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**DECLARATION**

**Of**

**COVENANTS, CONDITIONS,  
RESTRICTIONS & EASEMENTS**

**For**

**ACADIA**

**This document and its contents are subject to modification by Declarant. For the latest version of this document, please contact the Architectural Review Committee for Acadia before purchasing any property or plans.**

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR ACADIA**

	<u>Page</u>
DEDICATION OF PROPERTY.....	5
ARTICLE I: DEFINITIONS .....	5
ARTICLE II: PROPERTY SUBJECT TO THIS DECLARATION .....	7
2.1 Property Subject to this Declaration .....	7
2.2 Other Property .....	7
ARTICLE III: ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.....	7
3.1 Membership .....	7
3.2 Voting .....	7
ARTICLE IV: ASSESSMENTS .....	8
4.1 Purpose of Assessment .....	8
4.2 Creation of the Lien and Personal Obligation for Assessments ...	8
4.3 Late Charges .....	9
4.4 Personal Liability .....	9
4.5 Certificate of Payment .....	9
4.6 Annual Assessments .....	9
4.7 Computation of Annual Assessments .....	9
4.8 Lien for Assessment .....	9
4.9 Priority.....	10
4.10 Effect of Nonpayment of Assessment.....	10
4.11 No Set Off or Deduction.....	10
4.12 Application of Payments.....	11
4.13 Date of Commencement of Assessments.....	11
4.14 Special Assessments.....	11
ARTICLE V: MAINTENANCE & CONVEYANCE OF COMMON AREA TO ASSOCIATION .....	12
5.1 Association’s Responsibility.....	12
5.2 Owner’s Responsibility.....	12
5.3 Conveyance of Common Area by Declarant to Association.....	13
ARTICLE VI: ARCHITECTURAL REVIEW.....	13
6.1 Purpose.....	13
6.2 Architectural Review Committee.....	13
6.3 Review and Approval of Plans.....	14
6.4 Violations.....	14
ARTICLES VII: USE RESTRICTIONS AND RULES.....	16
7.1 General.....	16
7.2 Residential and Non-Residential Uses.....	16
7.3 Subdivision of Lots.....	16
7.4 Building Size Requirements.....	17
7.5 Setbacks and Building Lines.....	17
7.6 Compliance with Zoning and Subdivision Regulations.....	17
7.7 Obstructions to View at Intersection.....	17
7.8 Completion of Construction.....	17
7.9 Delivery Receptacles, Property Identification Marker, etc. ....	18

7.10 Signs..... 18

7.11 Vehicles..... 18

7.12 Leasing..... 19

7.13 Occupants Bound..... 19

7.14 Clothes Lines and Garbage Containers..... 19

7.15 Garbage & Refuse Disposal; Lawn Care..... 19

7.16 Animals and Pets..... 20

7.17 Nuisance..... 20

7.18 Unsightly or Unkempt Conditions..... 20

7.19 Drainage..... 20

7.20 Guns, Bows & Arrows..... 20

7.21 Utility Lines..... 21

7.22 Air-Conditioning Units..... 21

7.23 Lighting..... 21

7.24 Artificial Vegetation, Exterior Sculpture, and Similar Items..... 21

7.25 Exteriors..... 21

7.26 Exterior Security Devices..... 21

7.27 Entry Features..... 21

ARTICLE VIII: INSURANCE AND CASUALTY LOSS..... 21

8.1 Insurance on Common Area..... 21

8.2 Liability Insurance..... 21

8.3 Premiums..... 21

8.4 Miscellaneous..... 22

8.5 Individual Insurance..... 23

8.6 Damage and Destruction – Insured by Association..... 23

8.7 Damage and Destruction – Insured by Owners..... 24

8.8 Insurance Deductible..... 24

ARTICLE IX: CONDEMNATION ..... 24

ARTICLE X: MORTGAGEE PROVISIONS..... 24

10.1 Notices of Action..... 25

10.2 No Priority..... 25

10.3 Notices to Association..... 25

10.4 VA/HUD Approval..... 25

10.5 Applicability of Article..... 25

10.6 Amendments by Board..... 25

ARTICLE XI: COMMON AREAS..... 25

11.1 Common Areas..... 26

11.2 Insurance..... 26

11.3 Nuisances..... 26

11.4 Lawful Use..... 26

11.5 Reservation of Easements..... 26

11.6 Additional Easements..... 26

11.7 Restoration and Repair..... 26

ARTICLE XII: OTHER EASEMENTS

12.1 Easements for Encroachment and Overhang..... 27



12.6	Easement for Maintenance.....	29
12.7	Easement for Entry Features.....	29
12.8	Construction and Sale Period Easement.....	29
12.9	Fence Easement.....	30
<b>ARTICLE XIII: GENERAL PROVISIONS</b>		
13.1	Enforcement.....	30
13.2	Self-Help.....	31
13.3	Duration.....	31
13.4	Amendment.....	31
13.5	Partition.....	32
13.6	Gender and Grammar.....	32
13.7	Severability.....	32
13.8	Captions.....	32
13.9	Perpetuities.....	32
13.10	Indemnification.....	32
13.11	Books & Records.....	33
13.12	Financial Review.....	33
13.13	Notice of Sale, Lease, or Acquisition.....	33
13.14	Agreements.....	33
13.15	Implied Rights.....	33
<b>ARTICLE XIV:</b>	<b>VARIANCES.....</b>	<b>34</b>
<b>ARTICLE XV:</b>	<b>LITIGATION.....</b>	<b>34</b>
<b>ARTICLE XVI:</b>	<b>CAPITALIZATION OF ASSOCIATION .....</b>	<b>34</b>
<b>EXHIBIT "A":</b>	<b>ACADIA, PHASE ONE, PROPERTY</b>	
<b>EXHIBIT "B":</b>	<b>BYLAWS</b>	
<b>EXHIBIT "C":</b>	<b>ACADIA CODE</b>	

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

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF ACADIA (this "Declaration") is made on this the 29<sup>th</sup> day of September, 2006 by Acadia, LLC, a South Carolina limited liability company (the "Declarant").

**WITNESSETH**

WHEREAS, Declarant is the owner and holder of fee simple title to and developer of the property known as Acadia, more particularly described on **Exhibit A** attached hereto and incorporated herein by reference; and

WHEREAS, Declarant desires to subject its properties described on **Exhibit A** to the covenants, conditions, restrictions, easements and provisions of this Declaration; and

WHEREAS, Declarant desires to provide for the preservation of the value and amenities, if any, of the property and to assure a flexible and appropriate development and improvement of the property for the overall benefit of the entire development; and

WHEREAS, the Declarant intends by this Declaration and the attached Acadia Code to impose upon the property certain covenants, conditions, easements and restrictions for the administration, maintenance, preservation, use and enjoyment of the property under a general plan of development, and desires to provide for the management of the property and any amenities by means of an owner's association which shall hold title to the common areas for the use and benefit of the owners, all as set forth herein.

**DEDICATION OF PROPERTY**

NOW THEREFORE, Declarant hereby declares that the property described on **Exhibit A** of this Declaration (the "Property"), including any improvements which may be (but are not required to be) constructed on the Property, is subjected to the provisions of this Declaration; provided however, Declarant reserves the right to add additional property to this Declaration or remove property currently dedicated to this Declaration pursuant to a supplementary declaration. Such real property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, liens and provisions contained in this Declaration. The provisions of this Declaration shall run with the title to the property subjected to this Declaration. This Declaration shall be binding on all persons having any right, title, or interest in all or any portion of the property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

**ARTICLE I: DEFINITIONS**

The following capitalized words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

**“Area of Common Responsibility”** shall mean the Common Area, together with such other areas, if any, for which the Association has responsibility pursuant to this Declaration, any recorded plat, other covenants, contracts or agreements.

**“Association”** shall mean Acadia Owners Association, Inc., a South Carolina nonprofit corporation, its successors and assigns.

**“Board”** or **“Board of Directors”** shall mean the governing body of the Association, selected as provided in the By-Laws.

**“By-Laws”** shall refer to the By-Laws of the Association, attached as **Exhibit B**.

**“Common Area”** shall mean, if any, the real property, interests in real property, and personal property, easements, and other interests, together with improvements located on that property (if any) which are now or are hereafter owned by the Association for the common use and enjoyment of some or all of the Owners.

**“Community”** shall mean the real property and interests in Acadia, including but not limited to the Property described on **Exhibit A** and such additions to that property as may be made by Declarant or by the Association pursuant to this Declaration.

**“Community-Wide Standard”** shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community, and as set forth in the attached Acadia Code of Development on **Exhibit C** in this Declaration, and as generally set and applied by the Association and the Architectural Review Committee (“ARC”) over time. Such standard may be more specifically determined by the Association’s Board of Directors.

**“Declarant”** shall mean Acadia, LLC, a South Carolina limited liability company. The Declarant may appoint and designate a successor Declarant by designating such appointment or designation in a deed filed in the real property records of the office of the Register of Deeds of Greenville County, South Carolina (the “ROD Office”).

**“Declaration”** shall mean this Declaration of Covenants, Conditions, Restrictions and Easements of Acadia and shall include any amendment or supplementary Declaration hereto.

**“Lot”** shall mean any subdivided plot of land within the Community, whether or not improvements are constructed on that land, intended for independent ownership and use, excepting the Common Area and property dedicated to the public, and any unit within any condominium located in the Community. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Area and membership in the Association.

**“Mortgage”** shall mean any mortgage, security deed, deed of trust, or similar instrument used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.

**“Mortgagee”** shall mean the holder of the Mortgage.

**“Occupant”** shall mean any Person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.



**“Open Space”** means land and/or water within the property, owned by the Association, which is designed and intended for the common use or enjoyment of each Owner and the general public where permitted, which may contain such accessory structures and improvements as are necessary and appropriate for passive recreational purposes and utilities, but which may not be further subdivided and which is or may be designated as “Open Space” on the plat or plats of the property. All Open Space shall be considered part of the Common Area, but all Common Area shall not be considered Open Space.

**“Owner”** shall mean the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding any Person holding such interest merely as security for the performance or satisfaction of any obligation.

**“Person”** means a natural person, corporation, joint venture, partnership (general or limited), limited liability company, limited liability partnership, association, trust, or other legal entity.

**“Special Use Lot”** means a Lot so designated pursuant to Section 7.2 of this Declaration.

**“Supplementary Declaration”** means an amendment or supplement to this Declaration which subjects additional restrictions and obligations on the land described therein, or both.

**“Total Association Vote”** means all of the votes attributable to members of the Association.

## ARTICLE II: PROPERTY SUBJECT TO THIS DECLARATION

**2.1 Property Subject to this Declaration.** The Property which is subject to the covenants, conditions, restrictions, easements, assessments, liens and provisions contained in this Declaration is the real property described on **Exhibit A**.

**2.2 Other Property.** Only the Property described in Section 2.1 is made subject to this Declaration; provided, however, Declarant reserves the right to add additional property to this Declaration or remove property currently subject to this Declaration pursuant to subsequent amendments to this Declaration.

## ARTICLE III: ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

**3.1 Membership.** Every Owner shall be deemed to have a membership in the Association. If a Lot is owned by more than one Person, there shall be only one (1) membership per Lot, and the votes and rights of use and enjoyment shall be as provided in this Declaration and By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member’s spouse, but in no event shall more than one (1) vote be cast nor more than one (1) office held for each Lot owned.

**3.2 Voting.** The Association shall have one (1) class of voting membership, Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any

Lot, all such persons shall be members and shall be entitled to rights of membership and of the use and enjoyment appurtenant to such ownership. The vote for each such Lot shall be exercised as they among themselves determine, and the Secretary of the Association shall be notified of such designation prior to any meeting, but in no event shall more than one vote be cast with respect to any such Lot. In the absence of such notification, the vote allocated to such particular Lot shall be suspended in the event more than one person or entity seeks to exercise the right to vote. Any Owner of a Lot which is leased may assign his voting right to the tenant, provided that a copy of the assignment is furnished to the Secretary of the Association prior to any meeting at which the tenant exercises the voting right. In the event the Owner is an entity, that entity shall, by written resolution, designate the individual who shall be authorized to exercise the voting rights of that Lot and shall deliver an original or certified copy of such written resolution to the Secretary of the Association, who shall file it with the Association's books and records. Declarant may vote the number of lots remaining in its ownership, and maintains veto or override of any vote or proposed amendment which is contrary, in its opinion, to the master plan for Acadia.

#### **ARTICLE IV: ASSESSMENTS**

**4.1 Purpose of Assessment.** The assessments provided for in this Declaration shall be used, for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Lots, as may be authorized from time to time by the Board. The assessments levied by the Association shall also be used for the administration, operation, improvement, maintenance, use and enjoyment of the Common Area, including the streets, the entrance landscaping, whether or not located on Common Area, and including, but not limited to, the cost of repairs, replacements, additions, insurance, labor, equipment, materials, management and supervision, other personnel or contract services deemed appropriate, establishing a maintenance and replacement reserve, repaying loans incurred by the Association, including interest, the payment of taxes assessed against such Common Area, and the employment of attorneys, accountants and other professionals to represent the Association when necessary, and to provide such other services which the Association determines to be necessary or desirable. Additionally, in the event that any Owner fails to maintain properly the exterior of such Owner's residence or business, including the yard and any fence or fences on such Owner's Lot, the Board of Directors of the Association may, by majority vote, levy a special assessment against the Owner of such Lot, which assessment shall be in an amount equivalent to that required to maintain properly the exterior of such residence, fence, fences or yard or may expend portions of the assessments for maintenance of the exterior of such Owner's residence, yard or fence, in which event the Owner shall be assessed for such expense of maintenance as provided for herein.

**4.2 Creation of the Lien and Personal Obligation for Assessments.** For each Lot owned within the Community, each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees, and is deemed to covenant and agree, to pay timely the Association: (1) annual assessments or charges, including any street, amenity, and common area maintenance, entrance and other landscaping, whether or not located on Common Area, privacy, telecommunications, special events and other costs related to the Community and its operations, which assessments or charges may be assessed and/or collected on such basis as the Association deems appropriate, and (2) special assessments for capital improvements and other purposes, such assessments to be established and collected as hereinafter provided; and (3) default assessments which may be assessed against an Owner's Lot for failure to perform an obligation under this Declaration, or because the Association has incurred an expense on behalf of an Owner under this Declaration or the Association documents.



**4.3 Late Charges.** All assessments shall accrue late charges, interest (not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due), and costs, including, without limitation, reasonable attorney's fees actually incurred. The assessments and charges shall be a continuing lien upon the Lot against which each assessment is made, and shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due and upon such Owner's successor in title if unpaid on the date of the conveyance of such Lot.

**4.4 Personal Liability.** Each Owner shall be personally liable for the portion of each assessment coming due while the owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for the assessments which are due at the time of conveyance; however, the liability of a grantee for the unpaid assessments of its grantor or immediately preceding Owner shall not apply to any first Mortgagee taking title through foreclosure proceedings, in which event, the prior owner shall continue to remain liable.

**4.5 Certificate of Payment.** The Association shall, within five (5) business days after receiving a written request, furnish a certificate signed by an officer of the Association or a representative of a management company hired by the Association to handle certain Association matters, setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate shall be binding upon the Association as of the date of issuance. The Board shall have the right to impose a reasonable charge for providing this certificate.

**4.6 Annual Assessments.** Annual assessments shall be levied equally on all similarly-situated Lots and shall be paid in such manner and on such dates as may be fixed by the Board. The Board may, in its sole discretion, distinguish between the occupied Lots and the unoccupied Lots for the purpose of annual assessments. If the Board sets a lower assessment for the unoccupied Lots, the Owner of an unoccupied Lot may not use the Common Areas unless such Owner pays the assessment established by the Board for occupied Lots. The Board may allow annual assessments to be paid in monthly, quarterly, semi-annual or annual periodic payments as determined by the Association's Board of Directors, and the Board shall have the right to accelerate any unpaid installments in the event an Owner is delinquent. Unless otherwise provided by the Board, the annual assessment shall be paid in annual installments collected in advance. In addition to the annual assessments, should there be security, lawn care, telecommunications or other fees separately assessed to each Owner, these fees may be assessed and collected monthly or quarterly, as the Association may determine from time to time.

**4.7 Computation of Annual Assessments.** The Board shall prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve. The Board shall cause the budget and the assessments to be mailed or delivered to each member at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote. In the event the membership disapproves the proposed budget, or the Board fails to establish a budget for the succeeding year, the budget in effect for the then current year may be increased by no more than 10% thereof and shall continue for the succeeding year until changed by the Board. In the event the Board's budget is disallowed, the Board shall have the right to make a new budget retroactive to the start of the fiscal year.

**4.8 Lien for Assessment.** All sums assessed against any Lot, Owner, or member pursuant to this Declaration shall be secured by a lien on such Lot in favor of the Association.

**4.9 Priority.** The lien of the Association shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes; (b) liens for all sums unpaid on a first priority Mortgage or deed to secure debt, or (c) a lien arising by virtue of any Mortgage in favor of the Declarant which is duly recorded in the ROD office. All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded shall be deemed to acknowledge that their liens shall be inferior to the lien of the Association for assessments in existence at that time or which arise in the future.

**4.10 Effect of Nonpayment of Assessment.** Any assessments (or installments) which are not paid when due shall be delinquent. Any assessment (or installment) which is delinquent for a period of more than ten (10) days shall incur a late charge in an amount set by the Board. If the assessment is not paid within thirty (30) days, a lien shall attach to the Owner's Lot. The lien shall cover all assessments then due or which come due until the lien is cancelled of record, and any other amounts provided in this Declaration or permitted by law. In the event that the assessment remains unpaid an additional thirty (30) days after the lien has attached to the Owner's Lot, the Association, in its sole discretion, may take any or all of the following actions:

(a) Assess an interest charge from the date of delinquency at the rate per annum two points above the prime rate charged by the Association's bank, or such other rate as shall have been established by the Board of Directors;

(b) Assess a late charge at the rate established by the Board per delinquency or such other charge as shall have been established by the Board of Directors;

(c) Suspend the voting rights of the Owner during any period of delinquency;

(d) Accelerate all remaining assessments for the fiscal year in question so that unpaid assessments for the remainder of the fiscal year shall be due and payable at once;

(e) Bring an action at law or in equity against the Owner personally obligated to pay the delinquent assessment by instituting suit to collect such amounts and foreclose its lien against the Lot, and interest, costs of collection and reasonable attorney's fees of such action of foreclosure shall be added to the amount of such assessment. The Association shall have the right to foreclose its lien through any method allowed by law. The Association shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, and convey the same.

No Owner may waive or otherwise escape liability of the assessments provided for herein by non-use of the Common Area or abandonment of such Owner's Lot.

**4.11 No Set Off or Deduction.** No Owner may waive or otherwise exempt himself from liability for the assessments provided for in this Declaration. No setoff, diminution, or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action, for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority. The obligation to pay assessments is a separate and independent covenant on the part of each Owner and is not subject to setoff.



**4.12 Application of Payments.** All payments shall be applied first to costs, then to late charges, then to interest, and then to delinquent assessments.

**4.13 Date of Commencement of Assessments.** Assessments shall start on the first day following closing of the sale of the Lot to a Person other than Declarant. The first annual assessment shall be adjusted according to the number of days then remaining in that fiscal year.

**4.14 Special Assessments.** In addition to the other assessments authorized by this Declaration, the Association may levy special assessments from time to time. Special assessments must be approved at a meeting by two-thirds (2/3) of the Board. Any special assessment in excess of 30% of the annual assessment must be approved by a simple majority of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed. The Board shall have the power to determine the amount of the special assessment as it shall deem appropriate, in its sole discretion. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future. The Board may also determine special assessments on Owners for the following Association expenses (except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association):

(a) expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and

(b) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

(c) expenses for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon any Common Area, including the streets, entrance walls, signs, and landscaping, including fixtures and personal property related thereto, or to make up any deficit or shortage in the current year's budget; provided that any such assessment shall have the assent of the majority of the Total Association Vote at a meeting duly called for this purpose. All special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, semi-annual or annual basis as determined by the Association's Board of Directors. Notice of the amount and due dates for such special assessments must be sent to each owner at least thirty (30) days prior to such due date.

(d) expenses in the event that an Owner fails to adequately maintain the exterior appearance and condition of such Owner's residence, including the yard and any fence or fences on such Owner's Lot, the Board of Directors of the Association may, by majority vote, levy a special assessment against the Owner of such Lot, which assessment shall be in an amount equivalent to that required to maintain properly the exterior of such residence, fence, fences or yard, or may expend portions of the assessments for maintenance of the exterior of such Owner's residence, yard or fence, in which event, the Owner shall be assessed for such expense of maintenance as provide herein.

Declarant shall not be liable for any budget deficits incurred by the Association.

## ARTICLE V: MAINTENANCE & CONVEYANCE OF COMMON AREA TO ASSOCIATION

### 5.1 Association's Responsibility.

(a) Until such time as Declarant, in its sole discretion, elects to transfer control of the Association to the Owners, the Declarant shall maintain at Association's expense all Community entry features, Common Areas including (without limitation) maintenance, repair, and replacement of all landscaping and improvements situated on the Common Areas, and operate and maintain street lights (if not maintained and operated by a governmental entity) of the Community including the expenses for water and electricity, if any, provided to all such entry features, Common Areas, and street lights; all storm water detention facilities and easements serving the Community (to the extent such facilities and easements are not maintained by a governmental entity); and all property outside of Lots located within the Community. Upon Declarant's election to transfer control of the Association to the Owners, the Association shall perform such obligations at its expense.

(b) The Association shall have the right, but not the obligation, to maintain property not owned by the Association, whether within or without the Community, where the Board has determined that such maintenance would benefit the Owners.

(c) In the event the Association determines that the need for maintenance, repair, or replacement of property described above is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered or paid for by insurance, in whole or in part, then the Association may, but is not required to, perform such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs thereof shall be an special assessment against such Owner subject to the Association's lien and collection rights provided for in this Declaration.

(d) All maintenance shall be performed consistent with the Community-Wide Standard.

**5.2 Owner's Responsibility.** Except as provided in Section 5.1 above, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standards and this Declaration. In the event that the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible, the Association may, but is not required to, perform such maintenance, repair, or replacement for the Owner at the expense of the Owner. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work, which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs shall be assessed against the Owner as a special assessment.



**5.3 Conveyance of Common Area by Declarant to Association.** In the sole discretion of Declarant, Declarant shall have the right but not the obligation to convey to the Association any personal property, any improved or unimproved real property, leasehold, easement, or other amenity or property interest located within the Community which is deemed to be Common Area upon such time as Declarant, in its sole discretion, elects to transfer control of the Association to the Owners. **At such time as all of the Lots within each phase of development of the Community have been fully developed, permanent improvements constructed thereon, and such Lots have been sold to permanent residents and businesses, Declarant shall convey the Common Area elements related to the Community or to each phase of development within the Community, and such conveyance shall be accepted by the Association.** The property shall thereafter be Common Area to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements or repairs whatsoever to property to be conveyed and accepted pursuant to this Section.

## **ARTICLE VI: ARCHITECTURAL DESIGN REVIEW**

**6.1 Purpose.** In order to maintain a high quality residential development, to assure that all houses and other structures are of appropriate size, harmonious in design, properly located in relationship to neighboring structures and adapted to the terrain of each Lot, Declarant has retained full architectural and design control and has established the Acadia Code of Development setting forth design guidelines ("Code"). Accordingly no house, building, accessory building, fence, wall or other structure, or alterations or additions or change of exterior appearance thereto shall be commenced, erected, or maintained upon the Property or any Lot until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by Declarant or by the Architectural Review Committee, as defined in Section 6.2 of this Article, in accordance with the Code, attached hereto.

**6.2 Architectural Review Committee.** The Architectural Review Committee ("ARC") shall mean, as follows: So long as Declarant owns any portion of the Property subjected to this Declaration, the ARC shall mean Declarant, unless Declarant shall elect to transfer such control to the Association or to an ARC whose members shall be Lot Owners, along with an architect and a builder selected by Declarant experienced in new urbanism or design of traditional neighborhoods similar to the Acadia community. Additional procedures and guidelines concerning the ARC are set forth in the Acadia Code.

(a) The ARC may be established such that it is divided into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction.

(b) The ARC may employ architects, engineers, or other persons as it deems necessary to enable the ARC to perform its review.

(c) The ARC may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other person it deems appropriate, who shall have full authority to act on behalf of the ARC for all matters delegated.

(d) Written design guidelines and procedures are promulgated in the Code.

(e) So long as Declarant owns any portion of the property subjected to this Declaration, Declarant shall have the right to appoint all members of the ARC. Upon the expiration or earlier surrender in writing of such right, the Board shall appoint the members of the ARC.

(f) At such time as all of the Lots have been fully developed, permanent improvements constructed thereon, and such Lots have been sold to permanent residents and businesses, or at such time sooner as Declarant desires to transfer control over the ARC, Declarant shall notify the President of the Board of Directors of the Association to that effect. Thereupon, Declarant's rights and obligations as to the ARC shall forthwith terminate; and, thereafter, the Board of Directors of the Association shall have the right, power, authority, and obligation to establish a successor ARC which is to follow these prescribed rules and regulations. Any such successor ARC shall be composed of at least three (3) but not more than seven (7) Owners and other members. The term of each committee member shall be determined by the Board of Directors of the Association.

### **6.3 Review and Approval of Plans.**

Subject to the specific schedules set forth in the Code:

(a) No building, fence, wall or other structure of any kind, or alteration or addition or change of exterior appearance thereto, may be commenced, erected or maintained on any Lot until two (2) sets of plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to the ARC for written approval (i) as to the conformity and harmony of external design and general quality with the standards of the Community and (ii) as to the location of structures in relation to surrounding structures and topography and finished ground elevation. The ARC reserves the right in its sole discretion to approve or disapprove all plans and specifications submitted. In the event the ARC fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted in writing, Owner shall, by certified mail to the ARC, addressed to the office of the ARC, state the date the plans were submitted originally, the date of the plans, the person preparing the plans and a request for approval. If Owner has not received a reply from the ARC within ten (10) days of the date such notice was mailed, the approval by the ARC will not be required.

(b) As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the ARC, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The ARC shall be the sole arbiter of such plans and may withhold approval for design or community-appropriateness reasons, including purely aesthetic considerations, and it shall be entitled to stop any construction that is in violation of these restrictions. Any ARC member or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these Persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may, as provided in this Declaration, record in the appropriate land records a notice of violation naming the violating Owner.



(c) Such plans and specifications provided at or before the Final Submittal shall be in such form and shall contain such information as may be reasonably required by the ARC including, but not being limited to: (1) a site plan showing the location of all proposed and existing structures on the Lot including building setbacks, open space, specimen trees, driveways, walkways and parking spaces, including the number thereof, and other items required by the Code; (2) a foundation plan; (3) a floor plan; (4) exterior elevations with cross-sections of all proposed structures and alterations to existing structures, as such structures which will appear after all backfilling and landscaping are completed; (5) specifications of materials, color scheme, lighting schemes and other details affecting the exterior appearance of all proposed structures and alterations to existing structures; and (6) plans for landscaping, irrigation and grading.

(d) Upon approval by the ARC of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the ARC and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot or structure of any plans and specifications shall not be deemed a waiver of the ARC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or structure. Approval of any such plans and specifications relating to any Lot or structure, however, shall be final as to that Lot and structure and such approval may not be rescinded thereafter, provided that there has been strict adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

(e) Neither Declarant nor any member of the ARC shall be responsible or liable in any way for any defects in any plans or specifications approved by the ARC, nor any structural defects in any work done according to such plans and specifications or for the location of the house rough-staked on any Lot. Further, neither Declarant nor any member of the ARC, shall be liable in damages to anyone submitting plans or specifications for approval under this Article, or to any Owner affected by this Declaration by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications or the location of any such house. Every person who submits plans or specifications to the ARC for approval agrees, by submission of such plans and specifications, and every Owner of any Lot agrees, that he will not bring any action or suit against Declarant or any member of the ARC, to recover for damages, and such right, if any, to institute any action or suit, is waived.

(f) All new home construction (except renovations or repairs to any existing structure) on a Lot must be performed by a member of the Acadia Builders Guild. The term of this Section shall automatically expire on December 31, 2026 unless reduced by the Declarant or extended by the Association.

**6.4 Violations.** If any structure shall be erected, placed, maintained or altered upon any Lot, other than in accordance with the plans and specifications approved by the ARC and this Declaration, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article. If, in the opinion of the Declarant, or the Board of Directors of the Association upon recommendation of the ARC, such violation shall have occurred, the Board of Directors shall provide written notice to the Owner by certified mail, setting forth the nature of the violation and the specific action required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Board of Directors of the

