

and may not be separated from ownership of any Lot which is subject to assessments.

Section 3.4 Voting Rights. Each Member shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The one (1) vote for such Lot shall be exercised as they, among themselves, shall determine, but in no event shall more or less than one (1) vote be cast with respect to any such Lot. The Developer in addition to having one (1) vote for each Lot owned by said Developer, shall be entitled to one (1) vote for each vote held by the other Members of the Association. This additional voting right of the Developer shall cease when the Developer has conveyed to others all of the Lots in the Subdivision, or on December 31, 1999, whichever shall first occur. [The Members of the Association shall have the right to vote for the election and removal of Directors and upon such other matters with respect to which a vote of the Members is required under the Declaration or the ByLaws. Members shall cast their votes as set forth in the Declaration and the ByLaws.

Section 3.5 Board of Directors. The Association shall be governed by and the business and affairs of the Association shall be managed by a Board of Directors as more particularly set forth in the ByLaws of the Association.

Section 3.6 Referendum. Any action which may be taken at a duly called meeting of the Association may also be taken by a referendum of the Members of the Association. In the event fifty one percent (51%), or more, of the 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" shall be specifically expressed herein, that higher percentage shall control in that instance.

Article IV

PROPERTY RIGHTS IN THE COMMON AREAS

Section 4.1 Owners' Easements of Enjoyment. Subject to the provisions of these covenants and the rules and regulations of the Association, every Owner shall have a non-exclusive right and easement of enjoyment in and to the dedicated Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 4.2 Title to Common Areas. The Developer hereby covenants for itself, its successors and assigns, that it will convey to the Association by limited warranty deed or deeds fee simple title to the Common Areas, free and clear of all liens

and encumbrances of record except standard utility and drainage easements serving the Common Areas and/or the Subdivision.

Section 4.3 Extent of Owners' Easements. The rights and easements created hereby shall be subject to the following:

- (a) The right of the Developer and of the Association to dedicate, transfer or convey all or any part of the Common Areas, with or without consideration, to any successor association, governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely affect the use of the Common Areas by the Owners;
- (b) The right of the Developer and of the Association to grant, reserve and accept easements and rights of way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, fuel oil and other utilities and services, including a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems;
- (c) The right of visitors, invitees, etc., to ingress and egress in and over those portions of the Common Areas that lie within the private roadways, parking lots and/or driveways (and over any other necessary portion of the Common Areas in the case of landlocked adjacent Owners) to the nearest public highway;
- (d) The right of the Association, as provided in its Bylaws, to suspend the enjoyment rights of any Owner for any period during which any assessment remains unpaid, for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- (e) The rights of the Developer and the Association as the case may be, to establish rules and regulations for the Subdivision.

Section 4.4 Delegation of Owner's Rights. Any Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Common Areas and facilities to his employees, tenants, invitees or licensees.

Section 4.5 Additional Structures. Neither the Association nor any Owner or any group of Owners shall, without the prior written approval of Developer and the Toler's Cove Homeowners

Association, Inc. Board of Directors, erect, construct or otherwise locate, or permit the existence of, any structure or other improvement in the Common Areas.

Section 4.6 Access. All Owners, by accepting title to Lots conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress and egress to and from such Lot and acknowledge and agree that such access, ingress and egress is subject to a security entrance gate maintained by the Toler's Cove Homeowners Association, Inc. and further, shall be limited to roads, sidewalks, walkways, and trails located within the Subdivision from time to time, provided that pedestrian and vehicular access to and from all Lots shall be provided at all times.

Section 4.7 Easements for Developer. During the period that Developer owns any Common Area, or owns any Lot primarily for the purpose of sale, Developer shall have an alienable and transferable right and easement on, over, through, under and across the Common Areas for the purpose of constructing or improving Lots, any improvements to the Common Areas, and for installing, maintaining, repairing and replacing such other improvements to the Subdivision including portions of the Common Areas as are contemplated by this Declaration or as Developer desires, in its sole discretion, including without limitation any improvements or changes permitted and described in this Declaration, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided that in no event shall Developer have the obligation to do any of the foregoing.

Section 4.8 Changes in Boundaries; Additions to Common Areas. Developer expressly reserves for itself and its successors and assigns, the right to make minor changes and re-alignments in the boundaries of the Common Areas and any Lots owned by Developer, including the minor re-alignment of boundaries between adjacent Lots and Common Areas.

Section 4.9 Easements for Utilities. There is hereby reserved for the benefit of Developer, the Association and their respective successors and assigns, the alienable, transferable and perpetual right and easement, as well as the power to grant and accept easements to and from any private or public authority, agency, public service district, public or private utility or other person upon, over, under and across: (i) all of the Common Areas; and (ii) an area across every Lot ten feet (10') in width along the front boundary lines thereof, and five feet (5') in width along the side and rear boundary lines thereof; for the purpose of installing, replacing, repairing, maintaining and using master television antenna and/or cable systems, security and similar systems, and all utilities, including but not limited to storm sewers and drainage systems and electrical, gas, telephone, water

and sewer lines. Such easements may be granted or accepted by the Developer or by the Board of Directors; provided, however, that for so long as Developer owns any portion of the Common Area, owns any Lot primarily for the purpose of sale, the Board of Directors must obtain the written consent of Developer prior to granting or accepting any such easements. To the extent possible, all utility lines and facilities serving the Subdivision and located therein shall be located underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Subdivision so encumbered; (i) to erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities; (ii) to cut and remove any trees, bushes or shrubbery; (iii) to grade, excavate or fill; or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems, provided all of the above is not prohibited by the Toler's Cove Homeowners Association, Inc. Board of Directors.

Section 4.10 Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its Directors, officers, agents and employees, including, but not limited to any property manager employed by the Association and any employees of such manager, to enter upon any Lot or Common Area or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner, or occupant.

Section 4.11 Sales Offices, Rental Offices, and Construction Offices. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Developer, its successors and assigns, the perpetual, alienable and transferable right and easement in and to the Property for the maintenance of signs, sales offices, rental offices, constructions offices, business offices and model homes or sample Lots, together with such other facilities as in the sole opinion of Developer reasonably may be required, convenient or incidental to the completion, management, rental, improvement and/or sale of Lots or Common Areas. The Developer also reserves the right to grant to any builder or builders the right to operate and maintain builder sales offices at any location with the Subdivision upon such terms and conditions as the Developer in the Developer's sole discretion may establish.

Section 4.12 Maintenance Easement. Subject to the other terms of this Declaration, there is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement to enter upon any

unimproved portions of any Lot or Common Area for the purpose of landscaping, mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Subdivision; provided that such easements shall not impose any duty or obligation upon the Developer or the Association to perform any such actions.

Section 4.13 Environmental Easement. There is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement on, over and across all unimproved portions of the Common Areas and Lots for the purposes of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include without limitation the right to implement erosion control procedures and practices, the right to drain standing water and the right to dispense pesticides.

Section 4.14 Wells and Effluent. There is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement: (i) to pump water from lagoons, ponds and other bodies of water, if any, located within the Subdivision for the purpose of irrigating any portions of the Subdivision and for other purposes; or (ii) to drill, install, locate, maintain and use wells, pumping stations, water towers, siltation basins and tanks and related water and sewer treatment facilities and systems within the Common Areas.

Section 4.15 No Partition. There shall be no judicial partition of the Subdivision or any part thereof, nor shall any person acquiring any interest in the Subdivision or any part thereof seek any such judicial partition unless the Subdivision has been removed from the provision of this Declaration.

Section 4.16 Wetlands Jurisdiction. Notice is hereby given of the restriction that as to any portion of any Lot within the Subdivision which may contain submerged land, wetlands, or other critical areas, all activities on or over and all uses of such land or other critical areas are subject to the jurisdiction of the U. S. Army Corps of Engineers and/ or the Office of Coastal Resource Management formerly the South Carolina Coastal Council. Any Owner is liable to the extent of such Owner's ownership for any damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning any submerged land, wetlands, or other critical areas.