

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

AMENDMENT TO THE DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS FOR THE SUBDIVISION KNOWN AS CHEROKEE HILLS, GREENWOOD, SOUTH CAROLINA, PROPERTY OF THE GREENWOOD COMPANY  
(Original Declaration recorded in Deed Book 194 at Page 315)

WHEREAS, the Declaration of Covenants, Restrictions and Conditions for the Subdivision known as Cherokee Hills, Greenwood, South Carolina, Property of the Greenwood Company, dated February 23, 1966, and recorded March 3, 1966, in the Office of the Register of Deeds for Greenwood County in Deed Book 194 at Page 315 (as amended and supplemented the “Phase I Declaration”); and

WHEREAS, the Phase I Declaration was amended by instruments recorded in the Office of the Register of Deeds for Greenwood County in Deed Book 201 at Page 186, Deed Book 233 at Page 448, Deed Book 565 at Page 96, and Deed Book 622 at Page 85; and

WHEREAS, the Supplemental Declaration and Statement of Protective Covenants, Restrictions and Conditions Imposed upon Cherokee Hills Subdivision Phase II, dated February 29, 2000, and recorded March 16, 2000, in the Office of the Register of Deeds for Greenwood County in Deed Book 613 at Page 260, imposing the Declaration onto the Phase II Lots and further imposing additional restrictions on the Phase II Lots; and

WHEREAS, the Declaration provides that it may be changed in whole or in part by an instrument signed by the then owners of two-thirds (2/3) of the lots.

NOW, THEREFORE, the Association, declares that the Declaration is amended by this instrument and that the real property described in the Declaration, and any additions thereto, are and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth which shall run with the title to the land and all Lots therein and which shall be binding on all Owners.

**1. Delete Paragraphs 14, 15 and 16 and replace them with the following.**

14. Assessments.

A. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the common benefit and enjoyment of the Owners and Occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

B. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, jointly and severally, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot, including, but not limited to, reasonable fines

as may be imposed in accordance with the terms of the Declaration. All such assessments, together with 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 and management company charges incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made in favor of the Association and the Association shall be entitled to file a document evidencing such lien in the land records of the county in which the Lot is located. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes; or (b) liens for all sums unpaid on a first mortgage recorded in the land records of the county where the Community is located. All other Persons acquiring liens or encumbrances on any Lot after this Amendment shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Each such assessment, together with late charges, interest, costs, including, without limitation reasonable attorney's fees and management company charges incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due. 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 such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

Annual assessments shall be levied at a uniform rate per Lot and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the annual assessment for delinquents. Unless otherwise provided by the Board, the assessment shall be paid in annual installments.

C. Computation. The Board will prepare and approve an estimated annual budget for each fiscal year. The budget will project estimated income and expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or its summary available to an owner of each Lot, although failure to receive a budget or summary does not affect an owner's liability for assessments. The Board will provide copies of the detailed budget to owners who make written request and pay a reasonable copy charge.

D. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments from time to time if approved at a meeting by two-thirds (2/3) 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.

E. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine. The Association may cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include interest, not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due from the date first due and payable, all late charges, all costs of collection, including, without limitation, reasonable attorney's fees and management company charges incurred, and any other amounts provided or permitted by law. Should the assessment remains unpaid after sixty (60) days, the

Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the right, but not the obligation, to bid on the Lot at any foreclosure sale to acquire, hold, lease, mortgage or convey the same.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under the Declaration or Bylaws, or 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 being a separate and independent covenant on the part of the Owner.

All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

F. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section, as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied and costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments.

15. Special Tax District. Cherokee Hills Association is currently designated as a Special Tax District and three members of the Board are designated as Tax Commissioners. Under the laws of the County of Greenwood, the Tax Commissioners (and Board of Directors) develop an annual budget for the maintenance of the subdivision including electrical service for lighting, care of the common areas, etc. The County collects taxes to fund the Association's activities to promote the recreation, health, safety and welfare of the Members of the Association. While operating as a Special Tax District, the Association still has the authority to lien and foreclose for the nonpayment of Specific Assessments, as provided for herein.

The Association reserves all rights to levy and collect Assessments as provided for herein in the event that the Special Tax District is dissolved.

16. Enforcement.

A. Enforcement of the Declaration, Bylaws, and the Rules and Regulations, in addition to any other remedy set out herein, may be carried out by the Association or any Owner through arbitration or any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction in the Declaration, Bylaws, or Rules and Regulations, either to prevent or restrain violations, to recover damages or to compel a compliance to the terms thereof. Any failure by the Association or any Owner to enforce any covenant or restriction herein contained or contained in the Declaration or Bylaws or to enforce any of the Rules and Regulations shall in no event be deemed a waiver of a right to do so thereafter. In the event the Association exercises said enforcement powers, all costs incurred by the Association, including reasonable attorneys'

fees and charges by the management company shall be the responsibility of the Lot Owner(s) against whom enforcement was sought and shall be added to the lien filed by the Association against said Lot Owner, if applicable.

In addition to the foregoing, and after providing notice of the violation, the Association may levy against the Owner of the Lot a monetary fine as a specific assessment, which shall constitute a lien upon the Lot. All costs incurred by the Association in enforcing the Declaration, Bylaws, Architectural Guidelines, and Rules and Regulations, including reasonable attorneys' fees and charges by the management company, shall be the responsibility of the Lot Owner against whom enforcement was sought and shall be a lien against said Lot Owner.

B. Hearing. An Owner disputing a noticed violation may request a Hearing before the Board within thirty (30) days of the notice provided thereof. If the Owner fails to present a written request for a hearing within this thirty (30) day period, the Owner has waived his/her right to a Hearing and impliedly consented to the validity of the violation and monetary fine.

Following the aforementioned Hearing by the Board, an Owner shall have the right to appeal the decision to the Board by providing a written notice of appeal to the Board within sixty (60) days of the said Hearing.

**3 Add a new Paragraph 19 as follows:**

19. Rules and Regulations. The Board of Directors shall have the authority to promulgate and enforce Rules and Regulations, to include conduct on the Lots, Common Areas and roadways within the Subdivision. All Rules and Regulations shall be published to the Lot Owners prior to their enforcement. Upon the affirmative vote of fifty-one (51%) of the total Lots in the Subdivision, any Rule or Regulations may be overridden.



IN WITNESS WHEREOF, the below-signed Lot Owners representing at least two-thirds (2/3) of the Lots have caused this Amended and Restated Declaration to be properly executed on the signature date(s) below (the "**Execution Date**"). In the event the dates of signature below are different, the latest (i.e., most recent) of said signature dates shall constitute the Execution Date. In order to facilitate execution, this Amended and Restated Declaration may be executed in multiple counterparts, which shall together constitute one original instrument.

SIGNED SEALED AND DELIVERED

OWNER(S):

in the presence of:

Lot # \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

(witness #1)

Print Name: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

(witness #2)

Print Name: \_\_\_\_\_

STATE OF SOUTH CAROLINA )

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ACKNOWLEDGMENT

COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, Notary Public for the State of South Carolina, do hereby certify that the above-signed Owner(s) of the above-referenced Lot in Cherokee Hills Subdivision personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ (SEAL)

Notary Public for South Carolina

My Commission Expires: \_\_\_\_\_