

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**FOR**

**ASHWORTH PLACE**

**TOWN OF ARCADIA LAKES, COLUMBIA, SOUTH CAROLINA**



**DEVELOPED BY: DRAKE DEVELOPMENT & REALTY COMPANY**

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
ASHWORTH PLACE SUBDIVISION

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for AshWorth Place Subdivision, hereinafter referred to as "Amended Declaration", is made on the date hereinafter set forth by Drake Development & Realty Co., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant has declared and set forth that certain Declaration of Covenants, Conditions and Restrictions for AshWorth Place subdivision, hereinafter referred to as "Declaration" on January 30, 1997, which was recorded in the Register of Deeds for Richland County on January 31, 1997, in Deed Book 56 at Page 7055; and

WHEREAS, in Article VII Section 4 of the Declaration, it is set forth that the Declaration may be amended by the vote of eighty (80%) percent of the Lot owners and further states that Declarant shall have the authority to amend the Declaration; and

WHEREAS, Declarant owns at least eighty (80%) percent of the Lots and Declarant desires to amend the Declaration;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above and any other property added hereafter by Declarant shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purposes of providing common area maintenance and protecting the value and desirability of the real property as a planned development and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure solely to the benefit of Declarant.

ARTICLE I

Definitions

Section 1. "Architectural Review Officer" shall mean and refer to that individual or those individuals designated by Declarant to do architectural review as provided herein.

Section 2. "Assessments" shall have the meaning specified in Article III.

Section 3. "Association" shall mean Ashworth Place Property Owners Association, its successors and assigns. "Additional Associations" shall mean and refer to any other separate Association owning Common Property within the Property or any additions thereto.

Section 4. "By-Laws of the Association" or "By-Laws" shall mean and refer to the By-Laws of Ashworth Place Property Owners Association.

Section 5. "Common Area" shall mean all real property and improvements thereon owned or leased by the Association or designated by the Declarant for the common use and enjoyment of the Owners.

Section 6. "Declarant" shall mean Drake Development & Realty Co., its successors and assigns.

Section 7. "Easement Area" shall mean that property or portion of properties described within an easement or a "Reservation of Easement" filed or to be filed for record by the Declarant; and from time to time by recorded instrument limited to or specifically reserved for the easement purposes set forth in such instruments; generally described in Article VIII, Section 7 hereof; and shall refer to those areas on each Lot or property with respect to which easements are shown on a recorded deed or on any filed or recorded map or plat relating thereto.

Section 8. "Intended for Use" shall mean the use to which any particular parcel of land is restricted by covenants expressly set forth or incorporated by reference in deeds by which the Declarant has conveyed the Property or is restricted by notes or references on recorded plats of the Property.

Section 9. "Lake" shall mean the lake shown on the Plat referred to in Exhibit "A" and Lake Assessment shall have the meaning specified in Article III Section 5.

Section 10. "Lot" shall mean any numbered plot of land comprising a single dwelling site and designated on any plat or survey recorded in the Office of the Register of Deeds for Richland County, South Carolina, now or hereafter made subject to this Declaration.

Section 11. "Offensive or Noxious" activity, trade or behavior shall include but not be limited to a public nuisance or nuisance per se and shall also include any behavior or activity which is inconsistent with both the reasonable pleasurable use of the Property area by substantial number of the residents and overnight guests and their reasonable expectations of permanent habitation, working, recreating, or enjoying sports, music, food, natural surroundings, and entertainment, free of excessively noisy behavior grossly disrespecting the rights of others, flashing or excessively bright lights, racing vehicles, discharging firearms, significantly loud radio, stereo, electronic music distractions, and other unreasonable behavior curtailing the reasonable pleasure and use of the facilities within the Property. Public musical or other

entertainment, parades, concerts, festivals, carnivals, competitions or shows conducted under permit from the Declarant shall not constitute offensive or noxious activity or behavior unless such permit is withdrawn by the Declarant, or its terms and conditions violated.

Section 12. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including purchasers in possession.

Section 13. "Property" shall mean that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the control of this Declaration.

Section 14. "Structure" shall mean and refer to:

(a) any thing or object, trees and landscaping, the placement, size, shape, color, height and quality of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse, or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall or hedge, landscaping, well, septic system, sign, appurtenance, signboard or any temporary or permanent improvement to such Lot; and

(b) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of waters from, through, under or across any Lot or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot; and

(c) any change in the grade of any Lot of more than six (6) inches.

## **ARTICLE II**

### **Property Rights**

Section 1. Owners' Easements of Enjoyment. Every Owner shall take title subject to the following easements and Assessments 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 Assessments for operating expense, repairs and maintenance of common areas; to establish reserves for major repairs or improvements and Assessments for any other common area that may be granted to or be purchased by the Association or uses budgeted by the Board; to enforce this Declaration; and to correct violations at the Owners cost, after due notice, and file liens on the lots for such cost and unpaid Assessments;

(b) the right of the Association to suspend the voting rights of an Owner and to assess fines or penalties against any Lot of an Owner, as hereinafter provided.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with these Covenants and Restrictions, his right of enjoyment to the Common Area and facilities to the members of his family, or to purchasers under contract and tenants who reside on the Lot of the Owner.

### ARTICLE III

#### Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, 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, (2) special Assessments for improvements and repairs and renovations and to pay operating and other expenses of the Association; such Assessments to be established and collected as hereinafter provided, (3) special Assessments for enforcement of the Declaration and any fines, penalties and (4) special Assessments for the use of Limited Common Areas. The annual and special Assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment is made, subject to the provisions of Section 10 of this Article III. Each such Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time the Assessment came due. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Annual Assessment. The annual Assessments levied by the Association shall be used exclusively to maintain, repair and improve the fence and shrubbery along Trenholm Road, entrance ways, entrance gates, roadways, fountain, sprinkler systems and other improvements and easements within the Property, to pay for operating and other expenses of the Association, and to promote the recreation, health, safety, and welfare of the residents of the Property.

Section 3. Maximum Annual Assessment. The initial annual Assessments for 1999 shall be Seven Hundred Dollars (\$700.00). From and after January 1, 1999 the annual Assessment may be increased each year by the Board of Directors of the Association by an amount not in excess of ten percent (10%) per year, or the percentage increase between the first month and the last month on an annual Assessment period in the Consumer Price Index, U.S. City Average, All Items (1967-100) (hereafter "C.P.I.") issued by the U.S. Department of Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas" whichever of these two percentage figures is larger. The Board may increase said

annual Assessment by a greater amount than provided above, provided two-thirds (2/3) or more of the owners at a duly called meeting of the Association vote to do so, instructing the Board as to the amount of said increase. In the event that the C.P.I. referred to above shall be discontinued, there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living. The Board may decrease the annual Assessment, if it does not need the funds.

In the event the Board does not increase the annual Assessment in a given year, or increase it in an amount less than that which is authorized by this Section 3, or decreases the annual Assessment the Board shall be deemed to have reserved the right and shall be authorized in subsequent years to implement that reserved portion of the authorized but unexercised authority to increase said Assessment but any application of same may only be given prospective application.

Section 4. Special Assessments. 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 purposes of defraying, in whole or in part, the cost of any maintenance, construction, reconstruction, repair or replacement of the fence and shrubbery along Trenholm Road, sprinkler systems, entrance ways, roadways and other improvements and easements within the Property and to pay the operating and other expenses of the Association. In order for the Board to levy a Special Assessment it must have in writing, Fifty One Percent (51 %) of the vote of the Owners.

Section 5. Lake Assessment. 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 purposes of defraying, in whole or in part, the cost of any maintenance, construction, reconstruction, repair or replacement of the Lake. In order for the Board to levy a Lake Assessment it must have in writing, Fifty One Percent (51 %) of the vote of the Owners of Lots including the unnumbered lot retained by McElveen.

Section 6. Special Assessments for Violations. In addition to the Assessments set out above, the Association, shall levy special Assessments for fines for violations of this Declaration or the Architectural Review Guidelines or the cost of correcting such violations after written notice of the violations to the Owner and hearing before the Architectural Review Officer at which the Owner shall have the opportunity to present a defense.

Section 7. Rate of Collection. Annual Assessments shall be collected in advance as directed by the Board and special Assessments shall be collected as directed by the Board.

Section 8. Date of Commencement of Annual Assessments and 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 first Lot in the Property. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual Assessment against each Lot at least thirty (30) days in advance of each

annual Assessment. Written notice of the annual Assessment shall be sent to every Lot Owner. The due date 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. However, the Board may waive or reduce annual Assessments or special Assessments during the construction of the improvements on the Lot. In lieu of paying Assessments Declarant may pay any deficits in the cost of operating the Association.

Section 9. Effect of Non-Payment of Assessments and Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date shall be subject to a late charge in an amount which shall be determined by the Board, and thereafter shall bear interest from the due date at one and one-half (1 1/2 %) percent per month. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot. No Owner may waive or otherwise deny liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot. The Owner shall be liable for all costs of collection including attorney's fees and late charges as set by the Board from time to time.

Section 10. 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 shall have become 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 a lien which results therefrom.

## ARTICLE IV

### Membership and Voting Rights

Section 1. Membership. Every Owner of a Lot which is subject to Assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment. However, so long as the Declarant owns one Lot, Declarant shall have one more vote than the total of the other Lot Owners.

## ARTICLE V

### Board of Directors

Section 1. Board of Directors. The affairs of the Association shall be managed by a Board of Directors composed initially of three (3) individuals who need not be members of the Association. The Board of Directors may increase or decrease its size as it sees fit. Provided, there shall be no less than three (3) members. The election of the Board shall be as set out in the By-laws of the Association.

Section 2. Meetings. Meetings of the Board shall be as set out in the Association's By-Laws.

## ARTICLE VI

### Architectural Review Officer (ARO)

Section 1. Purpose, Powers and Duties of the Architectural Review Officer (ARO). The purpose of the ARO is to assure that all proposed uses and any construction or alteration of any Structure (see Article I, Section 13 for definitions) which takes place on any Lot or any other Property shall be performed in conformity with the objective of high quality environmental design and development as set forth in this Declaration or by the ARO Guidelines. To carry out that purpose, the ARO shall have the right pursuant to the provisions of this Article VI to approve any and all proposed uses, site plans and Structures to be constructed on the property, including proposed uses, site plans and Structures for Common Areas, except that the ARO shall not have the right, without the approval of the Declarant (so long as Declarant owns a Lot), to disapprove a use for a Lot which is within the use category designated for such Lot by the Declarant pursuant to Article VIII. It shall also have the right to approve or disapprove any and all proposed external alterations or use changes for Lots or Structures including Common Areas. The ARO will not do anything, however, which would prevent the Declarant from fulfilling its obligations hereunder.

Section 2. Objectives. Architectural and Design review shall be directed towards attaining the following objectives:

- (1) preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruption of natural water courses or scar natural land forms;
- (2) ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the Lots and Structures and with surrounding Lots, and Structures and does not unnecessarily block scenic views from existing Structures or tend to dominate any general development or natural landscape;



(3) ensuring that the architectural design and structures and their materials and colors are visually harmonious with overall appearance, history and cultural heritage, with surrounding development, with natural land forms and native vegetations, and with development plans officially approved by the Declarant, or any governmental or public authority, if any, for the areas in which the structures are proposed to be located;

(4) ensuring the plans for landscaping provide visually pleasing settings for Structures on the same Lot and on adjoining or nearby Lots, and blend harmoniously with the natural landscape;

(5) ensuring that any Structure, building or landscaping of the Lots and Common Areas complies with the provisions of these Covenants;

(6) determining the location of driveways and other improvements on the Lots.

### Section 3. Architectural Review Officer.

(1) The Declarant shall establish an Architectural Review Officer (such Officer herein referred to as the "ARO"). Any ARO appointed by the Declarant may be removed with or without cause by the Declarant at any time by written notice to such ARO and the Declarant may appoint replacements for any removed or deceased ARO. When control of the ARO functions is transferred to the Association, the ARO shall be elected by the Board of the Association and the ARO may resign or be removed by the Board in the same manner as provided in the By-Laws of the Association for the resignation and removal of officers of the Board.

(2) The ARO is hereby authorized to retain the services of one or more consulting architects, landscape architects, urban designers, and/or attorneys and other professional consultants as it determines necessary, to advise and assist the ARO in performing the functions here in prescribed.

(3) The ARO may adopt, promulgate, amend, revoke and enforce guidelines by directing the Board to take action thereon, hereafter referred to as the ARO Guidelines, for the purposes of:

(a) Governing the form and content of plans and specifications to be submitted for approval pursuant to the provisions hereof;

(b) governing the procedure for such submission of plans and specifications;

(c) establishing policies with respect to the approval and disapproval of all proposed uses and all construction or alteration

of any Structure on any Lot, Common Area, roads, or entrance ways;

(d) establishing the location of driveways on all Lots; and

(e) approving all builders, architects and residential designers, etc. for the subdivision.

(4) The ARO will make a published copy of its current ARO Guidelines readily available to Members and prospective Members of the Association upon request.

(5) The Board of Directors shall enforce the decisions of the ARO.

Section 4. Transfer of Architectural Review Authority. Upon the sale of one hundred percent (100 %) of the Lots for the maximum permitted Lots or dwelling units within the existing Property, or, if additions are made to the existing Property, then upon sale of one hundred percent (100 %) of the Lots for the maximum permitted Lots or dwelling units within the Property, as so expanded, the Declarant shall, by filing a Supplementary Declaration of Covenants and Conditions with the Register of Deeds, transfer the above-described review authority to a permanent ARO which, subject to the covenants and conditions stated within the aforesaid Supplemental Declaration, shall be under the control of the Association. This Section does not obligate the Declarant to make such transfer at any particular time; provided, however, that such transfer must be made no later than one (1) year after sale of the last dwelling unit or Lot, as to all portions of the Property shown on recorded plats where one hundred percent (100 %) of the permitted Lots have been sold to third parties.

Section 5. Review and Approval of Plans for Additions, Alterations or Changes to Structures and Landscaping. No Structure, building, wall, fence, sign, mail box, trash containers, swimming pool, tennis court, roof, color and composition of roof, siding and other exterior materials and finishes, exterior light, landscaping or other Structure or improvement of any kind shall be commenced, erected, or maintained upon any Residential Lot, or upon the exterior of any dwelling unit, or upon any recreational tract, or upon the Common Areas or Restricted Common Areas, nor shall any landscaping be done, maintained, nor shall any addition to any existing building or Structure or alteration or change therein be made or maintained until the proposed building plans, specifications (including height, shape, type, nature, color and composition of roof, siding or other exterior materials and finish), plot plan (showing the location of such building or Structure, and other items listed hereinabove, drives and parking area), landscape plan, and construction schedule, as required by the ARO, shall have been submitted to and approved by the ARO and the fees for such review have been paid.

Any alteration of the Structures or of the plans and specifications, changes or deviations from the approved plans and specifications during construction or of the completed Structure must

also be submitted to the ARO reserving the same rights to disapprove alterations as it retains for disapproving the original Structures.

Section 6. Approval Not a Guarantee or Representation of Proper Design or Good Workmanship. No approval of plans, location or specifications, and no publication or architectural standards bulletins shall ever be construed as representing or implying that such plans, standards or specifications, will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good workmanlike manner or comply with any governmental regulations or permit which are the responsibility of the Lot Owners. Neither the Declarant nor the ARO shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved under this Declaration nor for any defects in construction pursuant to such plans and specifications. The Owner shall have sole responsibility for compliance with approved plans and does hereby, by acceptance of title to property or Lot subject to this Declaration, agree to hold the ARO and the Declarant harmless for any failure thereof caused by the Owner's architect or builder. The ARO has the right to prohibit the Owner's builder and/or general contractor from going to or upon the site in the event it is determined that failure to comply with approved plans is intentional or due to gross negligence under the above-mentioned circumstances. The Owner hereby agrees that the exercise of these rights shall not constitute a denial of Owner's property rights and shall not give rise to a cause of action for damages by the Owner.

## ARTICLE VII

### General Provisions

Section 1. Enforcement. The Association 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 or the ARO Guidelines. Failure by the Association 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. Invalidity of any one of these covenants or restrictions or ARO Guidelines by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Books and Records. The books and records of the Association shall be kept by the Association and always available for inspection by any member of the Association at a reasonable time.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) 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 at any time by an instrument signed by at least eighty (80%) percent of the Lot Owners, provided each Lot Owner shall have one (1) vote for each Lot owned. Any amendment must be recorded. Declarant reserves the right to amend this Declaration at any time, without the vote of or consent of the Lot Owners provided, however, that no amendment shall serve to change the character of the properties which have been restricted from that of a residential development. Provided, further, Declarant reserves the right to amend this Declaration as it shall determine in its sole discretion, from time to time, without a vote of or consent of the Lot Owners to amend the Declaration to correct scrivener's errors or to conform with the requirements of the VA, FHA, FHLMC, FNMA, State Housing Authority or other insurers, makers or purchasers of mortgage loans.

Section 5. Annexation. Declarant reserves the right to dedicate or deed additional Common Areas to this Association, provided at the time of such dedication or conveyance, said properties shall be free and clear of all liens and encumbrances other than reasonable and normal restrictions or easements. In addition, additional residential property and common areas may be annexed to the properties by the Declarant, from time to time, without the consent of the members of the Association.

## ARTICLE VIII

### Covenants and Restrictions

Section 1. Single-Family Restrictions. In addition to any other restrictions or conditions set out in this Declaration, for the purpose of protecting said Property as a residential development, the undersigned does hereby impose upon the Lots, the following conditions and restrictions:

1. No Structure shall be erected or maintained on any Lot other than one (1) single-family dwelling and one (1) detached or attached garage of similar design, including servants' quarters, if desired; and no use shall be made of the Lot or of any right or privilege appurtenant thereto, other than for private residential purposes of one single family.
2. No Lot shall be subdivided into two or more Lots, nor shall any portion of any Lot be sold, conveyed, or leased except to an adjoining Lot Owner; provided, however, that this shall not prevent the Declarant from modifying or changing the Lot lines or sizes or the number of Lots.
3. No Noxious or Offensive trade, behavior or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

4. No Structure of any kind whatsoever shall be erected, placed or altered on the said Lots until the building plans, specifications and design have been approved by the ARO, its successors, or assigns, or its designated nominee.
5. No Structure of temporary character, trailer, tent, shack, barn or other out-building shall be used on said Lot either temporarily or permanently, except as provided hereinabove.
6. No livestock, poultry or other animals shall be kept on said Lot except household pets, which pets shall not be used or bred for commercial purposes.
7. Perpetual easements for drainage, for the installation and maintenance of gas, electricity, telephone, water, sewer and other utilities are reserved as shown on any plat of the Lots on the Property, and where not reserved on said plats a perpetual easement seven and one-half (7½) feet, more or less in width is hereby reserved along the side lines of each Lot and ten (10') feet, more or less, in width along the front and rear of each Lot as shown on said plat.
8. No abandoned or inoperative vehicles, nor any commercial vehicles, school buses, or equipment, may be stored, placed, or garaged on any Lot. No parking shall be allowed on any street without complying with the ARO Guidelines.
9. It is understood and agreed between the parties hereto that the hereinabove described property is sold "as is" and Declarant shall not be responsible for the installation or maintenance of storm drains, control of surface water, or maintenance of any streets deeded or dedicated to the Association after said streets have been deeded or dedicated to the Association. Where drainage easements appear on said plat, the Owner(s) of those Lots affected agree to maintain in a satisfactory and sanitary manner those easements and shall in no way alter or otherwise hinder the proper removal of surface water. Owner(s) shall provide the driveway piping, if necessary, at his driveway location.
10. No clothesline, exposed garbage containers or other visual objects or vehicles are to be erected or used on the property where they may be easily seen from any other Lot or public road.
11. No satellite antenna or satellite dish shall be placed on the property except upon approval of the ARO.
12. No sign shall be erected on said Lot or posted on any building except upon approval of ARO.

13. No concrete block shall be exposed above grade which is visible on the exterior of any Structure nor shall any structure be constructed of asbestos shingles.
14. It is understood and agreed that South Carolina Electric and Gas Company will be providing street lights for the subdivision and each resident will be assessed a proportional monthly charge for said street lights, as provided for by South Carolina Public Service Commission.
15. No commercial activity shall be conducted or carried on on any Lot, except home occupations which have been approved by the Board and subject to such restrictions as the Board shall establish.
16. Declarant hereby reserves unto itself an Easement twenty (20') feet in width along the boundary of Lot 10 and Trenholm Road and Lot 21 and Trenholm Road for the purpose of constructing a fence, installing irrigation and planting shrubbery therein. Declarant further reserves a twenty (20') foot landscaping buffer along the rear boundary of Lots 1 and 2. All landscaping maintenance expense shall be borne by the Association.
17. All lots depicted on the Plat first defined shall have along the rear boundary of each lot, a fence which matches the style and quality of the fence erected at the boundary of the Property and Trenholm Road or a fence which has been approved by the ARO.

## **ARTICLE IX**

### **Lake Restrictions**

Section 1. **Declarant Reservations.** The Declarant reserves any water rights which it may have in the Lake and the Lot Owners shall have appurtenant thereto the privilege of fishing, swimming or boating in the Lake subject to the following conditions:

- (a) The use of the Lake, as aforesaid, shall be entirely at the risk of the Owner and neither the Declarant nor Association shall be responsible for the purity or cleanliness of the water of the aforesaid Lake, or for any substance therein.
- (b) That the use of the Lake shall be subject at all times to reasonable rules and regulations of the Declarant or the Association after assignment by the Declarant, which may provide, among other things, for closed seasons or terms for fishing, and restrict or prohibit the use of motor boats, and other kinds of motorized craft and provide reasonable rules and regulations for swimming and boat sizes and use.

- (c) The Lot Owner may not withdraw water from the Lake without written permission of the Declarant or the Association after assignment by Declarant.
- (d) Neither the Declarant nor the Association shall be held responsible for any damages caused the Owner by reason of the flooding of a Lot through causes beyond the control of the Declarant and the Association. The Declarant or the Association similarly shall not be held responsible for damages by reason of breaks in the dam of the Lake or the removal of the dam by the South Carolina Department of Transportation causing the waters therein to subside and each of said Lot Owners shall hold harmless and indemnify Declarant and the Association from any liability, loss, cost or damages to persons or property resulting from the use of the Lake by such Lot Owner, his family members or guests.
- (e) The Declarant and the Association may withdraw water from the Lake for the purpose of irrigation and may lower the Lake level at necessary times for maintenance of the Lake. The foregoing in no way may be construed to suggest that Declarant has any duty or obligation to regulate the level of any Lake or maintain the dam.
- (f) The Declarant hereby reserves an easement for flowage and maintenance of the Lake hereinafter the "Flowage Easement" over and across that portion of the Property which falls between the "100 Year Flood Boundary" as shown on the Plat and the edge of the Lake; however, nothing herein shall be construed to create an obligation for Declarant to maintain the Lake.
- (g) Lot Owners whose Lot is not contiguous to the Lake may access the Lake by means of an Easement located between Lot 15 and Lot 16 as shown on the Plat. Without permission from another Lot Owner whose Lot is contiguous to the Lake, to access the Lake Owner his, her, its Lot, this is the only Lake Access.
- (h) The Declarant can assign these rights to issue rules and regulations.

## **ARTICLE X**

### **Storm Drainage**

Section 1. The Lot Owners accept the terms and conditions of the Storm Water Pollution Prevention Plan (SWPPP) as required by the general National Pollutant Discharge Elimination System (NPDES permit number SCR100000) issued to the Declarant. Further, by acceptance of the deed to the lot, the Lot Owner understands that he/she/they are becoming a co-permittee with the Declarant and other contractors that have become co-permittees to the general NPDES permit issued to the Declarant. As a co-permittee, the Lot Owner understands that he/she/they, as the case may be, are legally accountable to the SC Department Health and

Environmental Control (DHEC), under the authorities of the CWA and the SC Pollution Control Act, to ensure compliance with the terms and conditions of the SWPPP. The Lot Owner also understands that DHEC enforcement actions may be taken against any specific co-permittee or combination of co-permittees if the terms and conditions of the SWPPP are not met. The Lot Owner shall not make any changes to the SWPPP without the prior written approval of the appropriate regulatory authorities and shall hold harmless and indemnify Declarant from any fines assessed against Declarant as a result of Owner and its agents or contractors failure to comply with any permits issued by DHEC, and fees or expenses incurred by Declarant as a result of said violation, including any costs or attorney's fees, incurred in enforcing this Declaration.

## ARTICLE XI

**Section 1. Street Maintenance and Privacy Costs.** It is understood and agreed that the streets and roadways in AshWorth Place subdivision have not been dedicated to the Town of Arcadia Lakes, County of Richland, or any other public body and the maintenance costs of the streets and privacy gate(s) shall be financed/maintained by the Association by virtue of Assessments as hereinabove set forth.

**Section 2. Maintenance Costs for Storm Water Runoff/Drainage and Lake.** It is understood and agreed that neither the Lake nor the storm water runoff/drainage system (including but not limited to watercourses and culverts which carry the 100-year flood runoff) which is or shall be installed or utilized over, under and across the Property nor the Lake itself shall be the responsibility of any public entity or agency; furthermore, said system(s) shall be maintained so as to not reduce the flood carrying capacity of said systems. All maintenance shall be financed by the Association by means of Assessments and/or Lake Assessments as set forth hereinabove.

IN WITNESS WHEREOF, the Declarant and Owner of 80% of the Lots hereto has by its duly authorized officers, set its hand and seal this 27 day of August, 1999.

DRAKE DEVELOPMENT & REALTY CO.

Harold B. Walters  
Robert S. Clay

By:

Its:

[Signature]  
[Signature]



# PROBATE

Harriet S Walters

Tracey Strobe (L.S.)

My Commission Expires: 9-21-2004

**FIRST AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
ASH WORTH PLACE SUBDIVISION  
RECORD BOOK 345, PAGE 511**

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Dated: September 21, 1999  
Recorded: September 28, 1999  
Richland County Register of Deeds Office  
Book 348 page 1119

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

FIRST AMENDMENT TO THE AMENDED  
AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR ASHWORTH PLACE  
SUBDIVISION  
RECORD BOOK 345, PAGE 511

This First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for AshWorth Place Subdivision, hereinafter referred to as "Amended Declaration", is made on the date hereinafter set forth by Drake Development & Realty Co., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant has declared and set forth that certain Declaration of Covenants, Conditions and Restrictions for AshWorth Place Subdivision, hereinafter referred to as "Declaration" on January 30, 1997, which was recorded in the Register of Deeds for Richland County on January 31, 1997, in Deed Book 1363 at Page 25; and

WHEREAS, Declarant amended, replaced and retated the Declaration by virtue of that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for AshWorth Place Subdivision hereinafter referred to as "Restated Declaration" on August 27, 1999, which was recorded in the Register of Deeds for Richland County on September 17, 1999, in Book 345 at Page 511; and

WHEREAS, the Restated Declaration failed to state that the Declaration has been amended by that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for AshWorth Place Subdivision, which was recorded in the Register of Deeds for Richland County on June 11, 1998 in Deed Book 1388 at Page 333, hereinafter referred to as a First Amendment to the Declaration; and

WHEREAS, the Restated Declaration incorrectly stated that the Declaration was recorded in Book 56 at 7055 when, in fact, the Declaration was filed in Deed Book 1363 at Page 25; and

WHEREAS, in Article VII Section 4 of the Declaration and Restated Declaration, it is set forth that the Restated Declaration may be amended by the vote of eighty (80%) percent of the Lot owners and further states that Declarant shall have the authority to amend the Restated Declaration; and

WHEREAS, Declarant owns at least eighty (80%) percent of the Lots and Declarant desires to amend the Restated Declaration to correct such errors;

WHEREAS, Article VII Section 5 "Annexation" Sections of the Declaration and the Restated Declaration provide that the Declarant may annex additional residential property from time to time and Declarant wishes to annex additional property described as Parcel 3 in Exhibit "A"; and

NOW, THEREFORE, Declarant hereby declares that all of the properties described in Exhibit "A" attached hereto and incorporated herein by reference and any other property added hereafter by Declarant shall be held, sold and conveyed subject to the Restated Declaration as amended by this First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for AshWorth Place Subdivision, which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure solely to the benefit of Declarant.

Furthermore, the Restated Declaration shall be hereby amended such that the term "Property" shall hereafter be defined as, and in all ways shall mean the real property described in Exhibit "A" and any other property added hereafter by Declarant in accordance with the Restated Declaration as amended hereby and correct the reference therein to the Declaration being recorded in Book 56 at Page 7055 so to read Deed Book D-1363 at Page 25.

Finally, the Restated Declaration as amended hereby shall hereby amend, restate and replace the Declaration as previously amended by the First Amendment to the Declaration.

Except as amended hereby, the Restated Declaration shall otherwise remain in full force and effect.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, Drake Development & Realty Co. as Declarant and as Owner of 80% of the Lots hereto has by its duly authorized officers, set its hand and seal this 21<sup>st</sup> day of September, 1999.

DRAKE DEVELOPMENT & REALTY CO.

Robert D. Chang  
Harriet B. Watters

By:

Its:

[Signature]  
[Signature]

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

PROBATE

Personally appeared before me the undersigned witness and made oath that (s)he saw the within-named Drake Development & Realty Co., by its authorized officer sign, seal and as its act and deed, deliver the within written instrument for the uses and purposes therein mentioned, and that (s)he with the other witness whose signature appears above witnessed the execution thereof.

Robert D. Chang

Sworn to before me this 21<sup>st</sup>  
day of September, 1999.

Tracey Stoebe (L.S.)

Notary Public for South Carolina

My Commission Expires: 9-21-04

Exhibit "A"

All of which is further depicted on that certain "FINAL PLAT ASHWORTH PLACE" prepared for Drake Development & Realty Co. by J. Frank Baker (S.C. PLS No. 10799B) of JKB&B, a DS Atlantic Company dated August 26, 1999 and recorded in the Office of the Register of Deeds in the aforementioned state and county on September 17, 1999, in Book 345 at Page 527, and indicated thereon as Parcel N/F Arnold Roberts, Lots 1-21 and all roads, drainage easements, common areas, the entranceway, pond and any other property depicted thereon.

SECOND AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
ASHWORTH PLACE SUBDIVISION  
RECORD BOOK 345. PAGE 511

**Dated:** November 7, 2000  
**Recorded:** November 17, 2000  
Richland County  
Register of Deeds Office  
Book 00459 page 2311

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THIRD AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
ASHWORTH PLACE SUBDIVISION  
RECORD BOOK 345. PAGE 511

**Dated:** November 13, 2000  
**Recorded:** November 17, 2000  
Richland County  
Register of Deeds Office  
Book 00459 page 2312

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FOURTH AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
ASHWORTH PLACE SUBDIVISION  
RECORD BOOK 345, PAGE 511

**Dated:** July 23, 2001  
**Recorded:** July 26, 2001  
Richland County  
Register of Deeds Office  
Book 00547 page 0435

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

**SECOND AMENDMENT  
TO THE AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR ASHWORTH PLACE  
SUBDIVISION**

This Second Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for **Ashworth Place Subdivision**, hereinafter referred to as "Restated Declaration", is made on the date hereinafter set forth by Drake Development & Realty Co., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant has declared and set forth that certain Restated Declaration on August 27, 1999, which was recorded in the Register of Deeds for Richland County on September 17, 1999, in Deed Book 345 at Page 511; and

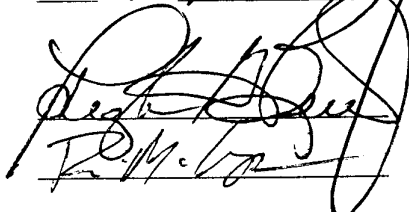
WHEREAS, in Article VII Section 4 of the Restated Declaration, it is set forth that Declarant shall have the authority to amend the Restated Declaration; and

WHEREAS, Declarant desires to amend the Restated Declaration;

NOW, THEREFORE, Declarant hereby amends the Restated Declaration such that Article VIII Section 1 Subsection 17 is deleted and replaced in its entirety by the following language: "All lots depicted on the Plat first defined shall have along the rear boundary of each lot a fence, wall, shrubbery or other buffer which has been approved by the ARO."

Except as amended hereby, the Restated Declaration shall otherwise remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has by its duly authorized officers, set its hand and seal this 7 day of NOVEMBER, 2000.



**DRAKE DEVELOPMENT & REALTY CO.**

By:

W. Russell Drake, Its President

STATE OF SOUTH CAROLINA )  
COUNTY OF Richland )

ACKNOWLEDGMENT  
S.C. §30-5-30  
(EFFECTIVE JANUARY 1, 1995)

I, a Notary Public for South Carolina do hereby certify that W. Russell Drake, the duly authorized President of Drake Development & Realty Co., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 7 day of NOVEMBER, 2000.

R. M. Unger  
Notary Public for South Carolina

Book 00459-2311  
2000094877 11/17/2000 09:28:00:21  
Fee: \$6.00 County Tax: \$0.00 State Tax: \$0.00

Amend to Restriction

My Commission Expires: 2-2-2001



2000084877 John G. Norris

Richland County ROD

2nd AMENDMENT to Declaration (Ashworth Place)



STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

**THIRD AMENDMENT**

**TO THE AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
ASHWORTH PLACE SUBDIVISION**

This Third Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for AshWorth Place Subdivision, hereinafter referred to as "Restated Declaration", is made on the date hereinafter set forth by Drake Development & Realty Co., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant has declared and set forth that certain Restated Declaration on August 27, 1999, which was recorded in the Register of Deeds for Richland County on September 17, 1999, in Deed Book 345 at Page 511; and

WHEREAS, Declarant by First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for AshWorth Place Subdivision Record Book 345, page 511, dated September 21, 1999 and recorded in said Register of Deeds Office for Richland County on September 28, 1999 in Deed Book 348 at Page 1119 has set out and declared the property described on Plat recorded in Book 345 at Page 527 in the Register of Deeds Office for Richland County (the "Subdivision Plat") subject to the Restated Declaration; and

WHEREAS, the Town of Arcadia Lakes has granted a variance from the 30 foot front setback requirement shown on the Subdivision Plat for the construction of the residence on Lot 20, AshWorth Place, to a setback of 28.4 feet; and

WHEREAS, the Architectural Review Officer has granted its approval to allow the residence built on Lot 20, AshWorth Place to be built within the 30 foot front setback at a location as shown on Plat prepared for Vicki W. Drake by United Design Services, Inc. dated November 10, 2000, and recorded in said Register of Deeds Office for Richland County in Book \_\_\_\_\_ at Page \_\_\_\_\_ (the "As-Built Plat");

WHEREAS, Declarant desires to amend the Restated Declaration and Subdivision Plat so as to move the front setback line on Lot 20 from 30 feet to 28.4 feet as shown on the As-Built Plat.

NOW, THEREFORE, Declarant hereby amends the Restated Declaration and the Subdivision Plat to change the front setback line for Lot 20, AshWorth Place to 28.4 feet as shown on the As-Built Plat.

Except as amended hereby, the Restated Declaration shall otherwise remain in full force and effect.



STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

**FOURTH AMENDMENT  
TO THE AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR ASHWORTH PLACE  
SUBDIVISION**

This Fourth Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Ashworth Place Subdivision, hereinafter referred to as "Restated Declaration", is made on the date hereinafter set forth by Drake Development & Realty Co., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant has declared and set forth that certain Restated Declaration on August 27, 1999, which was recorded in the Register of Deeds for Richland County on September 17, 1999, in Deed Book 345 at Page 511 which was amended by the First, Second and Third Amendments; and

WHEREAS, in Article VII Section 4 of the Restated Declaration, it is set forth that Declarant shall have the authority to amend the Restated Declaration without the consent of the Lot Owners; and

WHEREAS, Declarant desires to amend the Restated Declaration;

NOW, THEREFORE, Declarant hereby amends the Restated Declaration to add Article VIII Section 1 Subsection 18 which shall read as follows: "18. The Owner shall within one year after the date of conveyance of the Lot commence construction of a home with plans approved by the ARO and diligently pursue construction of the home on any unimproved Lot whether or not purchased from the Declarant. This section shall only apply to Lots conveyed after the date hereof. Declarant may waive the provision of this Subsection.".

Except as amended hereby, the Restated Declaration shall otherwise remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has by its duly authorized officers, set its hand and seal this 23<sup>rd</sup> day of July, 2001.

Sandra L. Cain  
Vicki W. Drake

**DRAKE DEVELOPMENT & REALTY CO.**

By:

W. Russell Drake, its President

STATE OF SOUTH CAROLINA )  
COUNTY OF Richland )

ACKNOWLEDGMENT

I, a Notary Public for South Carolina do hereby certify that W. Russell Drake, the duly authorized President of Drake Development & Realty Co., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 23<sup>rd</sup> day of July, 2001.

Delmar S. Chaney  
Notary Public for South Carolina

My Commission Expires: 3/01/2010



IN WITNESS WHEREOF, the Declarant has by its duly authorized officers, set its hand and seal this 13<sup>th</sup> day of November, 2000.

**DRAKE DEVELOPMENT & REALTY CO.**

Betty L. Draney  
Tracy Stoebe

By: \_\_\_\_\_

W. Russell Drake  
W. Russell Drake, Its President

STATE OF SOUTH CAROLINA )

ACKNOWLEDGMENT

S.C. §30-5-30

COUNTY OF Richland )

(EFFECTIVE JANUARY 1, 1995)

I, a Notary Public for South Carolina do hereby certify that W. Russell Drake, the duly authorized President of Drake Development & Realty Co., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 13<sup>th</sup> day of November, 2000.

Tracy Stoebe  
Notary Public for South Carolina

My Commission Expires: 9-21-04