

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

**AMENDMENTS TO THE DECLARATION OF
RESTRICTIONS AND EASEMENTS FOR ARCHFIELD PLANTATION**

WHEREAS, Kenneth L. Smoak impressed certain restrictions on the subdivision known as Archfield Plantation as is shown on a plat made by W. Mason Lindsey, Jr., R.L.S., dated December 22, 1992, and recorded in the RMC Office for Charleston County in Plat Book CL at Page 7; said Declaration of Restrictions and Easements (“Declaration”) having been amended in 1995, 1998, 2001, and 2003, all of which are of record in the RMC Office for Charleston County.

WHEREAS, it is the desire of the present property owners to amend and modify said Declaration of Restrictions and Easements to set forth additional covenants, conditions, easements, restrictions, charges and liens for said subdivision to provide for protection of the value and desirability of said subdivision and to insure the best use and most appropriate development and improvement of the lots in the community, now and in the future.

WHEREAS, the present property owners cause these covenants, conditions, easements, restrictions, charges and liens to run with, burden, benefit, and bind the lots in the community, now and in the future.

NOW, THEREFORE, the present property owners, being majority of the owners, wish to amend the Declaration of Restrictions and Easements as follows:

ARTICLE I- DEFINITIONS

Section 1.01 Definitions. The following terms when used in these Covenants (unless the context shall clearly indicate otherwise) shall have the following meanings:

- (a) “Association” or “HOA” shall mean and refer to Archfield Plantation Homeowners Association, a South Carolina non-profit corporation, its successors and assigns, which was established August 8, 2002.
- (b) “Common Area” or “Common Areas” (if any) shall mean and refer to all real property, together with the buildings and improvements thereon, and all personal property now, or hereafter, owned by the Archfield Plantation HOA for the common use and enjoyment of the Owners. The Common Areas shall include China Back Lane and Archfield Avenue, the entrance monuments and gates, and the road medians and islands. Acceptance of any other Common Area to be conveyed to Archfield Plantation HOA must be approved by a majority vote of the owners and will be subject to all applicable restrictive covenants of record. Costs of maintenance and upkeep of the common access road(s), utility easements, road rights-of-way and drainage easements shall be included in the budget of the HOA and the priority and

allocation of funds of said maintenance and upkeep shall be determined by the members of the HOA at any regularly scheduled or called meetings.

- (c) "Lots" shall mean and refer to all platted lots on which single family home residences are constructed or to be constructed, as shown on that initial plat made by W. Mason Lindsey, Jr., R.L.S., dated December 22, 1992, and recorded in the RMC Office for Charleston County in Plat Book CL at Page 7, along with any other subsequent plats filed of record for Archfield Plantation.
- (d) "Owner" or "Owners" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title, to any Lot which is part of the Property, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.
- (e) "Member" shall mean and refer to all those Property Owners who are Members of the Archfield Plantation HOA.
- (f) "Assessment" shall mean and refer to a Member's share of the common expenses as assessed against a Member by the Association as provided for by this Declaration.

ARTICLE II - PROPERTY

Section 2.01 Property. The real property which is subject to these Restrictions and Easements is that subdivision known as Archfield Plantation as is shown on a plat made by W. Mason Lindsey, Jr., R.L.S., dated December 22, 1992, and recorded in the RMC Office for Charleston County in Plat Book CL at Page 7, Archfield Avenue and China Back Lane, along with any subsequent subdivision of said lots to which the HOA has or may attain title.

ARTICLE III - PROPERTY RIGHTS

Section 3.01 Members' Easement of Enjoyment in Common Areas. Every Member of the HOA, his or her family members, guests, and invitees shall have a right of easement of enjoyment in and to the Common Areas, if any, and such easement shall be appurtenant to and shall pass with the title of every Lot.

Section 3.02 Conditions of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following conditions:

- (a) The HOA has the right to assume and pay any liens or encumbrances against the Common Areas, if any.
- (b) The HOA has the right to take such steps as are reasonably necessary to protect the Common Areas against loss through any tax sale or foreclosure.
- (c) The HOA has the right to, upon a vote of majority of the Members, to suspend the rights and easements of enjoyment of any Member or Guest of any Member, for any period during which the payment of any assessment against Property owned by such Member(s) remains delinquent, and for any period not to exceed sixty (60) days for

the infraction of published or recorded rules and regulations. Any suspension for non-payment of any assessment or a breach of the rules and regulations of the HOA shall not constitute a waiver or discharge of the Member's obligation to pay the assessment. It being further provided that said non-payment or breach shall not suspend the right to use any roads belonging to the HOA.

- (d) The HOA has the right to dedicate or transfer to any public or private utility, utility or drainage easements on any part of the Common Areas, but not, if to do so, would substantially diminish access-egress to any lot.
- (e) The HOA has the right to give, sell or otherwise convey all or any part of the Common Areas, including leasehold interest, to any public agency, authority, public service district, utility or private concern for such purposes, and subject to such conditions, as may be agreed to by majority of the Members at any regularly scheduled or called meetings.

ARTICLE IV - MEMBERSHIP AND VOTING RIGHTS

Section 4.01 Owner. Every record owner of a Lot which is subject to assessment shall be a Member of the Association or HOA. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.02 Voting Rights. Each Member shall have the right to one (1) vote for a lot owned but a Member owning multiple lots shall not have more than one (1) vote. At any meeting of the members, a member entitled to vote but who cannot be present at the meeting may vote by proxy through another member they select. The proxy should be in writing and presented at the time of the vote.

ARTICLE V – PURPOSE, POWERS AND FUNCTIONS OF THE ASSOCIATION

Section 5.01. HOA Powers. The HOA is formed to provide for maintenance, preservation, and architectural control of the lots within the community, of the roads, easements and any common areas which comprise the Property, and to promote the health, safety and welfare of the Members and Residents within the Property. The HOA is authorized to:

- (a) Exercise all the power and privileges and to perform all of the duties and obligations of the HOA, as set forth in these Covenants, as the same may from time to time be amended;
- (b) Fix, levy, collect and enforce payment by any lawful means, all charges or assessments, pursuant to the terms of the HOA's Declarations of Covenants and Regulations; to pay all expenses in connection therewith as well as all office and other expenses incident to conduct the business of the HOA, including all licenses, taxes or governmental charges levied or imposed against the property of the HOA;

- (c) Acquire (by gift, purchase or otherwise,) own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the HOA;
- (d) Own and maintain easements for ingress and egress for roads, common areas, equipment, and improvements for the benefit of the community;
- (e) To take any and all action necessary to enforce all covenants and restrictions affecting the Property, including legal actions, to ensure compliance;
- (f) To pay any public taxes levied on any Common Areas or fixed improvements;
- (g) Enforce the provisions of the Archfield Plantation Homeowners Association Declaration of Covenants and Restrictions thereto and prosecute lawsuits to do so.

Section 5.02. Reserve Fund. The HOA shall be required to establish a reserve fund in an amount as may be necessary or desirable as determined by the Officers. The Treasurer shall be authorized to withhold ten (10%) percent of the annual dues collected, up to the sum of \$3,000, to be used for such purposes as the Officers and members may direct.

Section 5.03. Board of Officers and Committees. The affairs of the HOA shall be managed by a Board of Officers consisting of a President, Vice President, Secretary, and Treasurer; however, if the office of Vice President cannot be filled, then the Officers shall consist of the President, Secretary, and Treasurer. The election of officers will take place at the annual meeting and elected by majority of members present at said meeting. The officers will hold office for one year. The annual meeting is held in May when the annual budget is reviewed for approval by the HOA. Committees consisting of Members may also be established to oversee special or ongoing projects as determined by the Board.

Section 5.04. Officers' Duties. The President shall exercise general supervision of the affairs and activities of the HOA and see that decisions and resolutions of the HOA are carried out. The Vice President shall assist the President and shall act in the place and stead of the President in the event of the President's absence. The Secretary shall record and keep minutes of all proceedings of the HOA which shall be an accurate and official record of all business. The Secretary will maintain record of property owners, addresses and contact information and serve notice of meetings. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the HOA and disburse funds by check as directed by the President of the HOA. The Treasurer will keep proper books of account and prepare a statement of income and expenditures to be presented to members at the annual HOA meeting. The Treasurer will notify and collect any other dues and assessments as otherwise needed. Other specific duties include informing Officers of delinquent payments, maintaining bank records and making necessary payments of services and taxes related to the HOA, furnishing information to attorneys and real estate agents concerning HOA fees, payments or liens and keeping copies of invoices and other proof of bills and payments.

ARTICLE VI – COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.01. Creation of Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, agrees to all of the terms and provisions of these Covenants and agrees to pay to the HOA (1) annual assessments or charges, and (2) special assessments for unanticipated expenses, repairs or maintenance of easement of Common Areas. The annual and special assessments, together with Delinquent Payment Fees thereon, and costs of collection, including a minimum of \$50.00 processing fee for late payment, and/or reasonable attorney's fees, shall be as charged on the Lot and shall be a continuing Lien upon the Lot against which each such assessment is made. Each sum assessment, together with Delinquent payment fees and costs of collection, including reasonable attorney's fees, shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the assessment fell due. 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 assessment.

Section 6.02. Purpose and Assessment. The assessments levied by the HOA shall be used exclusively for the maintenance and improvements, of and to, the easements for access/ingress/egress for and to Common Areas, but shall not be limited to the payment of taxes and insurance, repairs, replacement, additions, enhancements, and for the cost of labor, equipment, material, management and supervision thereof to promote the recreation, health, safety and welfare of the Members and Owners of the properties.

Section 6.03. Annual Assessments and Special Assessments.

- (a) Annual assessments shall be due and payable by each Owner by May 30th of each year and are presently set in the amount of \$500 per Owner. Owners of multiple lots shall only have to pay one annual fee and not a separate assessment for each lot. This assessment may be increased or decreased as determined by the Members at any regularly scheduled meeting as set forth in Paragraph (c) below. In the event the annual assessment is not paid in full by the due date, the amount due will increase each month after May 30th to include a penalty of \$25 per month until the Annual assessment is paid in full.
- (b) Special assessments shall be in amounts as determined by the Members at any regularly scheduled or specially called meeting as set forth in Paragraph (c) below to pay for expenses associated with any special or ongoing projects as determined necessary or desirable by the Board, including the cost of any construction, reconstruction, repairs or replacement of a capital improvement upon Common Areas or for other expenses which are the responsibility of the Association or HOA.
- (c) Any vote for a change in the amount of the annual assessment or any special assessment shall be determined by a majority vote of such members present or represented by a written proxy at any regularly scheduled or specially called meeting.

Section 6.04. Liens; Effect of Mortgage or Foreclosure. The Association or HOA shall have a lien on all the Lots to secure the payment of assessments that are or become due.

The lien of the assessment provided for herein shall be an appurtenance to the property and a covenant running with the title, but such lien does not result in a superior lien on the subject property which takes priority over any valid mortgage. Any outstanding assessments shall be collected as practicably as possible upon transfer or sale of any lots, including any deed-in-lieu or foreclosure action, provided such liens are not extinguished by such action.

Section 6.05. Effect of Non-Payment of Assessment; The Lien; Remedies of the HOA. Any assessments not paid within thirty (30) days after date when due shall become delinquent and shall, (together with any legal rate of interest which may be added) become a charge and continuing lien on the Lot and all improvements thereon, against which each such assessment is made.

If the assessment is not paid within ninety (90) days after the due date, the Association or HOA may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the Lot, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action. In the event a judgment is obtained such judgment shall include legal interest and a reasonable attorney's fee together with any other costs of the action.

ARTICLE VII - ARCHITECTURAL RESTRICTIONS

COVENANTS REVIEW COMMITTEE;

USE RESTRICTIONS AND REGULATIONS

Section 7.01. Establishment of Architectural and Restrictions and Covenants Review Committee (ARC). An Architectural and Restrictions and Covenants Review Committee (ARC) established by an affirmative vote of the Members shall consist of three (3) officers, either the President, Vice President, Secretary or Treasurer, along with two (2) members of the Association or HOA who are not officers. The purpose of said ARC is to review house plans of new Members as well as plans for improvements of existing Members to ensure compliance with present Restrictive Covenants and Easements and Restrictions and any future covenants and to ensure enhancement of the property values for the benefit of all Owners.

Section 7.02. Residential Use of Homes; Scope of Improvements.

- (a) Any Owner shall have the right to construct and maintain, improve and rebuild a single family residence having a minimum heated area of 1800 square feet per Lot, together with reasonable appurtenances and improvements of a residential or agricultural nature, such as dependencies, driveways, garages, fences, gardens, docks, and amenities.

- (b) All residences and improvements shall be constructed of materials that are permanent in nature including, but not limited to stone, wood, brick, fiber cement lap siding a/k/a Hardie-Plank, or vinyl siding and are aesthetically pleasing in style, design and color. Residences and improvements may not disrupt a harmonious landscape or have a negative impact on adjacent Owners. Tarps are not considered to be a material that is permanent in nature and shall not be allowed.
- (c) New residences are to be constructed on-site, or, if of a modular nature, assembled on site on a permanent foundation and in conformity with all local building codes and ordinances. Residences should be finished and ready for occupancy within 12 months from the date construction begins, unless otherwise approved by the ARC.
- (d) Prior to construction, new residences shall be assessed a one-time impact fee of \$750 for road repair for anticipated wear and tear on the roads. If any additional damage occurs to any other common area during construction, then an appropriate assessment may be made for any repairs that are deemed necessary.
- (e) Plans for new residences which include a site plan, front, back, and side elevations and square footage of the proposed residence, and copies of plans for improvements such as driveways, garages, docks, and fences, along with samples and colors of materials to be used, must be submitted by the Owner to the ARC for review at least 60 days prior to the Owner making application for a building permit. The ARC shall respond to a request for review within 14 days and approval of any submitted plans shall not be unduly withheld and shall be provided in writing to the Owner. The ARC reserves the right to require changes or alterations to any plans submitted.
- (f) During construction, the contractor shall, at the time construction is started, provide on the building lot the following:
 - (1) Stakes showing the actual corners of the home and decks as depicted on the site plan.
 - (2) One temporary toilet facility to maintain a sanitary environment to be placed at a location to be least offensive to people in adjoining houses, marsh or common areas.
 - (3) An adequate container for the placement of trash. The prime contractor will be responsible that his workmen, as well as those of sub-contractors, make use of the container. There shall be no littering of the job site or adjacent properties.
 - (4) The prime contractor will be responsible for ensuring that any workmen employed by him or on his behalf do not play loud music, use abusive language, speed through the roads, drink any type of alcohol or use drugs while on the job site. Further, no dogs are allowed on the job site. Fines for violations shall be directly to the contractor as follows: 1st offense - \$25.00; 2nd offense - \$50; and 3rd offense - \$100. Any further offenses may result in a stop work order being issued until the offense is remedied.
- (g) Violations of the Restrictive Covenants and the Use Regulations and Restrictions of the ARC will be called to the attention of the contractor and/or Owner in writing.

The contractor and/or Owner shall have 14 days to respond in writing and another 14 days to remedy the violation. If the warning is ignored and the violation continues, the ARC may refuse to approve any further submissions by the contractor for construction at Archfield Plantation and/or a fine may be assessed and retained from the deposit.

- (h) Any Owner shall have the right to appeal a rejection to a proposal for construction or other improvements, as well as any fine, levy or other penalty or corrective action required to be taken due to violations of the Restrictive Covenants and the Use Regulations and Restrictions of the ARC. The appeal shall be in writing and shall be filed with the ARC within 30 days of such rejection, fine, levy or other penalty being imposed or a directive that corrective action is required and shall be heard by the Members at any meeting which includes the appeal on the agenda. Upholding the sanction imposed or granting of the appeal is to be determined by majority of the Members voting at such meeting.

Section 7.03. Maintenance Required by Owners.

- (a) Each Owner shall keep his property and all improvements, including detached structures, yards, drives, fencing, docks in good order and repair as is consistent with safety and sound property management and stewardship. Violations caused by weather or other acts of God must be fixed within a reasonable amount of time as deemed by the Board.
- (b) No automobile, bus, truck, boat, vehicle or vehicle trailer shall be parked or left on any Common Area overnight. No junk or disabled car(s) or vehicle(s) or parts for either shall be permitted to remain on any Lot. Boats, vehicle trailers, RVs and ATVs may be parked on the lot of the owner of said property provided they are neatly kept.
- (c) No PODs or other temporary storage units may be kept or used on any lot for more than 30 days without written approval of the ARC.

Section 7.04. Certificate of Compliance upon Sale of Lot. Each Owner shall have the right to seek from the HOA a Certificate of Compliance regarding the easements and restrictions upon sale of their lot. Such request shall be in writing.

ARTICLE VIII – EASEMENT: DAMAGE TO ESTABLISHED ROADS AND COMMON AREAS

Section 8.01 Owner's Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon and across the established roads owned by the HOA necessary for access to each Lot and such rights shall be appurtenant to and pass with the title of each Lot.

Section 8.02 Easements for Utilities, Etc. The HOA reserves an easement upon, across, over and under all of the Common Areas for ingress, egress, installation, replacing, repairing and maintaining any and all utilities, telephone lines, electricity, sewer and water lines.

Section 8.03 Damage to Common Areas. In the event that any of the Common Areas including but not limited to roads, gates, fences, buffer areas, landscaping and vegetation are defaced, damaged, or destroyed by a person or entity the HOA reserves the right to pursue all legal remedies available to have such person or entity held responsible to pay for the cost of repair or replacement of the affected property.

ARTICLE IX – HUNTING RESTRICTIONS

Section 9.01 Hunting Restrictions. In order to promote the safety of residents, children, pets, and guests, no Owner, Member, Guest or Visitor shall be allowed to hunt for any purpose on any of the lots or common areas in Archfield Plantation, either by use of guns, bow and arrow or by any other means.

ARTICLE X – GENERAL PROVISIONS

Section 10.01 Enforcement.

- (a) Enforcement of these Covenants, Easements and Restrictions shall be by any proceeding at law or in equity against any person or persons violation or attempting to violate any covenant or restriction, either to restrain violation or to recover damages against the land and to enforce any lien created by these Covenants.
- (b) The party enforcing these Covenants, Easements and Restrictions and the By-Laws shall be entitled to recover attorney's fees and expenses as provided by law against the offending party.
- (c) The Association or HOA shall give written notice to Owner of the Lot of any violation or breach of any covenant or restriction. The Owner shall have 30 days to respond in writing and another 30 days to remedy the violation. If said Owner fails to remedy said violation or breach in the time allowed, the HOA Board will collect a fine of \$50. Failure to enforce any of these Covenants shall not be deemed a waiver of the right to do so.

Section 10.02 Severability. Should any covenant, paragraph, sentence, clause, phrase or term of this instrument be declared to be void, invalid, illegal or unenforceable for any reason by the adjudication of any competent court having jurisdiction, the same shall be declared to be severable and the provisions hereof not affected shall remain in full force and effect.

Section 10.03 Notices. Any notice required to be sent to any Member or Owner under the provision of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association or HOA at the time of such mailing.