH CAROLINA, ON THIS 22<sup>nd</sup> DAY OF February, 2000.

  
Mayor

  
Town Clerk

First Reading: January 25, 2000  
Public Hearing: February 22, 2000  
Second Reading: February 22, 2000



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Town of Seabrook Island - Zoning Permit

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Permit Date: 03/27/1997      Permit #, Town: 1739      License #: 0  
 TMS Number: 147-00-00-009      Thru:      And:      Paid Date: 03/27/1997  
    App Fee: \$820.00      Cash: No      Check #: 1008

Applicant Name: Seabrook Island I.L.C.      Phone:  
 Contact Name: Hank Hoffard or Dave Savitz  
 App Address1: 17 Lockwood Dr. The Rice Mill  
 App Address2:  
 App City: Charleston      St: SC      Zip: 29402

Property Owner: Seabrook Island I.L.C.      Phone: 722-8200  
 Owner Address1: P.O. Box 1707  
 Owner Address2:  
 Owner City: Charleston      St: SC      Zip: 29455

Property Location: Lot:      Block:  
 Property Address: 56 acre lake entry tract

Purpose: *Submittal of a Planned Unit Development for property presently known as the Lake Entry Site. This property is just past the gate on the left leading into the Island.*

Work Value: \$0.00      Const Cost: \$0.00      Flood Elev: 13      Zone: A8

Architectural Review Board:

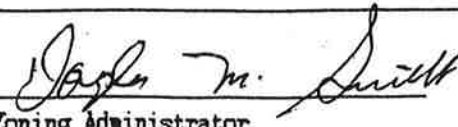
Comments: *Requires Recommendation of Planning Commission and approval of Town Council  
 The Town Council voted on June 24, 1997 to accept the Planning Commission recommendation that this application be denied because it did not meet sec 8.10.0*

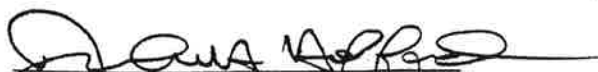
Amendment: *2/4/2000 To amend this application for a planned development of a health care facility to a planned multi-family development of 106 units.*

This Zoning Permit is valid for six (6) months. The action for which this permit was obtained must be taken within that time period.  
 If this zoning permit is for issuance of a building permit, such building permit is valid for a period of one (1) year as described in the town code.  
 Any extentions, alterations, or amendments must be approved in writing by the Town of Seabrook Island Zoning Administration.

I hereby certify that the above information and any plan or drawing submitted herewith are true and accurate indications of existing or proposed improvements to the above identified property.

\_\_\_\_\_  
 Owner/Applicant's Signature  
 Wednesday, January 12, 2000

  
 Zoning Administrator  
 Wednesday, January 12, 2000





TOWN OF SEABROOK ISLAND

ORDINANCE NO. 2000-08

ADOPTED June 5, 2000

AN ORDINANCE TO AMEND THE PLANNED UNIT  
DEVELOPMENT WITHIN AREA SIX FOR THE LAKE ENTRY TRACT  
(DEVELOPED AS THE VILLAGE AT SEABROOK)

WHEREAS, Seabrook Island I, LLC, submitted a zoning application to the Town of Seabrook Island for the Lake Entry Tract Planned Unit Development ("PUD"); and

WHEREAS, Seabrook Island I, LLC, proposed that the Lake Entry Tract be developed as 106 multi-family residential lots provided such development complies with all applicable provisions of the Town's Code and DS0; and

WHEREAS, pursuant to Section 5.50.30 of the Development Standards Ordinance, this property must be developed as a planned unit development and approved by the Town Council; and

WHEREAS, by Ordinance 2000-01, the Town of Seabrook Island approved the proposed PUD for this development; and

WHEREAS, the Planning Commission has reviewed the "Declaration of Covenants and Restrictions for the Village at Seabrook and provisions for and bylaws of the Seabrook Island Property Owners' Association, Inc.," (the "Declarations") and has made recommendations for revisions to the same which have been adopted by the applicant and submitted for inclusion in the terms and conditions of the PUD for this development; and

WHEREAS, Town Council is authorized to amend its zoning ordinance; and

WHEREAS, a properly noticed public hearing was held on this ordinance as proposed on June 5th, 2000.

NOW THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF SEABROOK ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID COUNCIL:

SECTION 1. Purpose

This Ordinance is adopted to amend the Lake Entry Tract PUD established by Ordinance 2000-01 so as to include the Declarations as part and parcel of the PUD requirements and restrictions.

SECTION 2. PUD Amended

The Lake Entry Tract PUD (Application # 1739 as amended)(Exhibit A) is hereby approved and adopted. The approved amendments to the application which shall constitute the PUD for this property are shown on the map attached as Exhibit B and

incorporated herein by reference. The Lake Entry Tract PUD is subject to all of the requirements of the Town Code and DSO including but not limited to DSO Sections (7) and (8). The applicant further agrees all roads within the PUD as well as the six-acre lake shall be deeded to the Seabrook Island Property Owner's Association. In addition, subject to the provisions set forth above, the terms and conditions of the Declarations as approved and modified by the Planning Commission, a copy of which is attached as Exhibit C and incorporated herein by reference, are hereby adopted as additional terms and restrictions of this PUD and the zoning granted therein. In the event of any conflict between the terms of the Declarations and the DSO or Town Code, the more restrictive shall apply.

SECTION 3. Severability

If any part of this ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

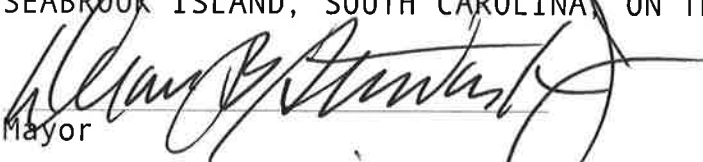
SECTION 4. Effective Date

This Ordinance shall be effective upon its enactment by the Town Council of the Town of Seabrook Island.

SECTION 5. Codification

<sup>S.93.0</sup>  
The provisions of this Ordinance shall be codified at DSO Sections ~~5.92.0~~ (The Village at Seabrook a/k/a Lake Entry Tract) and ~~5.92.10~~ (Master Plan and Requirements).  
<sup>S.93.10</sup>

PASSED, APPROVED AND ADOPTED BY THE COUNCIL FOR THE TOWN OF SEABROOK ISLAND, SOUTH CAROLINA, ON THIS 5th DAY OF June, 2000.

  
Mayor

  
Town Clerk

First Reading: May 23, 2000  
Public Hearing: June 5, 2000  
Second Reading: June 5, 2000

Town of Seabrook Island - Zoning Permit

Permit Date: 03/27/1997 Permit #, Town: 1739 License #: 0  
TMS Number: 147-00-00-009 Thru: And: Paid Date: 03/27/1997  
App Fee: \$820.00 Cash: No Check #: 1008

Applicant Name: Seabrook Island I.L.C. Phone:  
Contact Name: Hank Hofford or Dave Savitz  
App Address1: 17 Lockwood Dr. The Rice Mill  
App Address2:  
App City: Charleston St: SC Zip: 29402

Property Owner: Seabrook Island I.L.C. Phone: 722-8200  
Owner Address1: P.O. Box 1707  
Owner Address2:  
Owner City: Charleston St: SC Zip: 29455

Property Location: Lot: Block:  
Property Address: 56 acre lake entry tract

Purpose: Submittal of a Planned Unit Development for property presently known as the Lake Entry Site. This property is just past the gate on the left leading into the Island.

Work Value: \$0.00 Const Cost: \$0.00 Flood Elev: 13 Zone: A8

Architectural Review Board:

Comments: Requires Recommendation of Planning Commission and approval of Town Council

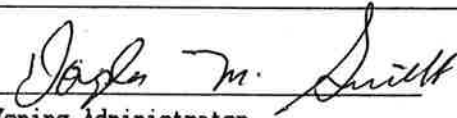
The Town Council voted on June 24, 1997 to accept the Planning Commission recommendation that this application be denied because it did not meet sec 8.10.0 \*\*\*\* March 22, 2000, The Town Council voted to approve the amended PUD which changes the development from a Health Care Facility to a development of 106 Multi-Family units. \*\*\*\*  
Amendment: 2/4/2000 to amend this application for a planned development of a health care facility to a planned multi-family development of 106 units.

This Zoning Permit is valid for six (6) months. The action for which this permit was obtained must be taken within that time period.  
If this zoning permit is for issuance of a building permit, such building permit is valid for a period of one (1) year as described in the town code.  
Any extentions, alterations, or amendments must be approved in writing by the Town of Seabrook Island Zoning Administration.

I hereby certify that the above information and any plan or drawing submitted herewith are true and accurate indications of existing or proposed improvements to the above identified property.

Owner/Applicant's Signature  
Wednesday, January 12, 2000

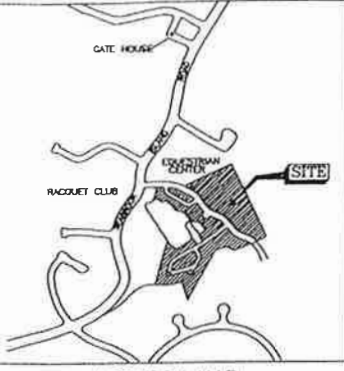
  
Printed Name

  
Zoning Administrator  
Wednesday, January 12, 2000

APPROVED BY TOWN COUNCIL  
OK ~~JAN 25, 2000~~  
MARCH 22, 2000  
P.M.D.



Exhibit B



CURVE	RADIUS	LENGTH	DELTA	TANGENT	BEARING	CHORD
C1	428.97	355.86	47°31'49"	188.89	N24°55'06"E	345.74
C2	20.09	27.89	79°32'57"	16.72	S48°10'32"W	25.71
C3	288.97	112.04	22°12'51"	58.73	N02°42'22"W	111.34
C4	20.09	28.12	80°11'48"	16.92	S51°57'37"E	25.88
C5	597.62	317.07	30°23'53"	162.36	N78°51'02"W	313.36
C6	584.64	32.22	03°09'29"	16.12	N46°16'09"W	32.22
C7	720.00	395.74	31°29'32"	203.01	N83°52'16"E	390.78

LINE	BEARING	LENGTH
L1	N 32°24'41" W	21.84
L2	N 56°14'33" W	25.47
L3	N 17°16'55" W	33.85
L4	N 36°39'48" W	90.90
L5	N 27°06'39" W	39.80
L6	N 32°04'28" W	96.59
L7	N 31°14'07" W	66.76
L8	N 30°10'53" W	45.61
L9	N 34°48'32" W	53.30
L10	N 32°21'48" W	72.61
L11	N 26°41'33" W	31.76
L12	S 87°57'01" W	129.99
L13	S 60°10'16" W	82.44
L14	N 84°10'55" W	118.67
L15	S 75°59'04" W	115.77
L16	S 48°30'19" W	110.58

**OWNER:**  
SEABROOK ISLAND I, L.L.C.  
P.O. BOX 1707  
CHARLESTON, SC 29402

**DEVELOPER:**  
BENNETT HOFFORD CONSTRUCTION CO.

**LAND PLANNER/LANDSCAPE ARCHITECT:**  
HLA, INC.  
CHARLESTON, SC

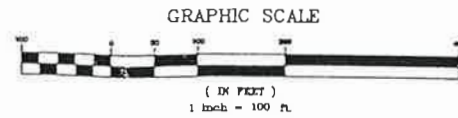
**CIVIL ENGINEER/SURVEYOR:**  
G. ROBERT GEORGE & ASSOCIATES  
CHARLESTON, SC



**LAND USE SUMMARY:**  
TMS#: 147-00-00-009

TOTAL AREA: (INCLUDING LAKE)	42.219 AC.
COMMON AREA AND LAKE:	8.33 AC.
SEABROOK ISLAND ROAD:	2.5 AC.
RESIDENTIAL:	22.84 AC.
BUFFERS:	3.0 AC.
RESIDUAL TRACT: (GROUND LEASE)	5.54 AC.
PROPOSED LAND USE:	DETACHED MULTIFAMILY RESIDENTIAL
MINIMUM LOT SIZE:	6,000 S.F.
MAXIMUM LOT COVERAGE:	40%
SETBACKS:	30' FRONT 15' SIDE (TO TOTAL 15') 25' REAR
LOT WITH ZERO LOTLINE SETBACKS:	19, 30, 47, 56, 75, 76, 79, 84, 87, 92, 101 & 106

TOPOGRAPHIC AND TREE SURVEY INFORMATION PROVIDED BY G. ROBERT GEORGE AND ASSOCIATES, INC. MARCH 1997 (UPDATED OCTOBER 1999)



**HLA** HOFFMAN LESTER ASSOCIATES, INC.  
Land Planning • Civil Engineering • Landscape Architecture  
Wetland Consulting • Land Surveying  
29 LEINBACH DRIVE • CHARLESTON, S.C. • 29407 • (843) 763-1166

AMENDMENT TO P.U.D. AND LAND USE PLAN  
VILLAGE AT SEABROOK (LAKE ENTRY TRACT)  
SEABROOK ISLAND, SOUTH CAROLINA

<b>PROJECT</b>	97050.00
<b>DATE:</b> 12-22-99	
<b>SCALE:</b> 1"=100'	
<b>DESIGN:</b> DLL	
<b>DRAWN:</b> DRC/ADB	
<b>CHECK:</b>	
<b>REVISIONS</b>	
<b>SHEET</b>	1 of 1

**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
THE VILLAGE AT SEABROOK  
AND  
PROVISIONS FOR AND BY-LAWS OF  
THE VILLAGE AT SEABROOK PROPERTY OWNER'S ASSOCIATION, INC.**

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

THIS DECLARATION is made this 15<sup>th</sup> day of November, 2000, by Seabrook Island I, LLC, (a South Carolina limited liability company), hereinafter referred to as the "Declarant,".

**WITNESSETH:**

WHEREAS, Declarant is the record owner of certain real property located in the Town of Seabrook Island, Charleston County, South Carolina, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property") and Declarant is creating thereon a planned development neighborhood known generally as "The Village at Seabrook" (the "Subdivision"); and

WHEREAS, Declarant desires, *inter alia*, to establish certain guidelines and development standards to assist in the preservation of values in the Subdivision; and

WHEREAS, Declarant further desires to create a vehicle for ownership and the maintenance of certain (though not necessarily all) common properties within the Subdivision, including streets, street lighting, signage, a lake, etc. and to provide for the installation, maintenance, improvement and replacement of unique landscaping within the Subdivision, and is causing to be incorporated under the laws of the State of South Carolina a non-profit corporation, The Village at Seabrook Property Owners' Association, Inc. for the purposes and functions more fully set forth herein and in its corporate charter,

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that SEABROOK ISLAND I, LLC (a South Carolina limited liability company) hereby declare that the Property described in Exhibit "A," is and shall be held, transferred, sold, conveyed, given, mortgaged, donated, leased, occupied, and used subject, among others, to the covenants and conditions hereinafter set forth.

1.

DEFINITIONS

The following words and terms, when used in this Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise), shall have meanings set forth below. Other definitions may appear throughout this instrument and the By-Laws attached hereto, and shall have the meanings more particularly set forth therein.

- a. "Additional Property" shall mean and refer to such additional lands as may become subject to this Declaration pursuant to Paragraph 2(b) hereof.
- b. "Assessment" shall mean and refer to any Property Owner's share of the Common Expenses or any other charges from time to time assessed against an Owner by the Association in the manner herein provided. The term "Assessments" may also sometimes mean and refer to, collectively, the "Annual Assessment," and "Special Assessments," as the context herein shall so indicate.
- c. "Association" shall mean and refer to The Village at Seabrook Property Owners' Association, Inc., a non-profit corporation organized under the laws of the State of South Carolina, its successors and assigns.
- d. "Board of Directors" and/or "Board" shall mean and refer to the Board of Directors of The Village at Seabrook Property Owners' Association, Inc., as more fully set forth in Paragraph 5 of the By-Laws.
- e. "By-Laws" shall mean and refer to the By-Laws of the Association which govern the administration and operation of the Association, as may be amended from time to time, which said ByLaws are attached hereto and incorporated herein by reference.
- f. "Cause" for removal of an Officer or Director of the Association shall mean and refer to either (i) fraudulent or dishonest acts or (ii) gross abuse of authority in the discharge of duties for or on behalf of the Association by an Officer or Director, and which cause must be established by the Board after written notice to such Officer or Director of specific charges. and opportunity of such Officer or Director to meet with the Board and refute such charges.
- g. "Common Driveway" shall mean and refer to a driveway located in any part on two (2) Lots for the purpose of providing vehicular access from the street to the residences to be constructed on each Lot.
- h. "Common Expense (s)" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association in connection with the administration of the Subdivision, or in the implementation and enforcement of the terms, provisions, and intent of this Declaration and the By-Laws.

- i. "Covenants" shall mean and refer to the covenants, restrictions, conditions and limitations set forth in this Declaration and any supplements and amendments thereto recorded hereinafter in the R.M.C. Office.
- j. "Declaration" shall mean and refer to this Declaration and any supplements and amendments thereto recorded hereinafter in the R.M.C. Office.
- k. "Declarant" shall mean and refer to Seabrook Island I, LLC (a South Carolina limited liability company), its successors and assigns.
- l. "Director" shall mean and refer to members, or any one member, of the Board of Directors of the Association.
- m. "Seabrook Island Property Owner's Architectural Review Board" shall mean and refer to the architectural authority established under the Recorded Covenants.
- n. "SIPOA" shall mean and refer to the Seabrook Island Property Owners Association, (a South Carolina non-profit corporation), its successors and assigns.
- o. "Lot" shall mean and refer to any lot shown on a recorded plat of the Property designated for use as a building area site for the construction of a single family dwelling.
- p. "Lot Owner" and "Owner" shall mean and refer to the record owner (whether one or more persons, firms, associations, corporations, partnerships, trusts, trustees, or other legal entities) of the fee simple title to any Lot; notwithstanding any applicable theory of a mortgage, such terms shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure proceedings or any proceeding or instrument in lieu of foreclosure; nor shall the term "Lot Owner" mean or refer to any lessee or tenant of a Lot Owner. When reference is made herein to Owner(s)' voting rights, all Owners of one Lot, when more than one Owner holds record title shall have, collectively, but one vote per Lot.
- q. "Member" shall mean and refer to all those Lot Owners who are Members of the Association as provided in Paragraph 3(a) of the By-Laws.
- r. "Membership" shall mean and refer to membership by an Owner and/or Declarant in The Village at Seabrook Property Owners' Association, Inc.
- s. "The Village at Seabrook Common Properties" shall mean and refer to those parcels of land within the Property, together with any improvements thereon, which are deeded or leased to the Association and designated in such deed or lease or recorded



plat as "The Village at Seabrook Common Properties". Any property that is leased to the Association and designated in such lease as "The Village at Seabrook Common Property" shall be a common property of The Village at Seabrook and therefore shall be "The Village at Seabrook Common Property" but shall lose its designation and character as "The Village at Seabrook Common Property" upon the expiration of such lease, if not renewed or extended. Also, Declarant may designate The Village at Seabrook Common Properties pursuant to Paragraph 6(b) hereof.

- t. "Plat" shall mean and refer to the conditional plat of the Subdivision prepared by G. Robert George, P.L.S., P.E.S.C. Reg. No. 6517 entitled "Preliminary Plat Showing The Subdivision of The Village At Seabrook Containing 42.328 Acre Tract Located In The Town of Seabrook Island, Charleston County, South Carolina Prepared For Hank Hofford", dated May 25, 2000, and recorded on May 26, 2000, in Plat Book EE at Pages 41 and 42, in the R.M.C. Office. The term "Plat" shall also refer to any subsequent conditional or preliminary plats and/or final subdivision plats of the Subdivision when approved by the Town of Seabrook Island and/or the County of Charleston and recorded in the R.M.C. Office.
- u. The "Property" shall mean and refer to the property described on Exhibit "A" attached hereto and incorporated herein by reference which is hereby subjected to this Declaration.
- v. "Recorded Covenants" shall mean and refer to certain general restrictive covenants guiding the overall development of Seabrook Island, which said covenants are set forth in Restrictions, Covenants and Conditions recorded in Book N100 at Page 296, amended in Book Y110 at Page 143, Book J144 at Page 67, Book J164 at Page 487, Book L186 at Page 697, Book K215 at Page 23; Restrictions, Covenants and Conditions recorded in Book M105 at Page 194, amended in Book Y110 at page 145, Book B145 at page 246, Book E164 at Page 340, Book L186 at Page 697, Book R221 at Page 197; Restrictions, Covenants and Conditions recorded in Book B141 at page 267, amended in Book J144 at Page 59 and Book L186 at page 718; Conservation Easement and Declaration of Restrictions and Covenants recorded in Book V263 at page 44 in the Charleston County R.M.C. Office.
- w. "R.M.C. Office" shall mean and refer to the Office of the Register of Mesne Conveyances for Charleston County, South Carolina and the office of the Register of Deeds of Charleston County, South Carolina as said office may from time to time be designated.
- x. "Subdivision " shall mean and refer to, collectively the lots, road right-of-ways and other community facilities and areas located within the Property.



2.

## PROPERTY

- a. The Property. The real property which is and shall be held, transferred, sold, conveyed, leased, mortgaged, and occupied subject to these Covenants is known generally as "The Village at Seabrook" together with any pedestrian access areas, any community park area, any swimming pool(s), any crabbing decks, any other amenities as may be provided by Declarant, and any easement rights enjoyed over Lots in the Subdivision as reserved herein, on the Plat or in deeds to the Lots, as the same may be located in the Town of Seabrook Island, Charleston County, South Carolina; The Village at Seabrook is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.
- b. Additions to Existing Property. Declarant, its successors and assigns., shall have the right, without further consent of the Association, to bring within the plan and operation of this Declaration in future stages of the development, additional properties on Seabrook Island, S.C. owned by Declarant, which are in the general vicinity of the Subdivision (the "Additional Properties.") The additions authorized under this and the succeeding subsection shall be made by filing of record one or more Supplementary Declaration of Covenants or an Agreement Impressing the Covenants of this Declaration, with respect to the additional properties which shall extend the operation and effect of the Covenants of this Declaration to such additional properties.
- A Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants contained in this Declaration as may be necessary or convenient, in the judgment of Declarant, to reflect the different character, if any, of the added properties and as are not inconsistent with the plan of this Declaration.
- c. Merger. Upon a merger or consolidation of the Association with another association as provided for in the By-Laws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or unconsolidated association may administer the Covenants and Restrictions established by this Declaration, within the Properties, as herein provided.

3. COVENANTS, RESTRICTIONS, AND AFFIRMATIVE OBLIGATIONS APPLICABLE TO ALL PROPERTIES IN The Village at Seabrook

The Property is and shall be conveyed subject to the Recorded Covenants, and nothing contained herein shall be construed to reduce or limit the effectiveness or applicability thereof.

In addition thereto, Declarant has established the following additional Covenants and Restrictions:

- a. Miscellaneous Covenants, Conditions, Restrictions and General Dwelling Specifications.
- i. Setback and other building standards shall be determined by the Seabrook Island Property Owner's Architectural Review Board (the "ARB"), from time to time, subject to approval of Declarant. All Lots and Property developed shall also comply with all applicable requirements of the Town Code and Development Standards Ordinance of the Town of Seabrook Island.
  - ii. Multi family dwellings constructed on the Lots shall be constructed in accordance with several basic home design plans heretofore given preliminary approval by Declarant. Any material variation from such plans shall require the prior written approval of Declarant and the ARB. All multi-family dwellings and commercial buildings constructed on the Property must apply for and receive architectural review approval by the Town of Seabrook Island Planning Commission as set forth in the Town Code and Development Standards Ordinance of the Town of Seabrook Island.
  - iii. The exterior colors of such dwellings shall be limited, and subject to approval by Declarant, the ARB, and the Planning Commission of the Town of Seabrook Island.
  - iv. No residence or dwelling shall be constructed on any Lot with less than 1,500 square feet of total heated enclosed dwelling area.
  - v. The Property is in excess of five (5) acres, therefore the PUD process set forth in the Town Code and Development Standards Ordinance of the Town of Seabrook Island must be followed.
- b. Easements.

Specific easements in favor of Declarant for the installation and maintenance of utilities, landscaping, pest control, and environmental control and protection are set forth in the Recorded Covenants. In addition to such easements, there are hereby reserved for the benefit of the Declarant and the Association, their respective successors and assigns, over, under, upon and across each Lot in the Subdivision, the following non-exclusive rights and easements:

- i. Declarant hereby reserves for itself, its agents, employees, invitees successors and assigns, for and during the period that it owns any of The Village at Seabrook Common Property or any Lot primarily for the purpose of sale or

has the option to add the Additional Property or any portion thereof to the Subdivision, the alienable and transferable right and easement on, over, through, under, and across The Village at Seabrook or improving the Lots, The Village at Seabrook Common Properties for the purpose of constructing, Properties, and/or the Additional Property, and for installing, maintaining, repairing and replacing such other improvements to the Subdivision (including portions of The Village at Seabrook Common Properties) as are contemplated by this Declaration or as Declarant, in its sole discretion, deems necessary. Notwithstanding any other provision of this Declaration to the contrary, nothing, contained in this paragraph shall be construed as an obligation on behalf of Declarant to do or use any of the foregoing.

- ii. Declarant also reserves for itself, its agents, employees, invitees successors and assigns, and the Association, their successors and assigns, a non-exclusive, perpetual, permanent, assignable, transmissible, and commercial easement over each Lot shown on the Plat, over, under, upon and across strips of land six (6') feet in width running adjacent to and parallel with the right-of-way line of any streets as shown on the Plat, which said easement shall be for the installation, maintenance, improvement, and replacement of landscaping along the right-of-way of any streets as shown on the Plat.
- iii. Declarant further reserves for itself, its agents employees, invitees successors and assigns, and the Association, their successors and assigns, a non-exclusive, perpetual, permanent, assignable, transmissible, and commercial easement over, under, upon and across each Lot within the Subdivision, to enter upon such Lot in the performance of their respective duties hereunder, and entrance upon a Lot pursuant to the provisions of this paragraph shall not be deemed a trespass.

c. Water Service Availability Fee.

Upon the installation of a water main adjacent to each Lot in the Subdivision and upon water being available in the main to the Property, the Owner of each Lot shall pay to the Town of Seabrook Island, or its designated representative, a minimum of Three and 33/100ths (\$3.33) Dollars per month for each Lot, payable annually in advance. Payment thereof for the first year or part thereof shall be due on the first day of the month immediately following the availability of water service for the prorata period beginning with said month and ending on March 31 subsequent thereto, and thereafter shall be due and payable in the annual amount of a minimum of \$40.00, payable in advance on the first day of April of each year. The foregoing charges for the availability of water service are not a contribution in aid of construction. The availability fee set forth above is subject to change. Normal charges for water consumed are subject to change by the Public Service Commission of South Carolina or other public body which shall, pursuant to agreement or other

lawful means, exercise control over the water system. Once connected, water main shall remain available unless temporarily disconnected by reason of non-payment of any of the charges mentioned in this Section 3 c.

d. Sewer Service Availability Fee.

Upon the installation of the sewerage disposal system adjacent to each Lot in the Subdivision, the Owner of each Lot shall pay to the Town of Seabrook Island, or its designated representative, a minimum of Three and 33/100ths (\$3.33) Dollars per month for each Lot, payable annually in advance. Payment thereof for the first year or part thereof shall be due on the first day of the month immediately following the availability of sewerage service for the prorata period beginning with said month and ending on March 31 subsequent thereto, and thereafter shall be due and payable in a minimum annual amount of \$40.00, payable in advance on the first day of April of each year. The foregoing charge is for the availability of the sewerage system and is not a contribution in aid of construction. The above sewerage disposal system availability charge, any charge or charges for a tap in fee to the sewer main, and any monthly service charge for such sewer service shall be in accordance with such rates as are approved by the appropriate governmental agency of the Town of Seabrook Island, the County of Charleston, or the State of South Carolina.

e. Easements for Common Driveways.

The Declarant may provide for a Common Driveway to be shared by two (2) contiguous Lots when the Declarant determines that the safety and aesthetics of the Subdivision will be better served by the use of a Common Driveway shared by two (2) contiguous Lots. At such time as Declarant shall convey any Lot(s) determined by Declarant to be required to have a Common Driveway Declarant shall record a Common Driveway Use Agreement, Covenants and Easements in the form attached hereto as Exhibit "B" which shall set forth the rights, duties and obligations of the Lot Owners, their heirs, successors and assigns as to the Common Driveway and as to the Easement Area as defined in the Common Driveway Use Agreement, Covenants and Easements attached hereto as Exhibit "B".

4. THE VILLAGE AT SEABROOK PROPERTY OWNERS' ASSOCIATION

- a. Establishment and Purpose of The Association. Declarant has established the Association for the purpose of exercising powers of owning, maintaining, repairing, reconstructing, improving, and administering The Village at Seabrook Common Properties, providing common services, administering and enforcing the within Covenants and the conditions and restrictions set forth herein, levying, collecting, and disbursing the Assessments and charges herein imposed, holding, owning, and utilizing the easements it may enjoy, and for other purposes.

It is Declarant's intention to convey to the Association, and the Association hereby agrees to accept, The Village at Seabrook Common Properties and any and all improvements, personal property, and easements associated therewith, which are to be held and administered in accordance with this Declaration. Declarant further reserves the right to convey or transfer to the Association any and all rights and obligations of Declarant set forth herein. The legal costs and expenses of such conveyances shall be borne by Declarant. Declarant reserves the right to impose additional covenants and restrictions on such The Village at Seabrook Common Properties as Declarant, in its sole discretion, deems beneficial to the Subdivision. Notwithstanding the above, Declarant reserves the right, in its sole discretion, to convey all or any portion of The Village at Seabrook Common Properties to the SIPOA, or to any appropriate governmental authority, as set forth in Paragraph 6(b) below.

- b. Powers and Functions of the Association. The Association shall be and is hereby authorized and empowered, but not obligated, to perform any and all of the following acts and services, the costs of which shall be a Common Expense.
- i. Clean-up, maintenance, landscaping, improvement, and replacement of The Village at Seabrook Common Properties and improvements thereon, therein and thereunder, pedestrian access easements, boardwalks, fences, community park area, swimming pool(s), crabbing decks, residual tracts, streets, roads and rights-of-way, and the lagoon within the Subdivision such that their deterioration would affect the appearance of the Subdivision as a whole.
  - ii. Clean-up, maintenance, improvement, and replacement of landscaping on each Lot within the Subdivision as otherwise provided in this Declaration or if deterioration of the landscaping on any Lot would affect the appearance of the Subdivision as a whole.
  - iii. Installation, clean-up, maintenance, improvement, and replacement of landscaping within the six (6) foot easement reserved by Declarant and the Association, over each Lot in the Subdivision as set forth in Paragraph 3(b) hereof.
  - iv. Take any and all actions necessary to enforce this Declaration, and to perform any of the functions or services required or delegated to the Association under this Declaration and any amendments or supplements thereto.
  - v. Provide or contract for landscaping and managerial services and other administrative services including, but not limited to legal, accounting, and financial services, communication services informing Members of activities, notice of meetings, referendums, etc.

- vi. Provide liability, hazard, or other insurance covering improvements and activities on The Village at Seabrook Common Properties and providing liability and errors and omission or similar insurance for the Directors and Officers of the Association as the Board may deem appropriate.
- vii. Purchase and acquire personal property and equipment as necessary for the proper maintenance of the Subdivision and The Village at Seabrook Common Properties.
- viii. Contract for insect and pest control to the extent that measures 'in addition 'or supplemental to those services provided by the SIPOA and applicable governmental authorities are deemed necessary or desirable in the discretion of the Board of Directors.
- ix. Construct improvements on residual areas, The Village at Seabrook Common Properties, and such other areas within the Property and/or over contiguous marsh or lowland areas as the Board of Directors deems appropriate, necessary, or essential for the Subdivision.
- x. Maintain, repair, and replace any drainage easements, improvements, and/or facilities, and erosion and flood control improvements located within or adjacent to the Subdivision to the extent that such services are not performed by the SIPOA.
- xi. In the event the Board of Directors determines that any Owner has failed or refused to comply properly with Owner's obligations with regard to the maintenance, cleaning, repair, and replacement of improvements and/or Lot or landscaped areas as set forth herein, then the Association, except in the event of an emergency situation, may give such Owner written notice of the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such Owner, and setting forth in reasonable detail the extent of such maintenance, cleaning, repair, or replacement deemed necessary, and such Owner shall have fifteen (15) days therefrom within which to complete the same in a good and workmanlike manner.

In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner, and said cost shall be added to and become a part of the Assessment to which such



Owner and Owner's Lot is subject, and shall become a lien against such Lot in favor of the Association.

The Association is further authorized and empowered to perform or provide any and all other services necessary or desirable in the judgement of the Board of Directors to carry out the Association's obligations and duties under the terms and intent of this Declaration and the By-Laws.

- c. Rules and Regulations. The Association, by and through its Board of Directors, may adopt from time to time, additional rules, regulations, and fee schedules governing the use of The Village at Seabrook Common Properties and Lots within the Subdivision which such rules, regulations, and fee schedules shall be binding upon the Lot Owners.

5. COVENANTS FOR ASSESSMENTS

- a. Creation of the Lien and Personal Obligations of Assessments. Declarant covenants, and each Owner of any Lot whether or not it shall be so expressed in Owner's deed or other conveyance, shall be deemed to covenant and agree to all other terms and provisions of this Declaration and pay to the Association (i) Annual Assessments or charges; and (ii) Special Assessments or charges for capital improvements or for maintenance expenses and other Common Expenses, emergencies and other purposes; such Assessments to be established and collected as hereinafter provided. The Assessments, together with any penalty (to be set by the Board), interest, costs, and reasonable attorneys' fees shall be a charge upon the Lot and shall be a continuing lien on the Lot against which each such Assessment is made. Each such Assessment, together with interest, any penalty, costs, and reasonable Attorney's fees, shall also be the personal obligation of the person(s) or entity who was the Owner of such Lot at the time the Assessment became due. The obligation for delinquent Assessments shall run with such Lot and shall pass to the Owner's successors in title. Upon written request, the Association shall provide or cause to be provided an accounting of an Owner's Assessments and any delinquency in the payment thereof. All reports of delinquency must be given subject to any state and federal laws regarding disclosure of a debtor's financial information.
- b. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively in connection with the operation and administration of the Subdivision. Such use shall include, but is not limited to, the payment of all Common Expenses: to promote and maintain the health, safety, welfare, and convenience of the Owners and their guests for the acquisition, construction, landscaping, repair, replacement, improvement, maintenance, and use of The Village at Seabrook Common Properties; for the installation, maintenance, improvement and replacement of special landscaping within the Subdivision; labor, equipment, materials, services,

management, supervision, security, garbage service, water, sewer and utility service in connection with The Village at Seabrook Common Properties; insurance premiums and deductibles; emergency repairs, reconstruction after casualty loss, and such other needs, without limitation, as may arise or as may be required in the sole discretion of the Board of Directors. Such Assessments shall be in addition to assessments levied by SIPOA. Until and unless otherwise approved by the Board of Directors, all Assessments shall be levied in equal, uniform amounts per Lot.

- c. Annual Assessment. The Declarant initially and thereafter the Board of Directors shall determine the amount of the Annual Assessment based on the annual budget of the Association as provided herein. When the Board of Directors determines the Annual Assessment for the ensuing fiscal year, it shall cause to be prepared in connection therewith an annual budget showing the services provided by or on behalf of the Association and the costs thereof per Lot.

At least thirty (30) days prior to the end of the calendar year, the Board of Directors shall determine the amount of the Annual Assessment for the following calendar year, and shall notify every Owner subject thereto.

d. Special Assessments

- i. In addition to the Annual Assessments authorized above, the Association may levy, in any fiscal year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of any capital improvement upon The Village at Seabrook Common Properties, including, but not limited to, fixtures, personal property related thereto and for any other purposes not prohibited by this Declaration, provided, however, that such Special Assessment shall have the assent of two thirds (2/3rds) of the votes of each class of Members voting in person or by proxy at a meeting called for such purpose. Such Special Assessments shall be set at a uniform amount for all Lots and may be collected by the Association on a monthly, quarterly, or annual basis.
- ii. In addition to the Annual and Special Assessments authorized above, the Board of Directors may levy, in any fiscal year, an amount not to exceed one hundred (100%) percent of the Annual Assessment for such fiscal year (without a 2/3rds affirmative vote of the Membership,) a Special Assessment applicable to that year only for the purpose of maintenance or repairs of The Village at Seabrook Common Properties, including, fixtures, landscaping, and personal property related thereto; for the costs of the taxes for and the utilities supplied to The Village at Seabrook Common Properties; for any repairs, restoration, reconstruction, maintenance, or improvements made

necessary by any emergencies including but not limited to damages resulting from storm, wind, earthquake, and flood as determined in the sole discretion of the Board of Directors, and for any other purpose not prohibited by this Declaration.

- e. **Effect of Non-Payment of Assessments.** Any Assessment (whether Annual, Special, or otherwise) not paid within thirty (30) days after the due date shall bear interest from the due date at a rate equal to the lesser of (a) eighteen (18%) percent per annum; or (b) the maximum rate provided by applicable law. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same or foreclose the lien against such Owner's Lot in like manner as a mortgage of real property, or both. Upon exercise of its right to foreclose, the Association may elect to declare the entire remaining amount of the outstanding Assessment(s) due and payable and collect the same through foreclosure. Penalties (as determined by the Board), interest, costs, and reasonable attorneys' fees of such action or foreclosure shall be added to the amount of such Assessment, and collectable as such Assessment.
- f. **Subordination of Lien.** The lien of Assessments provided for herein shall be subordinate to the lien of any first mortgage upon any Lot, and subordinate to any lien for assessments due the SIPOA. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure shall extinguish the lien of such Assessments as to the payment of the portion thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve any subsequent Owner of such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

#### 6. THE VILLAGE AT SEABROOK COMMON PROPERTIES

All The Village at Seabrook Common Properties are ultimately intended for the common use and enjoyment of the Association, the Owners, and their respective guests, invitees tenants, permittees heirs, successors and assigns, subject to any operating rules promulgated by the Association, its successors and assigns, and nothing contained herein or set forth on the Subdivision Plat shall in any way or manner be construed as a dedication to the public of any of The Village at Seabrook Common Properties and other such areas and amenities associated therewith.

- a. **Members' Easements of Enjoyment.** Subject to the provisions of this Declaration and the rules and regulations of the Association, every Owner shall have a non-exclusive easement of enjoyment in and to The Village at Seabrook Common Properties, and such easement shall benefit and be appurtenant to and shall run with the title to each and every Lot. It is the intention of Declarant that such rights of enjoyment shall be and are hereby deemed for the use and benefit of the Property Owners, and their

respective guests, invitees, tenants, permittees, heirs, successors and assigns, and successors-in-title.

- b. Title to The Village at Seabrook Common Properties. Declarant agrees, for itself and its successors and assigns, to convey or cause to be conveyed to the Association (and the Association agrees to accept) as The Village at Seabrook Common Properties, on or before December 31, 2008, for a nominal consideration, by quit-claim deed, bill of sale, or other wise, in their discretion, any properties in the Subdivision intended for the common use and enjoyment of the Owners, and designated by Declarant as The Village at Seabrook Common Properties either by deed of conveyance or other instrument or approved plat recorded in the R.M.C. Office for Charleston County, S.C. Such conveyance shall be made together with all structures, improvements, appurtenances, landscaping, and infrastructure located thereon and/or thereunder now or at the time of such conveyance.

The Association shall be responsible for the maintenance, repair, and replacement of any areas intended for the common use and enjoyment of the Owners once such areas have been conveyed or otherwise assigned to the Association as The Village at Seabrook Common Properties; provided, however, that Declarant first provides the Association with written notice of its intention to convey such areas to the Association for use as The Village at Seabrook Common Property.

Notwithstanding any other provision of this Declaration or the By-Laws to the contrary, Declarant and the Association shall have the right (but are not obligated to convey all or any portion of The Village at Seabrook Common Properties to the SIPOA or any other non-profit organization or governmental authority; provided, however, that such conveyance first shall be approved by a vote of the Owners of not less than two-thirds (2/3rds) of the Lots pursuant to the notice, meeting, and voting requirements set forth in the By-Laws; and provided further that so long as Declarant remains a Class B or Class A Member of the Association, such conveyance shall be invalid unless approved in writing by Declarant.

Notwithstanding the foregoing, Declarant reserves the right, in its sole discretion, to convey the Lagoon and the right-of-way of any streets shown on the Plat to the Seabrook Island Property Owners' Association, as SIPOA "Common Properties".

- c. Extent of Members' Easements. The Owners' non-exclusive rights and easements for enjoyment of The Village at Seabrook Common Properties shall be subject to the following:
- i. The rights of Declarant to convey and/or lease The Village at Seabrook Common Properties to either the Association or the Seabrook Island Property Owners Association, or part thereof to each, or to any other non-profit agency

or governmental authority, subject to Owner's approval rights if required hereunder.

- ii. Non-exclusive, appurtenant, perpetual, permanent, assignable, transmissible, commercial easements in favor of Declarant and the Association for access, ingress egress, and for the installation, maintenance, inspection, repair, and replacement of all utilities and services, irrigation systems, landscaping, and for all other lawful purposes deemed necessary, useful, or beneficial, in the discretion of Declarant and the Association. for the orderly development of the Subdivision; and the right of Declarant and of the Association, their successors and assigns, to grant, reserve, and accept such easements and rights-of-way through, under, over, and across The Village at Seabrook Common Properties.
- iii. The right of the Association, as provided in its By-Laws, to suspend the voting and enjoyment rights of any Owner for any period during which any Assessment remains unpaid, and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations.
- iv. The right of the Declarant and the Association, as the case may be, to establish rules and regulations for the Subdivision, to charge Common Expenses and to prescribe fees and charges from time to time for use of any amenities which may now or hereafter be constructed on or near The Village at Seabrook Common Properties.
- v. All applicable covenants, conditions, restrictions and easements record without limitation, the Recorded Covenants, and all applicable regulations and ordinances adopted or as may be adopted in the future by any governmental agency or entity having jurisdiction over the Property. This Declaration is intended as a supplement to the Recorded Covenants and any such governmental regulations or ordinances, and shall be interpreted to be consistent therewith wherever possible.
- vi. The right of the Association, in accordance with its By-Laws to borrow money from the Declarant or any lender for the purpose of improving and/or maintaining The Village at Seabrook Common Properties and providing services authorized herein, and in connection therewith, to mortgage all or part of The Village at Seabrook Common Properties to secure any such loan.

7. INSURANCE AND CASUALTY LOSSES

a. Insurance.

- i. Property Insurance. The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect casualty insurance at replacement value, in such form and with such coverage and deductibles as the Board deems appropriate for the benefit of the Association, insuring all insurable improvements in and to The Village at Seabrook Common Properties against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism, and malicious mischief; such coverage, if available at reasonable costs, to be in an amount sufficient to cover the full replacement cost (without depreciation, to include anticipated costs of demolition and clearing prior to building, but subject to such deductible amounts as are deemed reasonable by the Board), of any repair or reconstruction in the event of damage or destruction from any such hazard.
  
- ii. Liability Insurance. The Board or its duly authorized agents shall have the authority to and shall obtain and continue in effect a public liability policy in the amount of \$1,000,000 covering all The Village at Seabrook Common Properties owned or leased by the Association as to all damage or injury caused by the negligence of the Association, their Members, Directors, and Officers, or any of their agents. Such public liability policy shall provide such coverages as are deemed necessary by the Board.
  
- iii. Other Insurance. The Board or its duly authorized agents shall have the authority to and may obtain: (i) worker's compensation insurance to the extent necessary to comply with any applicable law; and (ii) any such other types and amounts of insurance as may be determined by the Board to be necessary or desirable.

All such insurance coverage obtained by the Board shall be written in the name of the Association as trustee for each of the Owners, and the cost thereof shall be a Common Expense. The Association shall have exclusive authority to adjust losses under such insurance policies with respect to the Subdivision; provided, however, that no mortgagee or other security holder of The Village at Seabrook Common Properties having any interest in such losses may be prohibited from participating in the settlement negotiations, if any, relating thereto.

- iv. Each Owner shall be solely responsible for obtaining, at each such Owner's sole expense, public liability, property damage or casualty coverage, flood, title, and any other insurance coverage in connection with such Owner's individual Lot(s) and all improvements thereon, as each such Owner deems necessary or appropriate.



- b. Damage to or Destruction of The Village at Seabrook Common Properties. Should any of The Village at Seabrook Common Properties or other property owned by and/or covered by insurance written in the name of the Association as such trustee for the Lot Owners, be damaged or destroyed by fire, windstorm, flood, or any other casualty, the Board of Directors, or its agent shall be responsible for timely filing all claims and adjustments arising under such insurance. In such event, the Board shall be further responsible for obtaining detailed estimates for repairing or restoring and/or reconstructing such damaged Property to substantially the same condition as existed prior to such casualty, and such estimates must be obtained by the Board from reputable, reliable, licensed individuals or companies. The Association shall restore, repair, or replace such damaged improvements, including structures, trees, shrubbery, fences, lawns, landscaping, signage personal property, and natural vegetation as soon after such damage or destruction as is reasonably possible under the circumstances. In the event insurance proceeds, if any, are insufficient to repair, restore, and/or replace such damaged or destroyed property and reserve funds as may have been appropriated or established for such purpose are, in the sole discretion of the Board, insufficient or inadequate to defray the costs thereof, or would unreasonably deplete such reserve funds, the Board may levy a Special Assessment against all Owners, without the necessity of a vote of the Members, in an amount sufficient to provide adequate funds to pay such excess costs of repair, reconstruction, or replacement. Such a Special Assessment shall be levied against the Owners equally in the same manner as Annual Assessments are levied, and additional Assessments may be made at any time during or following the completion of any repair, reconstruction, or replacement. Any and all sums paid to the Association under and by virtue of such Special Assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds, if any, and Assessments shall be disbursed by the Association in payment of such repair, reconstruction, or replacement pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any funds remaining after defraying such costs shall be retained by and for the benefit of the Association. Special Assessments levied according to this Paragraph 7(b) may include but are not limited to Special Assessments for insurance deductibles, temporary emergency repairs and uninsured losses as well as the legal or other costs of collection.
- c. Damage to or Destruction of Improvements to Lots. In the event of damage or destruction by fire or other casualty to any improvements to any of the Lots, the Owner thereof, at his sole expense, shall be responsible for clearing away the ruins and debris of any damaged improvements or vegetation within thirty (30) days of such damage or destruction, so that the Lot is promptly restored to a clean, orderly, safe, and sightly condition. In the event such Owner shall fail or refuse to clear away the ruins and debris of any damaged improvements within said thirty (30) day period,

or such extended period as the Board may allow, in its sole discretion, the Association may enter the Lot, and its agents may undertake (but are not obligated to do so), any such clearing and charge the costs thereof to the responsible Owner, which costs shall be a lien upon the Lot until paid.

8.

## GENERAL PROVISIONS

- a. Duration. The Covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Declarant, the Association, or any Lot Owner, their respective, heirs, personal representatives, successors, successors-in-title and assigns, for a period of twenty-five (25) years from the date of recordation of this Declaration in the R.M.C. Office. Upon the expiration of said twenty-five (25) year period, this Declaration shall be automatically renewed and extended for additional successive ten (10) year periods, unless otherwise agreed to in writing by the then Owners of at least two-thirds (2/3rds) of the Lots.
- b. Amendment. Declarant specifically reserves for itself and its successors and assigns, the exclusive right and privilege to amend this Declaration at any time to correct typographical, clerical, or scrivener's errors, by written instrument duly recorded in the R.M.C. Office, with or without the prior consent or approval of either any Owner or mortgagee holding a lien on any Lot.

In addition, so long as Declarant retains its Class B Membership in the Association, Declarant shall further have the right and privilege to amend this Declaration in other respects without the written consent or approval of the Owners of the Lots and without the written consent of the respective mortgagees. Any amendment made pursuant to this Paragraph 8(b) shall be effective only upon the date of recordation of such instrument in the R.M.C. Office or such other later date as may be specified in such amendment; and each Owner, by the acceptance and recordation of a deed of conveyance to a Lot, agrees for himself, and his successors in title, to be bound by such amendments as are permitted under this Paragraph 8(b).

In addition to the Declarant's rights to amend set forth above, this Declaration may be amended at any time by an instrument signed by the Owners of not less than two-thirds (2/3rds) of the Lots; provided, however, that so long as Declarant remains a Class B or Class A Member of the Association, no amendment shall be valid unless approved in writing by Declarant. Such amendment prior to its execution shall first be subject to the notice, voting, and meeting requirements set forth in the By-Laws, and must be approved by at least two-thirds (2/3rds) of the total votes held by the Lot Owners. The agreement of the required percentage of Owners and, when required, the Declarant, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the

President of the Association attached to or incorporated in the amendment executed by the Owners, stating that the agreement of the required parties was lawfully obtained in accordance with this Declaration and the By-Laws of the Association. For purposes of execution of any such amendment, all Owners of a Lot, if more than one, must sign such instrument for such Lot to be included in the determination of the aforesaid two-thirds (2/3rds) of the total Lots. except in such instance as set forth;

- c. Enforcement and Waiver. Declarant, the Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, covenants, conditions, easements, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant, the Association, or by any Owner to enforce in whole or in part any covenant, or restriction herein contained, regardless of the number or kind of violations or breaches which may have occurred, shall in no event be deemed a waiver of the right to do so thereafter. This Declaration shall be governed by, construed, and is enforceable under the laws of the State of South Carolina.
- d. Interpretation. The Board of Directors shall have the right to determine all questions arising in connection with this Declaration and the By-Laws and to construe and interpret its provisions, and its determination, construction, or interpretation shall be final and binding upon the Owners. In all cases, the provisions of this Declaration and the By-Laws shall be given the interpretation or construction, in the opinion of the Board, that will best preserve, protect, maintain, and benefit the properties within the Subdivision.
- e. Severability. Should any covenant or restriction herein contained, or any paragraph, subparagraph, sentence, clause, phrase, or term of this Declaration be declared or rendered void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having Jurisdiction over the parties hereto or the subject matter hereof, such shall in no wise affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.
- f. Assignment. Declarant reserves the right to assign to the Association or any one or more persons, firms, corporations, partnerships, or associations, any and all rights, powers, duties, easements and estates reserved or given to the Declarant in this Declaration, including, without limitation, the right to grant and assign utility easements from time to time over, under, and within The Village at Seabrook Common Properties.
- g. Notice. Any notice, demand, or other instrument or written communication required or permitted to be given, served, made or delivered to Declarant hereunder may be given, served, made or delivered by service in person or by mailing the same by

certified mail, return receipt requested, postage prepaid, or by overnight courier (e. g., Federal Express), addressed as follows:

Seabrook Island I, LLC  
 Attn: John H. Hofford  
 Rice Mill Building  
 17 Lockwood Drive  
 Charleston, SC 29401

With Copies to: David H. Crawford, Esquire  
 Buist, Moore, Smythe & McGee, P.A.  
 5 Exchange Street  
 Charleston, SC 29401

or to such other addresses as Declarant may request by written notice to the Owners. Any such notice, demand or other instrument or written communication mailed as above provided shall be deemed to have been given served, made or delivered at the time that it was personally served or with sufficient postage placed in the mail, certified return receipt requested, or delivered to the overnight courier. Delivery of any notice, demand or communication to a Lot Owner shall be made in accordance with Paragraph 4 of the By-Laws.

- h. Limited Liability. Neither Declarant, nor the Association shall be liable for injury or damage to any person or property (a) caused by the elements or by any Owner or any other person; (b) caused in whole or in part from rain or other surface water or any tidal waters which may leak or flow from and/or on or along any portion of The Village at Seabrook Common Properties or easement areas; or (c) caused by the malfunction or failure of any pipe, plumbing, drain, conduit, pump, road, appliance, structure, dock, pier, equipment, security system, utility line, or facility which the Association is responsible for maintaining.

The Declarant and the Association shall not be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored or left in or upon any portion of The Village at Seabrook Common Properties or any other portion of the Subdivision, nor any alleged trespass or damage resulting from entering upon any Lot under any authority provided herein and taking actions thereon as are allowable hereunder.

Further, no diminution abatement or deferral of Assessments or any dues or charges shall be claimed or allowed by reason of any alleged failure of Declarant or the Association to take action or perform a function required to be taken or performed by Declarant or the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the

responsibility of Declarant or the Association, or from any action taken by them to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay any such Assessment authorized herein being separate and dependent obligations on the part of each Owner.

- i. Gender and Number. All pronouns used herein shall be deemed to include the masculine, the feminine and non-personal entities, as well as the singular and plural wherever the context requires or permits.
- j. Construction. The language in all of the parts of this Declaration and the By-Laws shall be construed as a whole according to its fair meaning, and not strictly for or against either Declarant, the Association, or the Lot Owners. By the acceptance and the recordation of a deed of conveyance to any Lot Owner in the R.M.C. Office, such Owner acknowledges that such Owner and/or his counsel have reviewed this Declaration, and that any rule of construction to the effect of ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Declaration, the By-Laws, or any amendments thereto.
- k. Termination of Association . In the event this Declaration is declared void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto or the subject matter hereof, and such adjudication occurs within ten (10) years of the date of recording of this Declaration, all The Village at Seabrook Common Properties and other properties belonging to the Association at the time of such adjudication shall revert to the Declarant, its successors and assigns, and the Declarant, its successors and assigns, shall own and operate said The Village at Seabrook Common Properties and other properties as trustee for the use and benefit of the Owners as set forth herein. If said adjudication shall occur on a date more than ten (10) years after the date of recording of this Declaration, or if the Owners should vote not to renew and extend this Declaration as provided for in Paragraph 8(a) hereof, all The Village at Seabrook Common Properties and other properties owned by the Association at such time shall be transferred by the Association to a trustee appointed by the Court of Common Pleas of Charleston County, South Carolina, which trustee shall own and operate said The Village at Seabrook Common Properties and other properties for the use and benefit of Owners within the Subdivision as set forth herein.
  - i. In any of the foregoing events, each Lot shall continue to be subject to the Assessments which shall be paid by the Owner to the Declarant or trustee, whichever becomes successor in title to the Association. The amount of the Assessments which may be charged by the Declarant or trustee shall be

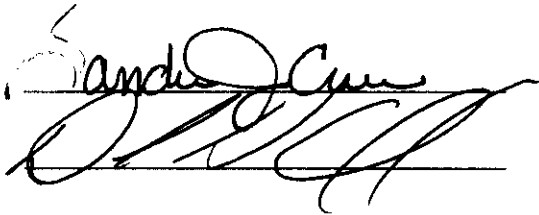


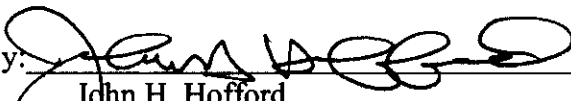
established in accordance with the provisions therefor set forth in Paragraph 5 hereof.

- ii. Any past due Assessments together with any delinquent payment fees thereon, and all costs of collection, interest and reasonable attorneys' fees, shall continue to be the personal obligation of the Owner and a continuing lien on the Lot and all improvements thereon against which the Assessment was made.
- iii. The Declarant or trustee, as the case may be, shall be required to use the funds collected as Assessments for the operation, maintenance, repair, and preservation of the Subdivision in accordance with this Declaration, and the Declarant or trustee may charge as a part of the costs of such services and functions a reasonable fee for its services in carrying out the duties herein provided. Neither the Declarant nor the trustee shall have the obligation to provide for the operation, maintenance, repair, and upkeep of The Village at Seabrook Common Properties once the funds provided by the Assessments may have become exhausted.
- iv. The Declarant or trustee shall have the right and power to convey title to The Village at Seabrook Common Properties and to assign the rights of Declarant and the Association hereunder, provided that such conveyance is first approved in writing by the Owners of not less than fifty-one percent (51 %) of the Lots, with each Lot, if more than one Owner, having one collective vote, and provided further, that the transferee accepts title to The Village at Seabrook Common Properties subject to the limitations and uses imposed hereby, and affirmatively acknowledges in writing its acceptance of the duties imposed hereby. The agreement of the required percentage of Owners to such a conveyance and/or assignment of rights shall be evidenced by the sworn statement executed by the proper authorized officer(s) of Declarant, or the trustee, attached to or incorporated in such instrument executed by the Declarant or trustee, stating that the agreement of the required parties was lawfully obtained in accordance with this Declaration.

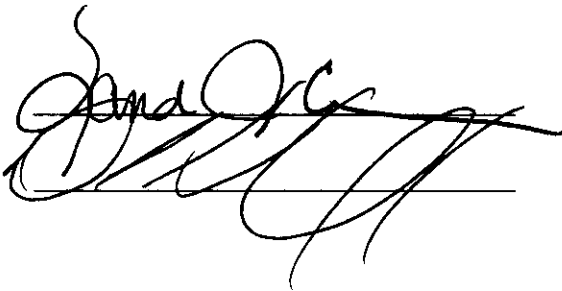
IN WITNESS WHEREOF, SEABROOK ISLAND I, LLC, a South Carolina limited liability company, has caused these presents to be executed in its name by John H. Hofford its Managing Member and by HBT Healthcare Partners, its Managing Member by Savitz, Wallace and Associates, Inc. General Partner of HBT Healthcare Partners by David M. Savitz, Sr. as President of Savitz, Wallace and Associates, Inc. thereunto duly authorized, and its seal to be hereunto affixed, this 15<sup>th</sup> day of NOVEMBER, 2000.

SEABROOK ISLAND I, LLC, a South Carolina limited liability company




By:   
John H. Hofford  
Its: Managing Member

SEABROOK ISLAND I, LLC, a South Carolina Limited Liability Company



By: HBT Healthcare Partners  
Managing Member

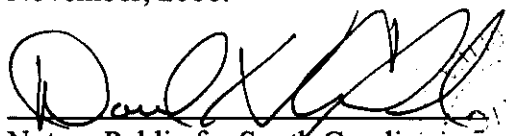
By: Savitz Wallace and  
Associates, Inc.  
Its: General Partner

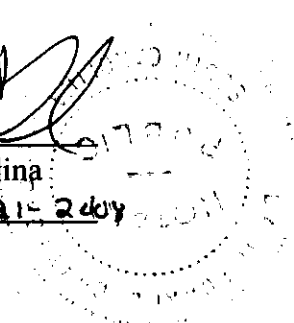
By:   
David M. Savitz, Sr.  
Its: President

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON ) ACKNOWLEDGMENT

I, David C. Crawford, Notary Public) do hereby certify that Seabrook Island I, LLC, a South Carolina limited liability company, by John H. Hofford its Managing Member, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 15<sup>th</sup> day of November, 2000.

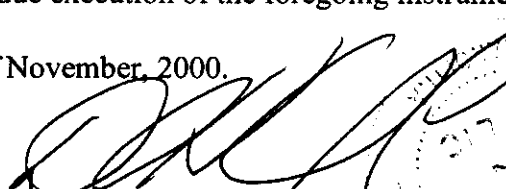
  
Notary Public for South Carolina  
My Commission Expires 9-31-2004

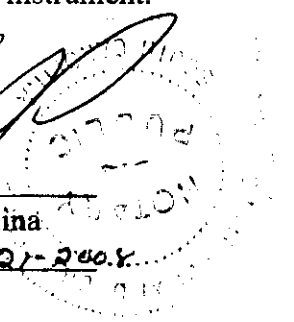


STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON ) ACKNOWLEDGMENT

I, David C. Crawford (Notary Public) do hereby certify that Seabrook Island I, LLC, a South Carolina limited liability company, by HBT Healthcare Partners its Managing Member by Savitz Wallace and Associates, Inc. its General Partner by David M. Savitz, Sr. its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 15<sup>th</sup> day of November, 2000.

  
Notary Public for South Carolina  
My Commission Expires 9-21-2004



**EXHIBIT "A"**  
**PROPERTY DESCRIPTION FOR RESTRICTIVE COVENANTS**

ALL those certain pieces, parcels and tracts of land, situate, lying and being in the Town of Seabrook Island, Charleston County, South Carolina, known generally as "The Village at Seabrook" and shown and designated as Lots A-1 through A-22, inclusive, Lots B-1 through B-49, inclusive, Lots C-1 through C-35, inclusive, "LAGOON PERIMETER COMMON AREA 2.334 acre", "Common Area A", "Common Area B", "25' Buffer Perimeter", "20' Perimeter Buffer", and "50' Perimeter Buffer and Drainage/General Utility Easement", all within the Village at Seabrook Subdivision as shown on a plat entitled "CONDITIONAL PLAT SHOWING THE SUBDIVISION OF THE VILLAGE AT SEABROOK, CONTAINING 42.328 ACRE TRACT, LOCATED IN THE TOWN OF SEABROOK ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA, PREPARED FOR HANK HOFFORD" made by G. Robert George and Associates, Inc dated August 14, 2000 and recorded on October 6, 2000 in Plat Book EE at Pages 344 and 345 in the RMC Office for Charleston County (the "Plat"), which Plat is incorporated herein by reference thereto. Said parcels having such size shape, dimensions, buttings and boundings as will by reference to the Plat more fully and at large appear.

EXHIBIT "B"

STATE OF SOUTH CAROLINA ) COMMON DRIVEWAY USE AGREEMENT
) COVENANTS AND EASEMENTS
COUNTY OF CHARLESTON )

This Common Driveway Use Agreement Covenants and Easements (the "Agreement") is made and executed this \_\_\_ day of \_\_\_, 2000, by Seabrook Island I, LLC, a South Carolina limited liability company (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of Lot \_\_\_ and Lot \_\_\_ as shown on that Plat of the Village at Seabrook prepared by G. Robert George, P.L.S., P.E.S.C. Reg. No. 6517 entitled "Conditional Plat Showing the Subdivision of the Village at Seabrook Containing 42.328 Acre Tract Located in the Town of Seabrook Island, Charleston County, South Carolina, Prepared for Hank Hofford", dated August 14, 2000, and recorded on October 6, 2000, in Plat Book EE at Pages 344 and 345, in the R.M.C. Office (hereinafter the "Plat"); and

WHEREAS, Declarant desires to designate an easement area upon portions of Lot \_\_\_ and Lot \_\_\_ as shown on the Plat for the purpose of the construction and thereafter the maintenance by the subsequent owners of Lot \_\_\_ and of Lot \_\_\_, their heirs, successors and assigns of a common driveway (the "Common Driveway") leading from the street bordering Lot \_\_\_ and Lot \_\_\_ to the residences located or to be located on Lot \_\_\_ and Lot \_\_\_; and

WHEREAS, Declarant desires to create an easement for the Common Driveway and to evidence the rights, duties and obligations of both Lot Owners their respective heirs, successors and assigns by means of this Agreement.

KNOW ALL MEN BY THESE PRESENTS that Lot \_\_\_ and Lot \_\_\_ as more particularly described on Exhibit "A" attached hereto and as shown on the Plat shall be subject to the following terms, covenants, conditions, and easements which shall be binding upon the Owner(s) of Lot \_\_\_ and the Owner(s) of Lot \_\_\_, and their respective heirs, successors and assigns, and shall therefore run with the land as to Lot \_\_\_ and as to Lot \_\_\_.

- 1. Location of Common Driveway. The Common Driveway shall be located within that area designated as "Common Driveway Easement" as shown on that plat of Lot \_\_\_ and of Lot \_\_\_ prepared by \_\_\_, S.C.R.L.S. No. attached hereto as Exhibit "\_\_\_" and incorporated herein by referenced (the "Easement Area").



2. Grant of Easement by Declarant. Seabrook Island I, LLC, a South Carolina limited liability company hereby grants and conveys to the Owner(s) of Lot \_\_\_\_\_, their heirs, successors, and assigns forever, a permanent, assignable, perpetual, non-exclusive, appurtenant and transmissible commercial easement, subject to the terms and conditions herein set forth, for the use as a Common Driveway in favor of Lot \_\_\_\_\_ over, upon and across that portion of Lot \_\_\_\_\_ lying within the Easement Area.

To have and to hold all and singular the said Easement aforementioned, subject to the terms and conditions herein set forth, to the said Owner(s) of Lot \_\_\_\_\_, their heirs, successors and assigns, forever.

Seabrook Island I, LLC, a South Carolina limited liability company hereby grants and conveys to the Owner(s) of Lot \_\_\_\_\_, their heirs, successors, and assigns forever, a permanent, assignable, perpetual, non-exclusive, appurtenant and transmissible commercial easement, subject to the terms and conditions herein set forth, for the use as a Common Driveway in favor of Lot \_\_\_\_\_ over, upon and across that portion of Lot \_\_\_\_\_ lying within the Easement Area.

To have and to hold all and singular the said Easement aforementioned, subject to the terms and conditions herein set forth, to the said Owner(s) of Lot \_\_\_\_\_, their heirs, successors and assigns, forever.

It is the express intention of Seabrook Island I, LLC, a South Carolina limited liability company that Lot \_\_\_\_\_ and that Lot \_\_\_\_\_ shall both be perpetually burdened with the within granted Easement and that each Lot be deemed to be the servient estate for the use and benefit of the other Lot as to that portion of the Easement Area as shall benefit the other Lot, and that each Lot be deemed to be the dominant estate as to that portion of the Easement Area located on the other Lot used for the benefit of that Lot.

3. Construction of the Common Driveway. The Common Driveway shall be constructed within the Easement Area at such time as a dwelling is constructed on either Lot \_\_\_\_\_ or Lot \_\_\_\_\_, whichever occurs first. The Lot Owner who shall construct the Common Driveway pursuant to the preceding sentence shall be deemed to be the constructing party (hereinafter the "Constructing Party"). The Constructing Party shall act in good faith and shall use best efforts to construct and cause the use of the Common Driveway in such a way as to maximize the aesthetic appearance of the Lots affected thereby and to minimize any disruption to the existing topography and vegetation. The Common Driveway shall be constructed of 4 ½ inch thick shell concrete paving over a 4 inch crushed rock foundation atop well-tamped earth. The Common Driveway shall be 16 feet in width. It is the intent of the Declarant that the Common Driveway shall run along the common boundary line between Lot \_\_\_\_\_ and Lot \_\_\_\_\_ located within the Easement Area. Provided, however, the construction of the Common Driveway shall conform to all requirements for architectural approval reserved unto the Declarant and of the Town of Seabrook Island

Planning Commission, and of the Seabrook Island Property Owner's Architectural Review Board, their successors and assigns, by restrictions of record in the R.M.C. Office for Charleston County, South Carolina, and therefore the location of the Common Driveway may not run along the common boundary line between the Lots.

It is agreed that the costs and expenses of constructing the Common Driveway by the Constructing Party as aforesaid, together with appropriate landscaping, shall be the joint responsibility of the Owner(s) of Lot \_\_\_\_\_ and the Owner(s) of Lot \_\_\_\_\_, their heirs, successors and assigns. Upon completion of construction of the Common Driveway the Constructing Party shall file an affidavit with the Declarant stating the total costs of the construction, ½ of which shall be reimbursed to the Constructing Party by the Owner(s) of the other Lot.

4. Use of the Common Driveway. The Common Driveway shall be utilized in common jointly by the Owner(s) of Lot \_\_\_\_\_ and the Owner(s) of Lot \_\_\_\_\_, their respective heirs, assigns, devisees, personal representatives, guests, invitees, servants, tenants, agents, permittees, and successors in title to the respective lots. The Owner(s) of Lot \_\_\_\_\_ and the Owner(s) of Lot \_\_\_\_\_ shall keep the Common Driveway and the Easement Area free and clear at all times of fences, structures or debris, and no parking, standing or stopping of cars shall be allowed on the Common Driveway or any other portion of the Easement Area at any time. No buildings or structures of any kind shall be erected or permitted to remain on the Easement Area except for the Common Driveway constructed as set forth in Paragraph 3 hereof. This Paragraph 4 shall not be construed as a limitation on landscaping by the Owner(s) of Lot \_\_\_\_\_ or the Owner(s) of Lot \_\_\_\_\_ of that portion of the Easement Area encumbering either Lot provided that such landscaping shall not create a safety hazard by interfering with reasonably necessary lines of sight of approaching vehicles.
  
5. Maintenance and Repair of the Common Driveway. The Common Driveway shall be maintained generally as constructed aforesaid in respect to its location, design, condition, material and workmanship, upkeep, repair and replacement of the Common Driveway, including the trimming of the immediately adjacent vegetation, shall be the joint responsibility of the Owner(s) of Lot \_\_\_\_\_ and of the Owner(s) of Lot \_\_\_\_\_, their respective heirs, successors and assigns who shall bear the expenses thereof equally. The Owner(s) of Lot \_\_\_\_\_, their heirs, successors and assigns and the Owner(s) of Lot \_\_\_\_\_, their heirs, successors and assigns shall consult with one another prior to initiating any substantial maintenance, upkeep, repair or replacement of the Common Driveway. However, maintenance, upkeep, repair or replacement may be initiated by either Lot Owner(s), their heirs, successors or assigns, so long as such undertaking is reasonable and does not exceed the aggregate amount of \$250.00 per year. Payment thereof may be made in full by the Lot Owner(s) initiating such improvement whereupon the other Lot Owner(s) shall reimburse ½ thereof promptly upon receipt of an accounting of such costs and request therefor. If either Lot Owner(s) personally with his, her, its own labor makes any repairs, the other Lot Owner(s) shall reimburse the repairing Lot Owner(s) for ½ of the costs of the materials used in making the repairs upon receipt of an accounting of such costs and request therefor.

6. Insurance and Damage. Notwithstanding anything contained in this Agreement to the contrary, the underlying ownership as to that portion of the Common Driveway lying upon each Lot shall remain with the Owner(s) of the particular Lot upon which that portion of the Common Driveway is located, their respective heirs, successors and assigns and except for the easement granted herein for the Common Driveway and the Easement Area neither Lot Owner(s) shall have any claim of ownership as to the other Lot. Each Lot Owner(s) shall keep his, her, its share of such Common Driveway insured in reasonable amounts with reasonable deductibles against liability for property damage, personal injury, or death suffered by persons using the Common Driveway. In the event of such calamity, resulting repair, replacement, or liability expenses shall be paid for as fully as possible by the proceeds of such insurance. To the extent that insurance does not cover all such expenses, the Lot Owners shall share the remaining expenses equally; provided, however, in the event the Common Driveway is damaged by one or the other of the Lot Owners, or by their respective heirs, successors, assigns, devisees, personal representatives, guests, invitees, servants, tenants, agents, permittees, and successors in title as a result of unusual or improper use, such Lot Owner is responsible for such damage and shall pay the entire cost of restoring the Common Driveway, any portion of the Easement Area, or any landscaping so damaged to its previous condition. The cost of repairing damage occasioned by an Act of God shall be borne and apportioned as a normal maintenance expense.
7. Private Driveways. It is contemplated and agreed that the Lot Owner(s) hereto shall have the right to connect private driveways (the "Private Driveways") to the Common Driveway to provide for ingress and egress to their respective Lots. Such Private Driveways shall be for the exclusive use and enjoyment of the Owner(s) of the Lot to which it provides access, their heirs, successors, assigns, devisees, personal representatives, guests, invitees, servants, tenants, agents, permittees, and successors in title.

Each Lot Owner(s) shall be obligated to construct such Private Driveway at such time as a dwelling is constructed on their Lot. Any cost and expense incurred in the construction, maintenance, upkeep, improvement, repair and replacement of such Private Driveway shall be the sole responsibility of the Lot Owner(s) to which the Private Driveway provides access. Provided, however, that any portions of said Private Driveway constructed upon the Easement Area shall be deemed part of the Common Driveway and shall be constructed and maintained to the same standards set forth herein above for the Common Driveway. Any portions of a Private Driveway constructed upon the Easement Area shall not exceed 16 feet in width, except only where it is necessary to form the Private Driveway connection to the Common Driveway.

8. Easements and Restrictions to Run With Land. The within grants of easement shall run with the land as will the restrictions and obligations contained herein, and shall be binding on and shall inure to the benefit of the Lot Owner(s) of Lot \_\_\_\_\_, and the Lot Owner(s) of Lot \_\_\_\_\_ and their respective heirs, successors and assigns, forever. It is the express intention of the Declarant to create easements appurtenant to the subject Lots, freely alienable and

transferrable as an incident of the ownership of each of the respective Lots. The Lot Owner(s) of Lot \_\_\_\_\_ and the Lot Owner(s) of Lot \_\_\_\_\_ acknowledge and agree that any assignment of their right, title or interest as granted by this Agreement to subsequent purchasers of the subject Lots may be effected without the consent of the non-transferring party, provided that the subsequent purchaser of any interest in the subject Lot acknowledges their agreement to abide by all the terms, covenants and conditions of this Agreement.

9. Subordinate to Other Matters. The rights and easements herein created and granted are subordinate to any easements, restrictions and conditions defined as Recorded Covenants in the Declaration of Covenants and Restrictions for the Village at Seabrook and provisions for and Bylaws of the Village at Seabrook Property Owner's Association, Inc., recorded in the R.M.C. Office for Charleston County, South Carolina, in Book \_\_\_\_\_ at Page \_\_\_\_\_. Any repairs or reconstructions made necessary by exercise of the said preexisting rights shall be borne in the same manner as are costs of Initial Constructions, maintenance and repair of the Common Driveway.
10. Utilities. The paved surface of the Common Driveway, or any Private Driveway constructed on the Easement Area may be breached for the installation or maintenance of any underground utilities which may be placed in the Easement Area, but the same shall be promptly restored to its previous conditions by and it the sole expense of the Lot Owner(s) of which the utility serves. In the event the utility service is for the benefit of both Lot Owners the restoration shall be borne in the same manner as are costs of Initial Constructions and maintenance of the Common Driveway.
11. Default and Remedy. If either Lot Owner(s) should fail or refuse to pay his, her, its share of the costs of the Initial Construction of the Common Driveway, or the maintenance and repair of the Common Driveway or breaches any of the covenants, duties and obligations under this Agreement, the non-defaulting party may pursue any remedy available at law or in equity. The defaulting party shall pay and indemnify the non-defaulting party against all legal costs, fees and charges, including attorney's fees, lawfully and reasonably incurred and enforcing any of the defaulting party's covenants and obligations under this Agreement.
12. Amendment. Subject to the matters to which this Agreement is subordinate as set forth in Paragraph 9 above, this Agreement may be amended at any time by mutual consent of both Lot Owners, their respective heirs, successors and assigns, with any such amendment to be invalid unless in writing, signed by both of the Lot Owners or their respective heirs, successors or assigns.
13. References to Gender and Number Terms. In construing this Agreement, feminine and neuter pronouns shall be substituted for those masculine in form and vice versa, the plural term shall be substituted for singular and singular for plural in any place in which the context so requires.

14. Headings. The various headings in this Agreement are inserted for convenience only and are not part of the Agreement.
15. Governing Law. This Agreement shall be governed by the laws of the State of South Carolina.

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BY-LAWS  
OF  
THE VILLAGE AT SEABROOK PROPERTY OWNERS ASSOCIATION, INC.

1. NAME AND LOCATION

The name of the Association is The Village at Seabrook Property Owners' Association, Inc. The initial principal office of the Association shall be located at 17 Lockwood Drive, Rice Mill Building, Charleston, South Carolina, 29401, but meetings of Members and Directors may be held at such places within the State of South Carolina as may be designated by the Board of Directors.

2. DEFINITIONS

The words and terms used in the within By-Laws or any supplemental or amended set of By-Laws, unless the context shall clearly indicate otherwise, shall have the same meanings as set forth in the Declaration of Covenants and Restrictions for The Village at Seabrook about to be recorded in the R.M.C. Office, (the "Declaration"), which said Declaration is incorporated herein by reference. Other definitions may appear throughout this instrument and shall have the meanings more particularly set forth herein.

3. MEMBERSHIP AND VOTING RIGHTS

- a. Association Membership. Declarant and every person or entity who is a record Owner of a fee simple or undivided fee simple interest in any Lot which is subjected by the Declaration to Assessment by the Association shall be a Member of the Association; provided that any such person or entity holding record title or interest merely as a security for the performance of an obligation shall not be a Member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot which is subject to Assessments.
- b. Membership Rights. The rights of Membership are subject to the payment of Assessments levied by the Association, from time to time, the obligation of which Assessments is imposed against each Owner of and becomes a lien upon the Lot against which such Assessments are made, as provided by Paragraph 5 of the Declaration. Subject to the terms of the South Carolina Nonprofit Corporation Act ("Act"), a Member may be suspended if not less than fifteen (15) days prior written notice sent by first class or certified mail of the proposed suspension of a Member and the reason therefor has been delivered to such Member in accordance with the procedures set forth in Paragraph 4(f) hereof. Such notice shall set forth the date, place, and time such Member shall be given the opportunity to be heard orally by the Board of Directors, which shall be not less than five (5) days before the effective date

of the suspension. Such written notice shall also set forth the address of the Board of Directors to which and by which such Member may be heard. Upon the affirmative vote of two-thirds of the Board of Directors of the Association, acting fairly and reasonably taking into consideration all of the relevant facts and circumstances, the Board of Directors may suspend a Member; however, if the Member is suspended for failure to pay Assessments, upon the Member's payment in full of such Assessments, such rights and privileges shall be automatically restored. A Member who has been expelled or suspended shall remain liable to the Association for dues, assessments, or fees as a result of obligations incurred or commitments made before such suspension.

c. Voting Rights. The Association shall have two classes of voting membership:

- i. Class A. Class A Members shall be every Owner, including Declarant, and shall be entitled to one vote for each Lot owned. Declarant's Class A Membership shall continue for so long as it owns at least one Lot. When more than one person, other than Declarant, holds title to a Lot, all such persons shall be Members, but shall collectively have only one vote, and in no event shall more than one vote be cast with respect to any one Lot.

In the event joint Owners of a Lot fail to determine the manner in which their vote is to be cast, such vote shall nevertheless be counted and considered as an affirmative vote for the measure. In addition, when such a vote is considered as affirmative for the measure and (i) is the "deciding" vote necessary to carry the measure, and (ii) all joint Owners of each Lot casting an affirmative vote are required to execute an instrument in connection with the passage of the measure (such as in the case of an Amendment in accordance with Paragraph 8(b) of the Declaration), and (iii) one or more of the joint Owners of such Lot failing to determine the manner in which their vote is to be cast refuses to execute such required instrument, the President of the Association may attach a sworn affidavit to such instrument reciting the circumstances of the vote (including a statement that the joint Owners of such Lot received proper notice in accordance with these By-Laws, failed to determine the manner in which their vote should be cast and as a consequence their vote was considered as affirmative in the voting on the measure in accordance with these By-Laws) and thereupon the validity and enforceability of such instrument shall not be affected or be subject to question by reason of the lack of the execution thereof by any one or more of the joint Owners of such Lot.

When one joint Owner signs a proxy or purports to vote for his or her co-Owners, such vote shall be counted and bind all, unless the other joint Owners object in writing.

ii. Class B. Declarant, its successors and assigns, shall be the only Class B Member. The Class B Member shall be entitled to ten (10) votes for each of the Lots in which it holds an interest. The Class B Membership of Declarant shall cease on the happening of any of the following events, whichever first occurs:

(1) when the Declarant executes and records in the R.M.C. Office an instrument forfeiting its Class B Membership; or

(2) when the Declarant, its successors and assigns no longer owns a Lot.

d. Proxies. Each Member entitled to vote may vote in person or by proxy at all meetings of the Association. All proxies shall be executed in writing by the Member or his duly authorized attorney-in-fact, and filed with the Secretary of the Association or such other officer or agent of the Association authorized to tabulate votes before or at the time of the meeting; provided, however, that proxies shall not be required for any action which is subject to a referendum. Unless a proxy states otherwise, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. A proxy may be revocable or irrevocable but shall be deemed revocable at will unless it states otherwise. An appointment of a proxy is revoked by the person appointing the proxy (i) attending any meeting and voting in person, or (ii) signing and delivering to the Secretary or other officer or agent of the Association authorized to tabulate votes for the Association either a written statement that the appointment of the proxy is revoked or a subsequent appointment form. If at least ten (10) days (thirty (30) days if notice is mailed by other than first class or registered mail) prior to a duly called meeting a Member is informed pursuant to the provisions of Paragraphs 4(e) and 4(f) herein of (a) the time and place of the meeting, (b) the agenda for the meeting, and (c) such data as is then available relative to the issues on which there will be a vote, and a proxy form is included in such mailing, and the Member neither attends the meeting nor returns an executed proxy, then such Member shall be deemed present for purposes of determining a quorum and shall be deemed to have given his proxy to and for the majority present and voting. No proxy shall extend beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date; and no proxy shall be valid for more than three (3) years from the date of execution. Any proxy shall automatically cease upon sale by the Member of his Lot.

#### 4. MEETINGS

a. Initial Meeting. The initial meeting of the Association shall be held upon notice by the Declarant as soon as the Declarant deems practicable and convenient. The

following, matters and such other business as Declarant deems appropriate, shall be the subject of the initial meeting:

- i. adoption of a fiscal year;
  - ii. approval of a budget for a fiscal year;
  - iii. determination of the date for commencement of the Annual Assessment, the billing cycle therefor, and the date upon which such installments shall be due and payable;
  - iv. determination of the date of the first and subsequent annual meetings; and
  - v. election of the initial three person Board of Directors in accordance with Paragraph 5(b) of these By-Laws.
- b. Annual Meetings. The annual meetings of the Association shall be held on a date determined by the Board. Any business which is appropriate for action of the Members may be transacted at an annual meeting.
- c. Special Meetings. Special meetings of the Association's Members may be demanded and called for any one or more lawful purposes by the Association's President, two (2) Directors, or the holders of record of five (5%) percent of the Association's voting power entitled to vote at such meeting , provided such holders comply with such demand provisions set forth in the Act and these By-Laws. Upon the written, signed, and dated demand, which states the purpose of the meeting, being delivered in accordance with the foregoing to an officer of the Association personally or by registered or certified mail, the President or Secretary on or before the thirtieth (30th) day after the date of such demand shall fix the date and time of the meeting and provide notice thereof to the Members in accordance with Paragraph 4(e) hereof. If the notice of the meeting is not given within thirty (30) days after the demand is made to the officer of the Association, a person signing the demand may set the time and place of the meeting and give notice thereof in accordance with Paragraph 4(e) hereof. Special meetings of the Members shall be held at a time and location designated by the person calling the meeting in the notice of the meeting; provided, however, that if the notice does not designate a time and location, such meetings shall be held at the Association's principal office at the hour of ten o'clock in the morning on the date designated in the notice of the meeting. In the event that the President and Directors timely designate different times or locations, then the designations of the Directors shall control; provided, however, any notice changing the time or place of the meeting shall be effective only if timely received by the Members in accordance with Paragraph 4(e) hereof.
- d. Place of Meetings. All meetings of the Association shall be held at such convenient place as the Board of Directors may determine.

- e. **Notice of Meetings, Waiver of Notice.** Oral or written notice of all meetings of Members shall be given no fewer than ten (10) days, or if notice is mailed by other than first class or registered mail, thirty (30) days, nor more than sixty (60) days before the meeting date by any method permitted under the Act, to all Members of record entitled to vote at such meeting; provided, however, the date upon which such notice shall be deemed effective shall be determined in accordance with Paragraph 4(f) hereof. Such notice shall state the date, time, and place of the meeting, and if required by the Act or these By-Laws the purpose or purposes for which such meetings was called. Notice of a meeting of Members need not be given to any Member who, in person or by proxy, signs a waiver of notice either before or after the meeting, and such waiver is delivered to the Association for inclusion in the Association's records. To be effective such waiver shall contain statements or recitals sufficient to identify beyond reasonable doubt the meeting to which it applies. Such statements or recitals in such waiver of notice may, but need not necessarily, include the reference to the date and purpose of the meeting and the business transacted thereat. Statement or recital of the proper date of a meeting shall be conclusive identification of the meeting to which a waiver of notice applies unless the waiver contains additional statements or recitals creating a patent ambiguity as to its proper application. A Member's attendance at a meeting waives objection to lack of notice or defective notice of the meeting, unless the Members at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.
- f. **Effective Date of Member Notices.** An oral notice is permissible if reasonable under the circumstances and is effective when communicated in a comprehensive manner. Written notice, if in comprehensive form, is effective at the earliest of the following:
- i. When received;
  - ii. Five (5) days after its deposit in the United States mail, if mailed correctly addressed with first class postage affixed;
  - iii. On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or
  - iv. Fifteen (15) days after its deposit in the United States mail, if mailed correctly addressed and with other than first class, registered or certified postage affixed.

Written notice is correctly addressed to a Member if addressed to the Member's address shown on the Association's current list of Members (the "List"). A written notice or report delivered as part of a newsletter, magazine or other publication regularly sent to Members constitute a written notice or report if addressed or delivered to the Member's address shown on the List, or in the case of Members who are resident of the same household and who have the same address on the List, if addressed or delivered to one of such Members, at the address appearing on the List.



- g. **Quorum Requirements.** The presence at any meeting of Members entitled to cast, or of proxies entitled to cast, fifty-one (51%) percent of the total votes of the Association shall constitute a quorum for any action governed by these By-Laws. Any Owner who does not execute and return the proxy form sent to such Owner in the required mailing shall be deemed to be present for the purposes of determining the presence of a quorum. Any action governed by the Declaration applicable to the Property shall require a quorum as therein provided.
- h. **Action Without Meeting.** To the fullest extent permitted by the Act, Members may take action without a meeting by written consent as to such matters and in accordance with such requirements and procedures authorized by the Act. Unless otherwise permitted by the Act, such written consent must be signed by at least fifty-one (51%) percent of the Members and delivered to the Association for inclusion in the corporate records. Written notice of Member approval pursuant to this Paragraph must be given to all Members who have not signed such written consent. If written notice is required, Member approval pursuant to this Paragraph shall be effective ten (10) days after written notice is given and effective in accordance with Paragraph 4(e) and Paragraph 4(f) hereof.
- i. **Power of Referendum.** The Members of the Association shall have the power, by referendum, to approve or reject certain actions proposed to be taken by the Association. In the event fifty-one (51%) percent or more, of the total votes actually returned to the Association within the specified time shall be in favor of such action, the referendum shall be deemed to "pass" and the action voted upon will be deemed to have been authorized by the Members; provided, however, that if a higher percentage vote required to "pass" is specifically expressed herein or in any amendment or supplements hereto or in the Declaration, that higher percentage shall control in that instance.
- j. **List of Owners and Member of Record.** For the purpose of determining Members entitled to vote at any meeting of Members, or in connection with any other proper purpose requiring a determination of Members, the Board of Directors shall by resolution fix a record date for such determination. Unless otherwise provided for in advance by resolution of the Board of Directors, the record date set by the Board of Directors shall be no more than seventy (70) days, and not less than the last day for timely giving notice, before the meeting or action requiring a determination of Members is to occur. If the Board of Directors fails to set a record date, the Members at the close of business on the business day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held are entitled to notice of the meeting and to vote thereat. The Members of record appearing in the books of the Association at the close of business on the record date so fixed shall constitute the Members in respect of the activity in question. A determination of Members of record entitled to notice of or to vote at a

meeting of Members is effective for any adjournment of the meeting unless the Board of Directors fixes a new date for determining the right to notice or the right to vote, which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the record date for determining Members entitled to notice of the original meeting. After fixing a record date for notice of a meeting, the Association shall prepare a list of names of Members who are entitled to notice of the meeting and shall list the Members by classification of membership, if any. The list shall show the address and number of votes each Member is entitled to vote at the meeting. The Association shall prepare on a current basis through the time of the membership meeting a list of Members, if any, who are entitled to vote at the meeting but not entitled to notice of the meeting. This list must be prepared on the same basis and be part of the list of Members. Such list of Members shall be available for inspection by any Members for purposes of communication with other Members concerning the meeting, beginning the date after notice is given of the meeting for which the list was prepared and continuing through the meeting, at the Association's principal office. Subject to the limitations of Sections 33-31-720, 33-31-1602(c) and 33-31-1605 of the Act, as amended, a Member, Member's agents, or Member's attorney shall be entitled on written demand, at the Member's expense, to inspect and copy the list at a reasonable time during the period it is available for inspection. The Association shall make the list of Members available at the meeting, and any Member, a Member's agent, or Member's attorney shall be entitled to inspect the list at any time during the meeting or any adjournment. Notwithstanding the foregoing, a Member may inspect and copy the membership list only if (i) his demand is made in good faith and for a proper purpose; (ii) he describes with reasonable particularity his purpose; and (iii) the list is directly connected with his purpose.

- k. Minutes of Meetings. The Secretary of the Association shall prepare and keep, or cause to be prepared and kept, accurate minutes of every meeting of the Association. The minutes shall be made available for examination by a Member at the office of the Association during normal business hours.

## 5. BOARD OF DIRECTORS

- a. Power and Duties. The Association shall be governed and its business affairs managed by and through a Board of Directors. The powers herein granted to the Association may be exercised by such Board of Directors acting through the Officers of the Association without any further consent of the Owner and Members, except as may be limited or otherwise required by provisions of the act, the Declaration, the within By-Laws, or the Articles of Incorporation of the Association.

The Board of Directors shall have the authority to carry out the powers and functions of the Association set forth in the Declaration and in addition thereto, the following powers and duties:

- i. to adopt and publish rules and regulations governing the use of The Village at Seabrook Common Properties, rights, amenities, personal property, and facilities, and the personal conduct of the Members and their guests and invitees thereon, and to establish penalties for the infraction thereof;
- ii. to suspend the voting rights and right to use The Village at Seabrook Common Properties, amenities and facilities, if any, of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association, subject to the requirements set forth in Paragraph 3(b) hereof.
- iii. to exercise for and on behalf of the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these By-Laws or the Declaration;
- iv. to employ a Property manager, independent contractors, or such other employees as the Board may deem necessary, to prescribe their duties and enter into contracts in connection therewith;
- v. to grant utility, ingress/egress and other easements on, over, and across The Village at Seabrook Common Properties as provided in the Declaration and/or deed or other instrument of conveyance from Declarant;
- vi. to sell, transfer, or convey portions of The Village at Seabrook Common Properties without a vote of the Members of the Association in order to (i) divest the Association of properties which are not necessary for the functions and services which the Association is authorized to carry out and deliver; or (ii) correct errors or mistakes in deeds or easements to or from the Association;
- vii. to exercise for the Association all powers and authority necessary to carry out the intent of the Declaration and the By-Laws;
- viii. to cause to be kept a complete record of all acts and affairs of the Association and to present a statement thereof to the Members at any annual or special meetings of the Association when such statement is requested in writing, by a one-third (1/3rd) vote of the Class A Members.
- ix. to supervise all Officers, agents, and employees of the Association and to see that their respective duties are properly performed;

- x. to perform or cause to be performed such action(s) and services as are set forth in the Declaration and/or prescribed by the Association including, but not limited to:
- (1) determining the amount of the annual budgets and fixing and levying the amounts of all Assessments;
  - (2) sending written notice of all Assessments to every Owner subject thereto; and
  - (3) in the discretion of the Board, foreclosing the lien against any Lot for which Assessments are not paid within thirty (30) days after the due date or to bring an action at law against any Owner personally obligated to pay the same.
- xi. to enforce by legal means the provisions of the Articles of Incorporation, the Declaration, these By-Laws, and the rules and regulations promulgated by the Board.
- xii. to pay all costs associated with The Village at Seabrook Common Properties, including taxes, assessments, power, water, sewer, and other utility services and all other charges in connection with the operation and maintenance of The Village at Seabrook Common Properties and/or the operation and affairs of the Association, rendered to the Association and not billed to the Owners of Lots.
- xiii. to the extent provided by law, the Board shall have the power and authority to pledge or mortgage the properties of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions. Notwithstanding anything in the Declaration to the contrary, the Association shall not be allowed to reduce the limits of the minimum regular assessments at any time there are outstanding any amounts in repayment of any such loans.
- xiv. to implement erosion control steps and/or devices and to levy Assessments therefor, should the Board of Directors determine that such steps and/or devices are necessary.
- xv. to exercise for the Association all powers, duties and authority vested in or delegated to the Association by the Declaration and not reserved to the Members by other provisions of these By-Laws, the Declaration, or the Articles of Incorporation.

- b. Number, Tenure, Qualifications, and Compensation. The initial Board of Directors shall consist of three (3) members initially appointed by Declarant. Such initial Board of Directors shall serve until the expiration or earlier termination of Declarant's Class B Membership. Thereafter, the Board of Directors shall consist of three (3) members elected by the Members of the Association, and shall serve for a term of three (3) consecutive years. The Declarant shall have the right to appoint or remove any member or members of the Board of Directors with or without Cause until the expiration or earlier termination of Declarant's Class B Membership. No cumulative voting is allowed, and Directors need not be Owners or Members of the Association. Directors shall not receive any salaries for their services, but by resolution of the Board, any Director may be reimbursed for his actual expenses incurred in the performance of his duties as a Director. Nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity and receiving compensation therefor.
- c. Removal and Vacancies. Subject to the provisions of the Declaration, any Director may be removed from the Board, with or without Cause, by the Declarant while retaining its Class B Membership. In the event Declarant is no longer a Class B Member, then any Director may be removed with or without Cause by majority vote of the Members. A Director elected by the Members may be removed by the Members only at a meeting called for the purpose of removing the Director and the meeting notice states that the purpose, or one of the purposes, is the removal of the Director.
- Vacancies in the Board of Directors shall be filled by Declarant so long as Declarant retains its Class B Membership, and thereafter by a majority of the remaining Directors. The term of such newly appointed Director shall expire simultaneously with the term of the remaining Directors.
- d. Quorum and Manner of Acting. A majority of the Board of Directors actually holding office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If a quorum is not present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum is present. The act of a majority of Directors present at a meeting at which a quorum is present shall be the act of and binding upon the Board of Directors.
- e. Meetings.
- i. Initial Meeting. The initial meeting of the Association shall be held upon notice by the Declarant as soon as the Declarant deems practicable and convenient.

- ii. **Annual Meetings.** An annual meeting of the Board of Directors shall be called and held for the purpose of annual organization, changes in the established number of Directors, if any. appointment of Officers and committees, and the transaction of any other business. If such meeting is held promptly after and at the place specified for the annual meeting of Members, no notice of the Annual meeting of the Board of Directors need be given. Otherwise, such annual meeting of the Board of Directors shall be held at such time (at any time prior to and not more than thirty (30) days after the annual meeting of the Members), and place as may be specified in the notice of the meeting. The Board of Directors may by resolution provide for the holding of additional regular meetings without notice other than such resolution; provided, however, the resolution shall fix the dates, times and places (which may be anywhere within or without the State of the Association's principal office) for these regular meetings. Except as otherwise provided by law, any business may be transacted at any annual or regular meeting of the Board of Directors.
- iii. **Special Meetings.** Special meetings of the Board of Directors may be called for any lawful purpose or purposes by the President or any two (2) Directors by giving notice thereof to the Board members as provided herein. The person calling a special meeting shall give, or cause to be given, to each Director at his business address, notice of the date, time and place of the meeting by any means of communication acceptable under the Act not less than two (2) days prior thereto. An oral notice is permissible if reasonable under the circumstances and is effective when communicated in a comprehensible manner.

Written notice is correctly addressed to a Director if addressed to the Director's business address shown on the Corporation's current records. If notice is given by telegram, the notice shall be deemed delivered when the facsimile of the notice is transmitted to a telecopier facsimile receipt number designated by the receiving Director, if any, so long as Director transmits to the sender an acknowledgment or receipt. The notice of a special meeting shall describe the purpose of such special meeting. Any time or place fixed for a special meeting must permit participation in the meeting by means of telecommunications as authorized below.

- iv. **Notice of Meetings and Waiver of Notice.** When notice of any meeting of the Board is required, such notice shall be given one day (or at least two days' notice to each Director of the date, time, and place, of the meeting in the case of a special meeting of the Board) prior to such meeting by notice either personally to a Director or by sending a copy of the notice by first class U.S. Mail, postage thereon fully prepaid, or by overnight courier to such address as shown on the records of the Association for its Director. Any Director



may waive notice of any meeting at or before the time of the meeting stated herein, and attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, or the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice at such meeting, unless specifically provided by law, the Articles of Incorporation, these By-Laws or the Declaration.

- v. Place of Meetings. All meetings of the Directors shall be held at such convenient place as the board may determine.
- vi. Minutes of Meetings. The Secretary of the Association shall prepare and keep, or cause to be prepared and kept, accurate minutes of every meeting of the Board of Directors. A copy of the minutes shall be made available for examination by any Member at the office of the Association during normal business hours.
- f. Voting. Each Director shall have one vote on all matters acted upon by the Board of Directors. The affirmative vote of two Directors shall be sufficient for any action unless otherwise specified in these By-Laws.
- g. Informal Action by Directors. Any action required or permitted by law to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent or consents, in writing setting forth the action so taken shall be signed by all of the Directors, which consent(s) shall be filed with the Secretary of the Association as part of the Association's records. Telephone conference meetings which are duly called pursuant to the provisions of these Bylaws and where the action of the Board is subsequently reduced to a written memorandum and signed by all the Directors within seven (7) days after the telephone conference shall be effective as if occurring at a duly called meeting. Actions under this Paragraph 5(g) are effective when the last Director executes a consent.

## 6. OFFICERS OF THE ASSOCIATION

- a. Designation of Officers. The Officers of the Association shall be a President, Vice President, Secretary and Treasurer. or as otherwise determined by the Board of Directors, in their sole discretion. The Board of Directors may further elect such other Officers as they deem necessary or desirable and such Officers shall have the authority to perform the duties prescribed by the Board of Directors, from time to time. Any two or more offices may be held by the same person. The President shall

be a Director of the Association. and other Officers may be, but need not be Directors of the Association.

- b. Election. Term of Office. Vacancies and Removal. The Officers of the Association shall be appointed and removed by the Declarant until the expiration or earlier termination of Declarant's Class B Membership. Thereafter, the Officers shall be elected annually by the Board of Directors following each annual meeting of the Members. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled by Declarant so long as Declarant retains its Class B Membership, and thereafter, by the Board of Directors for the unexpired portion of the term. Any Officer may be removed with or without Cause by the Declarant or the Board of Directors whenever, in their sole, discretion, such removal is in the best interest of the Association.
- c. Powers and Duties. The Officers of the Association shall have such powers and duties as generally pertain to their respective offices, and such other powers and duties as may be prescribed or imposed by the Board of Directors. from time to time.
- d. President. The President shall be the chief executive officer of the Association and shall be a member of the Board of Directors. The President shall execute on behalf of the Association all instruments requiring such execution except to the extent the signing and execution thereof shall be expressly delegated by the Board to another Officer or agent. The President shall preside at all meetings of the Association and the Board of Directors and shall have all general powers and duties which are customarily vested in the office of President of a property owners' association, including the power to appoint committees.
- e. Vice-President. The Vice President shall act under the direction of the President and shall perform such duties as may be imposed by the Board. In the absence or disability of the President, the Vice President shall perform the duties and exercise the powers of the President.
- f. Secretary. The Secretary shall act under the direction of the President and subject to the direction of the President shall attend all meetings of the Board and the Association, and record the proceedings thereof. The Secretary shall give or cause to be given, notice of all meetings of the Association and the Board as required hereunder, and shall perform such other duties as may be prescribed by the President and the Board of Directors.
- g. Treasurer. The Treasurer shall act under the direction of the President and shall keep or be responsible for keeping the accounts of the Association. The Treasurer shall disburse the funds of the Association as may be ordered by the President or the Board of Directors and shall render upon request or at the regular meetings of the Board of

Directors an account of all transactions of the Association and its financial condition. The Treasurer shall be further responsible for mailing or having mailed all Assessment, meeting, and proxy notices and shall keep current the list of all Owners and Members required under Paragraph 4(j) hereof.

## 7. COMMITTEES

- a. Committees of Directors. Subject to the Act, the Board may designate one or more committees, each of which shall consist of two or more Directors and such other Members as the Board shall determine, which committees to the extent authorized by the Board, shall have and exercise the authority of the Board in the management of the affairs of the Association; provided, however, that no such committee shall have the authority of the Board as to the following matters: (a) the dissolution, merger, or consolidation of the Association; the amendment of the Articles of Incorporation of the Association, or the sale, lease or exchange of all or substantially all of the Property of the Association; (b) the designation of any such committee or the filling of vacancies in the Board of Directors or in any such committee; (c) the amendment or repeal of these By-Laws or the Declaration, or the adoption of new By-Laws; (d) the amendment or repeal of any resolution of the Board or (e) any other matter expressly prohibited by the South Carolina Code of Laws.
- b. Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the Association may be designated by a resolution adopted by a majority of Directors present at a duly called meeting. Such committees shall perform such duties and have such powers as may be provided in the resolution.
- c. Rules. Each committee may adopt rules for its own government not inconsistent with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board.

## 8. CONTROL

- a. Control by Declarant. NOTWITHSTANDING ANY OTHER PROVISION IN THE DECLARATION, THE ARTICLES OF INCORPORATION, OR BY-LAWS OF THE ASSOCIATION TO THE CONTRARY, Declarant hereby specifically retains the right, from time to time, to appoint and/or remove any member or members of the Board of Directors and any Officer or Officers of the Association with or without Cause so long as Declarant retains its Class B Membership. Every grantee of interest in the Subdivision, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to appoint and/or remove Directors and Officers of the Association in accordance with the foregoing provisions. Upon the expiration or earlier termination of Declarant's Class B Membership as hereinafter

set forth, the Declarant's right to appoint and/or remove Directors and Officers of the Association pursuant to the provisions of this Article shall pass to the Owners, including Declarant if Declarant is then a Class A Member.

- b. Termination or Assignment of Declarant's Control of the Association. As soon as reasonably possible (but in no event more than sixty (60) days) after the expiration or earlier termination of Declarant's Class B Membership, the Board of Directors shall call a special meeting of the Association wherein the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the previous Board, and Declarant shall deliver all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period which Declarant has had the same in its possession.

9. FINANCES AND MANAGEMENT

- a. Fiscal Year. The fiscal year of the Association shall be determined by the Board of Directors.
- b. Corporate Records. The Association shall keep as permanent written records a copy of the minutes of all meetings of its Members and Board of Directors, a record of all actions taken by the Members or Directors without a meeting, and a record of all actions taken by committees of the Board of Directors. The Association shall maintain appropriate accounting records. The Association or its agent shall maintain a record of the name and address of each Member. The Association shall keep a copy of the following records at its principal office:
  - i. its articles or restated articles of incorporation and all amendments thereto currently in effect;
  - ii. its by-laws or restated by-laws and all amendments thereto currently in effect;
  - iii. resolutions adopted by its Board of Directors relating to the characteristics, qualifications, rights, limitations, and obligations of the Members or any class or category of Members;
  - iv. the minutes of all meetings of Members and records of all actions approved by the Members for the past three (3) years;
  - v. all written communications to Members generally within the past three (3) years, including financial statements furnished for the past three (3) years;
  - vi. a list of the names and business or home address of its current Directors and Officers; and
  - vii. The Association's most recent report of each type required to be filed by the Association with the South Carolina Secretary of State.

- c. Budget. The Board of Directors shall prepare and submit, or cause to be prepared and submitted to the Members at each annual meeting, a proposed budget for the Association for the fiscal year. The proposed budget shall set forth with particularity the anticipated Common Expenses for the fiscal year and the amount of money needed to establish reasonable reserves for the payment of Common Expenses and contingencies.
- d. Approval of Budget. The proposed budget, as it may be amended from time to time, shall be submitted to a vote of the Members, and when approved shall become the budget of the Association for the fiscal year. The terms of the budget shall be binding upon the Board of Directors unless and until such budget is amended by action of the Members.
- e. Financial Statements. The Association upon written demand from a Member shall furnish to the demanding party the Association's latest annual financial statements, which may be consolidated or combined statements of the Association and one or more of its subsidiaries or affiliates, if applicable. Such statements shall include a balance sheet as of the end of the fiscal year and statement of operations for that year. If financial statements are prepared for the Association on the basis of generally accepted accounting principles, the annual financial statements also must be prepared on that basis. If the annual financial statements are reported upon by a public accountant, the accountant's statement must accompany them. If not, the statements must be accompanied by the statement of the President or person responsible for the Association's financial accounting records (1) stating whether or not to the President's or such person's reasonable belief the financial statements were prepared on the basis of generally accepted accounting principles, and if not, describing the basis of preparation, and (2) describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.
- f. Management of the Association
- i. Property Manager (the "Manager"). The Board of Directors shall have the right and authority to employ a property manager to assist in the management of the Subdivision and administration of the Association in accordance with the terms and provisions of the Declaration, the By-Laws and the Articles of Incorporation. The Manager shall provide such services and perform such duties as the Board of Directors shall determine and the Manager shall confer fully and freely with the Board of Directors and shall attend meetings of the Board and the Association when so requested by the Board.
  - ii. Collection of Assessments. Members shall be personally liable for all Assessments and shall pay same promptly when due. The Board of Directors

shall take prompt action to collect by suit, foreclosure, or other lawful method any past due Assessment. If any overdue Assessment is collected by an attorney or by action at law, the Member owing the same shall be required to pay all reasonable costs of collection, including attorney's fees.

- iii. **Delinquent Payment Fee.** In addition to the interest set forth in Paragraph 5 of the Declaration, an Assessment not paid within thirty (30) days following the date when due shall be subject to a delinquent fee of one and one-half (1.5 %) percent of the unpaid balance per month from the due date and each month or part thereof thereafter so long as the Assessment or any part thereof remains delinquent. The Delinquent Payment Fee shall be added to and collected in the same manner as the Assessment. The Board of Directors may, in its sole discretion, waive all or any portion of a Delinquent Payment Fee imposed pursuant to this Paragraph 9(f) if it affirmatively appears that the failure to pay the Assessment when due was caused by circumstances beyond the control of the Member.
- iv. **Payments.** The Board of Directors shall provide for payment of all debts of the Association from the funds collected by the Association. Expenditures for Common Expenses or other expenditures specifically approved in the budget may be paid without further approval unless shall otherwise determine. All other expenditures in excess of One Thousand and No/100 (\$1,000.00) Dollars shall be reviewed and approved by the President or a minimum of two (2) members of the Board of Directors before cost is incurred or payment is made unless other provision for the payment thereof has been set forth herein or in the Declaration. All checks and requests for withdrawals drawn upon any account of the Association shall be signed by the President and the Treasurer or by any two Officers of the Association designated by the Board of Directors. The Board may authorize the Manager to draw checks from any account of the Association and the Board may also authorize the Manager to make disbursements from the petty cash fund, if any.
- v. **Bonding.** The Board of Directors shall procure a fidelity bond in an amount to be determined by the Board, covering each and every individual authorized to withdraw funds from any account maintained by the Association. The cost of such bond shall be a Common Expense.
- vi. **Inspection Rights.** The Members shall have only such rights to inspect records of the Association to the extent, and according to the procedures and limitations prescribed by the Act.

## 10. LIABILITY AND INDEMNIFICATION



- a. Liability of Directors. No Director or Officer of the Association shall be liable to any Owner for any decision, action, or omission made or performed by such Director or Officer in the course of his duties unless such Director or Officer acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Declaration or these By-Laws.
- b. Indemnification of Director. The Association shall indemnify and hold harmless each Officer and Director to the extent and in the manner permitted by law, from any liability claimed or imposed upon him by reason of his position or decision, action or omission as an Officer of Director if all of the following conditions are satisfied:
- i. Such Officer or Director has not acted in bad faith or reckless disregard of the rights of any person or of the terms of the Declaration or these By-Laws,
  - ii. Such Officer or Director reasonably believed:
    - (1) In the case of conduct in his official capacity with the Association, that his conduct was in the best interest of the Association;
    - (2) In other cases, that his conduct at least was not contrary to the best interests of the Association;
    - (3) In the case of criminal proceedings, that he had no reasonable cause to believe his conduct was unlawful.
  - iii. Such Director or Officer gives the Association adequate notice of the claim, assertion or imposition of liability to permit the Association and/or its insurer reasonable opportunity to defend against the same.
  - iv. Such Director or Officer cooperates with the Association in its defense against such liability.

The expense of indemnifying or defending such Director or Officer as provided herein shall be a Common Expense of the Association, and shall be borne by all Members, including such Director or Officer.

## 11. AMENDMENTS

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the Board of Directors, at a regular or special meeting of the Board by a vote of a majority of all Directors, provided notice of such pending action with a copy or summary of the proposal is given in the notice for said meeting, and provided, further, that Declarant consents to such amendment so long as Declarant retains its Class B Membership.

These By-Laws may further be altered, amended or repealed and new By-Laws may be adopted by the Declarant, in its sole discretion, so long as Declarant retains its Class B Membership.

These By-Laws may also be amended by a two-thirds (2/3rds) vote of the Members at a duly called meeting of the Association provided notice of such proposed amendment is given in the notice for such meeting, and provided further that Declarant consents in writing to such amendment so long as Declarant retains its Class B Membership.

## 12. MISCELLANEOUS PROVISIONS

- a. **Merger.** To the extent and in the manner provided by law, the Association may participate in mergers and consolidation with other non-profit associations organized for the same or similar purposes, provided, however, that any such merger or consolidation shall require approval by a vote of two-thirds (2/3rds) of the total votes cast at a meeting duly called for such purpose.

Upon merger or consolidation of the Association with another association or associations, its property rights and obligations may, by operation of law, be transferred to the surviving or consolidated association. However, the properties, rights, and obligations of another association which may, by operation of law, be added to the obligations of this Association as a surviving corporation pursuant to such merger, shall be maintained separately from the property rights and obligations hereunder. The surviving or consolidated association may administer The Village at Seabrook Common Properties, however, no merger or consolidation shall affect any revocation, change or addition to the Declaration.

- b. **Dissolution.** If the Members determine that it is in the best interest of the Association and/or its Members to completely dissolve the Association, such action may be taken by an affirmative vote of not less than three-fourths (3/4ths) of the Members in person or by proxy, at a meeting duly called and held for such purpose; provided that Declarant consents in writing so long as Declarant retains its Class B Membership.
- c. **Seal.** The seal of the Association shall be circular in form and shall have inscribed thereon the name of the Association, the year of its organization, and the words "Corporate Seal, State of South Carolina".
- d. **Conflicts.** The Articles of Incorporation and the Act (as either may be amended from time to time) are incorporated herein by reference. Any conflict between the terms of these By-Laws, the Articles of Incorporation, the Declaration or the Act shall be resolved in the following order (i) the Act; (ii) the Declaration; (iii) the Articles; and (iv) the By-Laws. In the case of any conflict between these ByLaws and any regulation promulgated by the Board of Directors, these By-Laws shall control.

- e. Waiver. No provision of these By-Laws or any regulation promulgated by the Board pursuant thereto shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.
- f. Severability. The provisions of these By-Laws are severable, and the invalidity of one or more provision hereof sh not be deemed to impair or affect in any manner the enforceability or effect of the remaining provisions.
- g. Captions. Captions are inserted herein only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision.
- h. Gender and Number. All pronouns used herein shall be deemed to include the masculine, the feminine, and non-personal entities, as well as the singular and plural wherever the context requires or permits.
- i. Roberts Rules. All meetings of the Members and of the Board of Directors shall be conducted in accordance with Roberts Rules of Order Revised.

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