

For waiver see RB 4838 pg 204
For Amendment see RB 5326 pg 105
For Amendment see RB 5326 pg 107
For Modification see RB 5883 pg 107
Amendment see RB 5346 pg 109
For Amendment see RB 5349 pg 50
For Amendment see RB 5450 pg 10

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR
STONEY POINTE at BEAR CREEK
PHASE ONE

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (The "Declaration") made as of this 22 day of June, 1998, by and between Five Star Development Group, LLC. (hereinafter referred to as "Declarant"), and any or all persons, firms or corporations hereafter acquiring any lots to which reference is made herein.

WITNESSETH:

WHEREAS, DECLARANT is the owner of a certain tract of real property comprising that residential subdivision located in Lexington County, South Carolina, known as Stoney Pointe at Bear Creek and more particularly described on a Plat of the subdivision and incorporated herein by reference (hereinafter referred to as the "Property"); and

WHEREAS, Declarant desires to establish a general plan of development as hereinafter set forth to restrict the use and occupancy of the Property for the protection of the lots shown on said plat (hereinafter the "Lots") as well as the present and future owners thereof.

NOW, THEREFORE, Declarant hereby declares that the Lots and other property comprising the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, and easements set forth in this Declaration which are for the purpose of protecting the value and desirability of such property, and which shall run with the Property and be binding on all parties owning any right, title or interest in and to said Property, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean that non-profit property owner's association formed for the purposes described herein, as well as its successors and assigns and referred to as Home Owners Association "HOA".

For Amendment see RB 5889 PG: 9 29 81 771
Modification of Restrictions: BK-5823 PG-127 P#1

Section 2. "Common Areas" shall mean all real property owned by the Association or in regard to which the Association has been granted an easement, right of way or other right of access.

Section 3. "Declarant" shall mean and refer to Five Star Development Group, LLC, and any successor and/or assignee.

Section 4. "Lot" shall mean and refer to any plat of land with delineated boundary lines, shown upon the above mentioned recorded subdivision map of the Property. In the event any lot is increased or decreased in size by resubdivision, through recordation of new subdivision plats, any such newly platted lot shall thereafter constitute a lot for any purpose of this Declaration.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons, or entity, of a fee simple title to any Lot which is a part of the Property, including contract sellers and owners of an equity of redemption, but excluding those having such interest in a Lot solely as security for the performance of an obligation.

Section 6. "Plat" shall mean and refer to that certain plat of the Property known as STONEY POINTE AT BEAR CREEK PHASE I, to be recorded in the Lexington County, South Carolina, Office of The Register of Deeds.

Section 7. "Property" shall mean and refer to the "Existing Property" described in Article II, Section 1, hereof, and any additions thereto, as are, or shall become subject to this Declaration by amendment hereto, by any Supplemental Declaration, under the provision of Article II hereof.

ARTICLE II Property Subject to This Declaration

Section 1. Existing Property. The real property which is and shall be held transferred, sold, conveyed and occupied subject to this Declaration, irrespective of whether there may be additions thereto as hereinafter provided, is located in the Chapin Area, Lexington County, South Carolina, and is more particularly described on the Subdivision Plat for STONEY POINTE AT BEAR CREEK, or on individual lot plats for lots within the subdivision, which are incorporated herein by reference.

Section 2. Additions to Existing Property.

a. Additional Property ("Additional Property"). Any property which is adjacent, adjoining, or within close proximity of the Existing Property, may be brought within the scheme of this Declaration, by the Declarant, its successors and assigns, provided, however, that said annexations, if any, must occur within fifteen (15) years after the date of filing of this Declaration. Declarant shall not be obligated to subject any additional property to this Declaration.

b. The additions authorized under subsection (a) above shall be made by filing an amended or Supplemental Declaration of Covenants, Conditions and Restrictions with respect to the additional property, in the Lexington County, South Carolina, Office of the Register of Deeds, which shall extend the scheme of this Declaration to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein.

ARTICLE III

Membership, Control and Voting Rights of the Association

Section 1. Membership. Every Owner of a Lot shall be a member of the Association. Membership in the Association shall be appurtenant to title to each of the Lots and may not be separated therefrom.

Section 2. Classes of Lots. The voting rights of the Membership shall be appurtenant to the ownership of the Lots. There shall be two classes of lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots, except Class B Lots, as defined in the immediately following subparagraph. Each Owner of a Class A lot shall be entitled to one (1) vote within the Association. In the case of a Lot owned by more than one person (exclusive of the Owners of leasehold or security interest) each such owner shall be a member of the Association, and joint owners of such a Lot may determine among themselves how the votes appurtenant to the ownership of such Lot may be cast, but in no event shall more than one (1) vote be cast in regard to any such Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by the Declarant. Each Class B Lot shall entitle the owner to ten (10) votes within the Association.

Section 3. Amendment of By-Laws. Notwithstanding the provisions of Section 2 above, so long as there shall be any Class B Lots in the Development, and unless the Declarant transfers or assigns the rights set forth in this Section 3 by an express amendment to this Declaration, the By-Laws of the Association may not be amended without the consent of the Declarant, and the Declarant shall have the right to appoint or remove any member of the Board of Directors of the Association.

Section 4. Board of Directors. The association shall be governed by a Board of Directors in accordance with the By-Laws.

ARTICLE IV
Covenant for Maintenance Assessments

Section 1. Creation of Lien and Personal Obligation for Assessments. The Declarant hereby covenants and agrees, and each Owner shall be deemed to covenant and agree by acceptance of a Deed to a Lot, whether or not such Deed shall expressly re-impose this Declaration, to pay to the Association annual assessments or charges and special assessment for capital improvements established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of each Owner at the time when the assessment falls due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successor's in title unless expressly assumed by such successor.

Section 2. Purpose of Annual Assessments. The assessments levied by the Association shall be used for the following: to promote the health, safety and welfare of the Members; to enforce the Declaration and the Rules of the Association; to improve and maintain the Common Areas, and to provide the service and facilities devoted to the use and enjoyment of the Common Areas, including, but not limited to, the costs of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the association when necessary, and such other needs as may arise.

Section 3. Annual Assessment.

(a) Until January 1 of the year following the conveyance of the first Lot by the Declarant to another Owner, the annual assessment shall be \$400.00 for each Class A Lot. This assessment shall be collected at the closing/sale of the lot, and shall be deposited in the HOA bank account. There shall be no assessment for the Class B Lots because the Declarant shall pay for the difference between the available HOA funds and the expenses of maintaining the Amenities until such time as the amenities are transferred to the HOA.

(b) The maximum annual assessment for Class A Lots established above may be increased, effective January 1 of each year, provided that such increase does not exceed eighteen percent (18%) of the maximum annual assessment permitted in the previous calendar year, provided such increase is approved by a simple majority of the votes of the HOA. The annual assessment for all Class A Lots shall be equal.

(c) From and after January 1 of each year following the conveyance of the first Lot by Declarant to an Owner, the maximum annual assessment for Class A Lots may be increased, without limitation, if such increase is approved by Members entitled to not less than two-thirds (2/3) of the votes appurtenant to the Class A and Class B Lots. Such voting may be represented in person or by proxy at a meeting duly called for this purpose.

(d) The Board of Directors may fix the annual assessment for the next year, at the amount of the current assessment, or less, without the approval of the Members.

(e) The Declarant shall be responsible for any shortfall in the operation of the Amenities until such time as the Amenities are transferred to the HOA.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area.

Section 5. Notice and Quorum for Any Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting. At such meeting, the presence of members or of their proxies entitled to cast seventy-five percent (75%) of all votes appurtenant to the Lots shall constitute a quorum. If the required quorum is not present, subsequent meetings may be called, subject to the same notice requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum for the preceding meeting.

Section 6. Date of Commencement of Annual Assessments. The Board of Directors shall fix the amount of the annual assessment against each Lot and the due dates therefor at least fifteen (15) days in advance of each calendar year. Written notice of such annual assessment and due date shall be sent to each Owner. The annual assessments provided for herein shall commence as to any Lot on the Date of conveyance of the Lot by the Declarant to the Owner and shall be payable in full (without proration) by the Owner at the closing of the conveyance of the lot by the Declarant to the Owner, for the year in which the conveyance occurs. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 7. Effect of Nonpayment of Assessments. Remedies of the Association. Any assessment not paid within thirty (30) days of the due date shall bear interest at the rate of Eighteen percent (18%) per annum from the due date. In addition to such interest charge, the delinquent Owner shall pay such late charge as may have been theretofore established by the Board of Directors of the Association to defray the costs arising because of such late payment. The Association may: (a) bring an action at law against the Owner personally obligated to pay the assessment, or; (b) foreclose the lien against the Lot. Interest, costs and reasonable attorneys' fees for such action, or foreclosure, shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandoning his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, or deed of trust, on a Lot. Sale or transfer of any Lot under a mortgage or deed of trust shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

ARTICLE V Amenities

Section 1. The Declarant, HOA, and any Owner of Lots herein included, or extended, are responsible for, and shall maintain, the HOA amenities, as described in, or added to any recorded plat or map for Stoney Point at Bear Creek. It is the responsibility of the Declarant, as the first HOA President, to appoint a controlling board for the operation and maintenance of these facilities to be made up as follows:

(a) The Declarant, or HOA President, will appoint two (2) members, in addition to him or herself, to make up the initial Amenity Management Board (AMB). This Board may be expanded to a maximum of five (5) persons, four (4) of whom are property owners in Stoney Point at Bear Creek, once the responsibility for the management of the Amenity areas is transferred to the HOA from the Declarant. This Amenity Management Board will, as its duties, publish and ratify rules and regulation for the operation, care and safety of the amenities. The Board will be responsible for establishing an annual budget, and supervising the operation of the amenity areas.

It is the responsibility of Amenity Management Board (AMB) to maintain the HOA facilities, from the funds budgeted by the HOA, in the highest quality to be expected under the circumstances. It is also the responsibility of the AMB to make sure reserves in the budget are maintained for replacement and repair of the amenity areas.

Section 2. Shipyard. The Declarant and HOA will offer to each individual lot owner of the Shipyard Subdivision (the subdivision which is adjacent to, and has common lines with, Stoney Point at Bear Creek). This formal written offer, will allow them to join the Stoney Point at Bear Creek HOA. If they join, their lot will thereafter fall under Covenants, Conditions and Restrictions of Stoney Point at Bear Creek, and will from then on be entitled to the continued use of the amenity areas, upon the payment of annual dues established by the HOA. With a formal acceptance and recording of their acceptance. Shipyard lot owners will become part of Stoney Point at Bear Creek HOA. This covenant will run with the land and continue with the guidelines and the recorded restrictions for Stoney Point at Bear Creek HOA. All elections by lot owners in Shipyard to join Stoney Point HOA shall be permanent, and shall thereafter subject that Shipyard lot to all the rights, privileges, and burdens of a Stoney Point at

Bear Creek Lot. Shipyard Lot owners which join the Bear Creek at Stoney Pointe HOA shall be subject to all sanctions and liens for non payment of HOA Dues.

ARTICLE VI Architectural Control

Section 1. Architectural Control Committee. No structures shall be erected, placed or altered on any lot until the construction plans and specifications, site plans and color selections have been submitted to, and approved by Homeowners Association ("HOA"), and/or its assigns or designees, acting by and through its Architectural Control Committee. In assessing such plans and specifications, HOA shall weigh the quality of materials, harmony of external design with existing structures, and location with respect to topography and finished grade elevations. The Architectural Control Committee shall be composed of the HOA President, one builder, one lot owner, and any other parties selected by the HOA Executive Board. The recommendations and decisions of the Architectural Control Committee shall be binding and final.

Section 2. Extent of Control. No building, fence, wall, sidewalk, hedge, obstruction, driveway or other structure shall be commenced, erected, or maintained upon any Lot nor shall any exterior addition, change or alterations herein (including change of color) be made without the prior written approval of the Architectural Control Committee. The areas over which the Committee shall have control shall include, but shall not be limited to, the size and plan of any attached or unattached garage, the location and manner of construction of any driveway, swimming pool, utility building, patio, mailbox or other exterior of any structure and the location and type of any shrubbery. The Committee shall also have control over the removal of any tree over six inches in diameter from any Lot and no party shall grade, excavate or otherwise alter the topography of any Lot or remove any tree therefrom without obtaining the prior written approval of the Committee.

Section 3. Procedure. Any party requiring approval of any proposed improvements to any Lot shall submit to the Architectural Control Committee plans and specifications showing in such detail and manner as the Committee shall require with regards to the nature, shape, height, materials and location of any improvement. The Committee, in its sole and absolute discretion, may require that such plans and specifications show the location of the proposed improvements on the Lot. The Committee may designate a FEE to be submitted to cover the cost of plan review. All decisions by the Committee shall be based on the Committee's discretionary determination as to whether any particular improvement is suitable and harmonious with the development of the subdivision. The Committee's approval or rejection of any plans or proposed improvements shall be in writing. Subsequent to the approval of any plans and specifications, the Owner shall have the responsibility for making such improvements in accordance with the plans and improvements. Approval shall not constitute or be construed as approval of the structural stability, design or quality of any improvement or the compliance of any such improvement with applicable laws and codes. **Rejection or approval of plans, specifications, buildings or location may be based upon any**

grounds, including purely aesthetic considerations, which in the opinion of, and in the uncontrolled discretion of the Architectural Control Committee, shall be deemed sufficient.

The exterior of all houses and other structures, site work and landscaping must be completed within one (1) year after commencement of construction, except where completion is impossible due to fire, national emergencies or natural calamities. In the event Owner violates the terms of this Section, the Committee, or its duly appointed, agent shall, after thirty (30) days written notice to Owner to cure such violation, and failure of Owner to so cure, be entitled to enter upon the Lot(s) of Owner and cure such defect including the removal of any structure built in violation hereof, the costs and expense to be borne by Owner. This right of the Committee, or its agent, shall be in addition to all other enforcement rights the Committee may be entitled to, resulting from Owner's breach or violation of the terms of this Declaration. This action shall not be deemed a trespass by the Committee or its agent.

ARTICLE VII

Covenants, Conditions, Restrictions and Easements

Section 1. Subdivision of Lots. No Lot shall be subdivided, by sale or otherwise, so as to reduce the total Lot area shown on the recorded Plat, except by and with the written consent of the Declarant, and further provided that same is permitted under applicable governmental and zoning regulations and private restrictions affecting said Lot. Nothing herein shall prevent the combining of two (2) or more Lots into one (1) residential building lot, provided, however, that in such event, the side lot line requirements as set forth herein below shall be applicable only to the exterior lot lines of the Lot formed by the combination of the previously platted Lots.

Section 2. Reserved Easements. The Declarant reserves for itself, its successors and assigns, a permanent easement, and the right at any time in the future to grant a permanent right of way over, under, and along an area uniformly ten (10) feet in width along the rear, and five (5) feet in width along the side lines, of each lot for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary or useful for furnishing electrical power, gas, water, sewer, telephone service and other utilities, as well as within those areas shown as easements on the aforementioned plat. Within such areas, no structures, planting, fences or other material shall be placed or permitted to remain, which may damage or interfere with the installation or maintenance of utilities, or which may obstruct or retard the flow of water through drainage channels within such easements. The area of each Lot within the easement, and all improvements thereon, shall be maintained continuously by the Owner, except for those improvements whose maintenance and upkeep shall be, or is, the responsibility of a public authority or utility company. In the event that any Lot is subdivided pursuant to Section 1 hereof, an easement uniformly ten (10) feet in width shall exist along rear and five (5) feet in width along the side lines of the previously

existing Lot as shown on the Plat and along the rear and side lot lines as exist upon the Lot as so subdivided: The Declarant may in its discretion release the easement reserved along the rear or sidelines of the Lot if doing so would not interfere with the installation or maintenance of any utilities or the drainage facilities within the Property. In the event two (2) or more Lots are combined into one with the residence to be construed over the common interior lot lines, the easements reserved along the said common interior lot lines shall be released provided that the easements have not previously been used for the installation of utilities and their release shall not interfere with the drainage within the Property. In addition, Declarant reserves for itself and its successors, such easements and reservations as are depicted on the recorded Plat(s) of the Property.

Section 3. Residential Use of the Property. All numbered Lots shall be used for residential purposes only, and no structure shall be erected, placed or permitted to remain on any lot other than one single family dwelling, and any necessary structure customarily incident to residential use. No garage constructed on any Lot shall be used for living quarters of any kind, either for guests, members of the family or domestic employees. The construction and maintenance of "garage apartments" on any lot is expressly prohibited. Declarant and/or Builder may maintain a sales office, models and construction office on any lot until all Lots have been sold.

Section 4. Minimum Size of Dwelling. Single family dwellings shall contain not less than a minimum of the following heated square feet :

- (a) Phase I, Section I, Lots 1 thru 23 = 1200 Square Feet
- (b) Phase I, Section I, Lots 24 thru 46 = 1400 Square Feet
- (c) Phase I, Section II, Lots 1 thru 18 = 1800 Square Feet

This area shall be exclusive of garage, carport, unheated storage areas and non-living space.

Section 5. Building Setback Restrictions. No buildings, on residential lots, shall be located closer than the following to, the front, side and rear lines of the lot;

- (a) Phase I, Section I, Lots 1 thru 46;
Front (road) = 20 feet
Side = 6 feet
Rear = 20 feet
- (b) Phase I, Section II, Lots 1 thru 14;
Front (road) = 35 feet
Side = 10 feet
Rear (lake) = No setback, but can't build on Sewer easement
- (c) Phase I, Section II, Lots 15 thru 18;
Front (road) = 30 feet
Side = 10 feet

Rear = 10 feet

Section 6. Outbuildings and Similar Structures. No trailer, camper, chain link fence, boat or trailer, or clothesline shall be located in front of a dwelling without prior consent from HOA, and there must be proper screening provided for HOA approval. No trailer, mobile home, manufactured home, camper, shack, tent, garage, barn, or other structure of a similar nature, shall be used as a residence, either temporarily or permanently, upon any Lot, and no such structure shall be erected in front of a dwelling without prior consent from HOA, provided however, that this Section shall not be construed to prevent HOA from permitting erection of temporary structures during construction. No swimming pools shall be built, erected or installed above the ground level of the ground surrounding such pool.

Section 7. Nuisances and Unsightly Materials. No noxious, offensive, or illegal activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or become an annoyance to the neighborhood. No person may keep any animal upon any part of a Lot, except that any Owner may keep customary household pets upon such lot, provided that such pets are not kept, bred or maintained for any commercial purposes, or in such a manner as to become a nuisance to the other Owners or residents.

Section 8. Maintenance of Lots. Each Owner shall keep their lot clean and in an orderly condition; shall keep the improvements thereon in a suitable state of repair, and shall promptly repair any damage thereto by fire, or other casualty. No Lot shall be used in whole, or in part, for storage of rubbish, of any nature whatsoever, or in part for storage of any property or thing that will disturb the peace and quiet enjoyment of the occupants of surrounding lots. No trash, rubbish, stored materials, wrecked or inoperable vehicles, or similar items, shall be allowed to remain on any Lot outside an enclosed structure; provided however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish or other debris for collection by governmental or other similar garbage and trash removal units. All storage areas and garbage facilities must be screened and hidden from view. In the event that any Owner fails or refuses to comply with the same, the Declarant may demand that the Owner comply with the same by mailing a notice thereof, to the Owner, and by posting such notice on the Lot. If the Owner has not complied therewith within five (5) days of such notice, the Declarant may enter the Lot and correct any violation of this Section at Owner's expense. Each Owner, by acquiring a Lot(s), is subject to these restrictions, and agrees to pay such costs promptly upon demand by Declarant. No such entry, as provided herein, shall be deemed a trespass.

Section 9. Signboards No signboard, billboard, or advertising sign of any description shall be displayed upon, or above, any Lot, without the express, written approval of the Declarant, or his assignee, with the exception of the name of the resident of any Lot and the street address, the design of which shall be furnished to Declarant and shall be subject to approval by Declarant., or his designee.

Section 10. Antennas. No satellite dishes larger than 36 inches in diameter, no radio or television aeriels or antenna , or any other external electronic equipment, or devices, may be installed, or maintained, on any Lot, or on the exterior of any structure on a Lot, without the prior written approval of Declarant, which approval Declarant may withhold in its sole and absolute discretion.

Section 11. Mailboxes. Mailboxes shall be of a type and design consistent with the character of the Property and shall be placed and maintained to compliment the houses in the neighborhood. The design of the mailboxes shall be provided each Owner by HOA.

Section 12. Driveways. No residence may be erected on any Lot unless the same is served by a driveway running from the street to the garage, which is paved with either concrete or asphalt, and has a width of not less than ten (10) feet.

ARTICLE VII General Provisions

Section 1. Enforcement. The Declarant, the HOA, any owner or any other person, firm or corporation owning any interest in a Lot shall have the right to enforce by any proceeding, at law or equity, all conditions, covenants, restrictions now or hereinafter imposed by the provisions of this Declaration. Failure by such party to enforce any such covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of the covenants, conditions or restrictions of this Declaration, by judgment or court order, shall in no way affect any of the other provisions not expressly held to be void. Such remaining provisions shall continue in full force and effect.

Section 3. Effective Period. The covenants, conditions and restrictions of this Declaration shall run with the land and bind the Owners of Lots for a period of twenty five (25) years from the date of recordation of this Declaration. After such time these Covenants, Conditions and Restrictions shall be automatically extended for successive periods of ten (10) years until terminated as herein provided. The reserved easements shall run permanently with each lot.

Section 4. Amendment and Termination. This Declaration may not be altered, amended, modified, cancelled or changed except by the Declaring or his designee so long as the Declaring owns any lots in the property. Any such amendment must be recorded in the Lexington County, South Carolina, Office of the Register of Deeds, and shall not be effective until so recorded. After the initial twenty five (25) year term hereof, this Declaration may be modified or terminated by vote of the Owners of a majority of the Lots.

