



Park Recreational Development, Inc.

***Declaration of Covenants,  
Conditions, Restrictions,  
and By-Laws***

September 20, 1984

# *The State of South Carolina*



*Office of Secretary of State Mark Hammond*

## **Certificate of Existence, Non-Profit Corporation**

**I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:**

PARK RECREATIONAL DEVELOPMENT, INC. THE, a Non-Profit Corporation duly organized under the laws of the State of South Carolina on October 12th, 1984, has as of the date hereof filed as a non-profit corporation for religious, educational, social, fraternal, charitable, or other eleemosynary purpose, and has paid all fees, taxes and penalties owed to the Secretary of State, that the Secretary of State has not mailed notice to the company that it is subject to being dissolved by administrative action pursuant to section 33-31-1404 of the South Carolina code and that the non-profit corporation has not filed articles of dissolution as of the date hereof.

Given under my Hand and the Great  
Seal of the State of South Carolina this  
14th day of May, 2009.

  
Mark Hammond, Secretary of State

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by A.V.E. Construction Company, Inc., an owner of a portion of the below-described Property, and hereinafter referred to as "Declarant;"

WITNESSETH:

WHEREAS, A.V.E. Construction Company, Inc. is developing the Property as a residential community, containing both multi-family and single-family living units with certain below-described recreational facilities and other amenities; and

WHEREAS, A.V.E. Construction Company, Inc. desires to provide for the preservation of property values and maintenance of common facilities and to provide a vehicle for the administration and enforcement of Covenants and Restrictions; and

WHEREAS, A.V.E. Construction Company, Inc. has caused to be incorporated under the laws of the State of South Carolina, a non-profit corporation for the purpose of exercising the functions aforesaid which are hereinafter more fully set forth.

NOW, THEREFORE, Declarant hereby declares that all of the Property described in Exhibit "A" attached hereto shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens (hereinafter sometimes referred to as the Covenants)

hereinafter set forth and said Covenants shall run with the Property and be binding on all parties having any right, title or interest in the described 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 and refer to The Park Recreational Development, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities of title to any Lot (as defined below in Section 3) which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.

Section 3. "Lot" shall mean and refer both to any original tract, subdivision or lot of land, as well as any subsequently subdivided portions thereof and includes any Apartment or Unit under a Horizontal Property Regime, or Villa, or Townhouse, or Patio Home, or Garden Home or any other residence Unit or group of Units to be situated or now situate upon the Properties.

Section 4. "Property or Properties" shall mean and refer to that certain real property hereinafter described in Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of the Association pursuant to Article IX hereof.

Section 5. "Common Area" shall mean and refer to

all real property (including the improvements thereon and personal property) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described in Exhibit "B" attached hereto. The Common Area shall consist of one (1) junior olympic size swimming pool, a bath house, a ball field, four (4) hard surface tennis courts, and all interior streets excluding those streets located within the bounds of any Horizontal Property Regime or Regimes as said Horizontal Property Regime or Regimes maybe dedicated and platted by documents recorded in the R.M.C. Office for Charleston County, South Carolina.

Section 6. "Declarant" shall mean and refer to A.V.E. Construction Company, Inc., its successors and assigns if such successors and assigns should acquire more than one (1) undeveloped Lot from Declarant for the purpose of Development.

Section 7. "Member" shall mean and refer to the "Declarant" as defined in Section 6 above and "Owner" as defined in Section 2 above.

## ARTICLE II

### PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility

situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the Common Properties by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the member's obligation to pay the assessment;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Association's By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, guests or contract purchasers who reside on the property.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot, by acceptance of a deed therefor, shall become a member of The Park Recreational Development, Inc. The Declarant shall be

a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

**Section 2. Voting Rights.** The Association shall have two (2) classes of voting membership:

**Class A.** The 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 (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on September 1, 1989.

#### ARTICLE IV

##### COVENANT FOR ASSESSMENTS

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance



of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. In the case of co-ownership of a Lot, all such co-owners shall be jointly and severally liable for the entire amount of the indebtedness.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvements, maintenance, enhancement and operation of the Common Area and to provide such service which the Association may be authorized to provide.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$120.00 per Lot.



(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five (5%) percent above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five (5%) percent by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

#### 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 cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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 Sections 3 and 4 shall be sent to all members not less than thirty (30)

days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. 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. A properly executed certificate

of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six (6%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE V

##### ARCHITECTURAL CONTROL

No building, fence, wall, improvement or other structure, road, drive, path or landscaping shall be commenced, erected or maintained upon the Properties, nor shall there be commenced any exterior addition, improvement, alteration, repairs, change

of paint colors, change in grade or other work which in any way alters the appearance of the exterior of any structure from its state existing on the date such property was first conveyed in fee by declarant to the first Owner thereof 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 as to the harmony of external design and location in relation to surrounding structures and topography by the Board of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such change or design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with. The foregoing shall not apply to Declarant until the Declarant has completed development and construction of the Property.

#### ARTICLE VI

##### DECLARANT'S EASEMENTS AND OBLIGATIONS

Section 1. Support. Every portion of a single family attached Lot, excluding Horizontal Property Regime Units, contributing to the support of an abutting dwelling Unit shall be burdened with an easement of support for the benefit of such abutting townhouse. Further, all attachments to the exterior walls of a dwelling Unit which are a part thereof, but which protrude beyond said boundaries and which were constructed in conformity with the plans and specifications shall be deemed

to be included within said boundaries and there is hereby reserved an easement to permit the construction of and continue the existence of any such protruding attachment.

Section 2. Utility. There shall be appurtenant to each Lot excluding Horizontal Property Regime Units, a non-exclusive easement for the use of all pipes, wires, cables, conduits, utility lines, flues and ducts serving the improvements thereon and situated upon any other Lot. Each Lot shall be subject to an easement in favor of other Lots for use of all pipes, wires, cables, conduits, utility lines, flues and ducts situated on or across such Lot and serving other Lots.

Section 3. Declarant. Declarant reserves for itself, its successors and assigns the power to grant easements for drainage, poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, antenna television, gas, sewer, water or other public conveniences or utilities on, in or over the Properties as may be reasonably required. No structure, planting or other material shall be placed or permitted to remain which may damage or interfere with any of the foregoing easements. The location of any such easements may be modified or amended or relocated, terminated or altered by the Declarant until such time as Declarant has divested itself of all Lots located in the Properties for purposes of Development. Declarant shall have the right of access over, under or across any of the Properties, including the right to cut any trees, bushes or shrubbery or make any gradings of the soil or take any other similar action

reasonably necessary to facilitate development of the property, and these rights shall continue until such time as the development and/or construction of all of the Property has been completed.

Section 4. Completion of Construction. The Declarant shall make every effort to complete the exterior of all structures on the Properties promptly after the date that the construction of the same shall have been commenced. During construction, the Declarant must keep the structures and building sites clean. All building debris, stumps, trees, etc., must be removed from the Properties by the Declarant as often as necessary to keep the Properties attractive. Such debris shall not be dumped in any area of the Properties.

#### ARTICLE VII

##### PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is to be built as a part of the original construction of the dwelling units upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or wilful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or other Casualty.



If a party wall is destroyed or damaged by fire or other casualty, and Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the costs of restoration thereof in proportion to such use without prejudice, however, with the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or wilful acts or omissions.

Section 4. Weather Proofing. Notwithstanding any other provisions of this Article, an Owner, who by his negligence or wilful act, causes a party wall to be exposed to elements shall bear the whole cost for the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner within this Article shall be appurtenant to the Land and shall pass as such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, following the provisions of this Article, each party shall choose one arbitrator, and such arbitrator shall choose one additional arbitrator, and a decision shall be by majority of all arbitrators.

Section 7. Non-applicability. The foregoing provisions shall not be applicable to any Horizontal Property Regime Unit.

#### ARTICLE VIII

#### USE, RESTRICTIONS AND AFFIRMATIVE OBLIGATIONS

Section 1. Land Use. No Lot shall be used except

for residential purposes; provided, however, until such time as Declarant no longer owns any Lot, Declarant may use one or more Lots as a "sales model." Subsequent to that time, no structure shall be used by anyone, including the Owner, as a "sales model" or "sales office."

Section 2. Nuisance. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals or device or thing of any sort whose normal activity or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of any lot of the neighborhood by the Owners thereof. There shall be no discharging of firearms of any type.

Section 3. Antennas and Flagpoles. No radio or television towers or antennas or flagpoles shall be erected or placed on any Lot without the prior written approval of the Association's Board of Directors.

Section 4. Animals. No animals, livestock or poultry of any kind shall be raised, bred or maintained on any Lot except household pets. The maximum number of household pets allowed shall be two. No animals shall be allowed on the Properties unless on a leash and accompanied by a person of discretion.

Section 5. Signs. No signs or posters or advertisements of any kind shall be displayed on any Lot except one (1) sign of not more than three (3) square feet advertising the property for sale or rent and excepting appropriate signs of Declarant

during the period of development.

Section 6. Hanging Garments. Hanging garments, rugs or similar objects from the windows of any of the facades of the Properties is prohibited.

Section 7. Debris. No debris, junk, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot. Garbage cans, equipment, woodpiles, storage piles, etc., shall be walled to conceal them from view of neighboring Lots or streets except for a temporary deposit for pickup by Governmental or similar trash removal containers.

Section 8. Temporary Structure. No structure of a temporary nature shall be erected or allowed on any Lot provided this shall not be construed to prevent the Declarant from using sheds or other temporary structures during construction.

Section 9. Vehicles. No boats, trailers, campers, mobile homes, school buses or commercial vehicles shall be permitted to be kept on the Properties without the expressed written consent of the Association's Board of Directors. No vehicle of any kind or type shall be stored or parked either in the street or on any Lot. No vehicle of any kind which is inoperable for a period in excess of twenty-four (24) hours shall be permitted on the Properties.

Section 10. Motorcycles. The use or keeping of motorcycles on the premises shall not be permitted without the express written consent of the Association's Board of Directors.

#### ARTICLE IX

**GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant 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 these covenants or restrictions by judgement or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90%) percent of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) percent of the Lot Owners. Any amendment must be recorded. Declarant reserves unto itself and its successors and assigns (including successors by virtue of foreclosure sale of Property) the right to amend this Declaration at any time prior to September 1, 1989, without the consent of the other Owners, for any lawful purpose.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, A.V.E. CONSTRUCTION COMPANY, INC. has caused these presents to be executed in its name by Albert V. Estee, its President and its corporate seal to be affixed this 20th day of September, A.D., 1984.

WITNESSES:

A.V.E. CONSTRUCTION COMPANY, INC.

Linda L. West  
-----  
Barbara D. Hepler  
-----

  
-----  
Albert V. Estee, President

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHARLESTON        )

Personally appeared before me, Cindy C. Clark,  
and made oath that (s)he saw the within named A.V.E. Construction Company, Inc., by Albert V. Estee, its President, sign, seal and as its act and deed deliver the within written Declaration, and that (s)he with Barbara D. Hepler, witnessed the execution thereof.

REGISTRATION NUMBER 40 PG 868

SEP 20 1984

Lindy L. Clark

SWORN to before me this  
20th day of September, 1984

John D. Depler (SEAL)

NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires November 25, 1991



BK G 140PG869

EXHIBIT "A"

ALL that piece, parcel or lot of land, being 145.43 acres, more or less, and shown and designated as Tracts B, D, E, F, G, and H; residual 79.12 acres, residual 13.37 acres and residual 9.14 acres, on that certain plat entitled The Park At River's Edge, Showing Tracts A - H, City of North Charleston, Charleston County, S.C., dated July 23, 1984, by Harold B. Nielson, Jr., P.E. & R.L.S., S.C. REG. NO. 7023, and recorded in the RMC Office for Charleston County in Plat Book BB at page 98.