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MISCELLANEOUS  
VOL 1104 PAGE 111

# WALNUT GROVE

## DECLARATION

OF

## COVENANTS, CONDITIONS AND RESTRICTIONS

**THIS DECLARATION** is made by **Home Sites, Ltd.**, a Georgia limited partnership, hereinafter referred to as "Declarant".

### WITNESSETH:

Declarant is the developer of certain real property located in the City of North Augusta, Aiken County, South Carolina, known as **Walnut Grove, Section Seven**, more particularly described on Exhibit A attached hereto. To preserve and enhance the property values and quality of life in Walnut Grove, and the health, safety and general welfare of the owners of the properties therein, Declarant hereby declares that all of said real property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements which shall run with the real property for the purpose of protecting the value and desirability thereof. This Declaration shall be binding upon and shall inure to the benefit of Declarant, its successors and assigns, and all persons who may hereafter acquire any right, title or interest in said real property, or any portion thereof.

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**Note: This declaration applies only to Walnut Grove, Section Seven, and any other property hereafter submitted to it. Existing Protective Covenants applicable to other sections of Walnut Grove are not affected hereby.**

**ARTICLE I**  
**DEFINITIONS**

**Section 1. "Declarant"** means **Home Sites, Ltd.**, a Georgia limited partnership. No successor or assignee of Declarant shall have any rights or obligations of Declarant hereunder unless they are specifically set forth in the instrument of succession or assignment or pass by operation of law.

**Section 2. "Walnut Grove"** means that certain residential development known as Walnut Grove, Section Seven, described on Exhibit A attached hereto, and all additional property hereafter submitted to this Declaration by annexation. Additional property may be annexed to Walnut Grove by Declarant within fifteen years from the date hereof. Additional property may also be annexed to Walnut Grove with consent of two-thirds of the Members. During the Development Period, annexation by the Members shall require the assent of Declarant. Annexed property may include other residential developments which are contiguous with or in close proximity to Walnut Grove, Section Seven.

**Section 3. "Lot"** means any parcel of land designated for separate ownership and residential occupancy shown upon any recorded plat of Walnut Grove. Unless the context requires otherwise, the term Lot includes all improvements on the Lot. **"Home"** means the improvements on a Lot intended for use and occupancy as a residence.

**Section 4. "Association"** means **Walnut Grove HOA, Inc.**, a South Carolina nonprofit corporation. **"Board"** means the Board of Directors of the Association, the governing body having charge of the affairs of the Association.

**Section 5. "Owner"** means the owner, whether one or more persons, of a Lot in Walnut Grove. **"Member"** means a member of the Association. An Owner shall be, by virtue of his ownership of a Lot in Walnut Grove, a Member of the Association. **"Owner"** and **"Member"** are

synonymous and may be used interchangeably. When a Lot is owned by more than one person, all such persons, collectively, are deemed to be one Owner and one Member. The owner of a life estate in a Lot is deemed to be the Owner and Member as long as the life estate exists. Declarant is an Owner and Member as long as Declarant owns one or more Lots in Walnut Grove. The holder of a Mortgage is not an Owner or a Member. Unless the Association has satisfactory proof to the contrary, ownership of a Lot is deemed to be vested in accordance with the real estate records of the Register of Mesne Conveyances of Aiken County, South Carolina.

**Section 6. "Declaration"** means this Walnut Grove at Butler' Mill Declaration of Covenants, Conditions and Restrictions. **"Supplemental Declaration"** means any recorded document which subjects Additional Property to the provisions of this Declaration, or amends this Declaration in any respect. **"Articles"** means the Articles of Incorporation of the Association. **"Bylaws"** means the Bylaws of the Association.

**Section 7. "Board Rules"** means all rules and regulations promulgated or adopted by the Board which govern the Association or the use and enjoyment of the properties in Walnut Grove. **ACC Standards"** means the architectural and environmental standards promulgated by the Architectural Control Committee (the "ACC").

**Section 8. "Mortgage"** means a mortgage, deed to secure debt, deed of trust or other instrument conveying a lien upon or security title to property.

**Section 9. "Person"** means a natural person, corporation, partnership, limited liability company, association, trust or other entity, or any combination thereof.

**Section 10. "Development Period"** means that period commencing on the date of this Declaration and ending when Declarant is no longer actively engaged in the annexation, development or sale of Lots in Walnut Grove, not to exceed fifteen years from the date hereof.

**ARTICLE II**  
**THE ASSOCIATION**

**Section 1. Powers.** The Association shall have all the powers of a nonprofit corporation organized under the laws of the State of South Carolina, subject only to the limitations expressly set forth in this Declaration, the Supplemental Declarations, the Articles and the Bylaws. The Association may acquire, hold and dispose of real and personal property of every nature. The Association shall accept any real or personal property conveyed to it by Declarant. The Association shall perform all duties and obligations required by this Declaration. The Association may exercise all rights, powers and privileges granted by this Declaration, the Supplemental Declarations, the Articles and the Bylaws, and every other right, power or privilege reasonably implied from or reasonably necessary to exercise any expressed right, power or privilege.

**Section 2. Board of Directors.** The Board shall manage the affairs of the Association. Unless otherwise provided, any right, power or authority granted to the Association may be exercised by the Board, and any duty or obligation of the Association shall be performed by the Board. The Board shall have the authority to adopt and the power to enforce reasonable rules and regulations to govern the Association and the use and enjoyment of the properties in Walnut Grove (the "Board Rules"). The Board Rules may impose standards not contained in or more strict than this Declaration, if consistent with the general intent hereof and not in conflict herewith. Any specific authority herein granted to the Board to adopt rules for specific purposes shall not limit its general authority hereunder to adopt rules. The Board Rules shall be observed by all Owners and their tenants, occupants and guests. The Board may waive a violation of the Board Rules, if Board determines such violation to be minor or insubstantial.

**Section 3. Election of Board.** Declarant shall have the right to elect and remove members of the Board during the Development Period, unless Declarant sooner waives this right. Thereafter, the Board shall be elected and removed by the Members in accordance with the Bylaws.

**ARTICLE III**  
**MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Membership.** Each Owner shall be a Member of the Association. Membership in the Association is appurtenant to the Lot giving rise to such membership, and shall not be transferred except upon the transfer of title to said Lot and then only to the transferee of title thereto. Any prohibited separate transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof. A new Owner shall notify the Association of the change of ownership, and shall furnish the Association with a copy of the new Owner's recorded deed or other instrument establishing title and the new Owner's address to which notices from the Association shall be sent.

**Section 2. Voting Rights.** With the exception of Declarant, Members shall be entitled to one vote in the Association for each owned in Walnut Grove. During the Development Period, Declarant shall be entitled to three votes for each Lot owned, unless Declarant sooner waives this right. Thereafter, Declarant shall be entitled to one vote for each Lot owned. When a Lot is owned by more than one person, all such persons shall, collectively, cast only one vote. Fractional votes shall not be allowed. If only one of such persons is present or represented by proxy at a meeting of the membership, that person is entitled to cast the vote relating to such Lot. If more than one of such persons are present or represented by proxy, the vote relating to such Lot shall be cast only in accordance with their unanimous agreement; otherwise, they shall lose their right to vote on the matter in question. Unanimous agreement is conclusively presumed if any one of them purports to cast the vote relating to such Lot without protest being made forthwith by any of the others to the person presiding over the meeting.

**ARTICLE IV**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of Lien and Personal Obligations of Assessments.** Declarant and each Owner, for each Lot owned within Walnut Grove, hereby covenant and agree to pay to the Association annual, special and individual assessments which shall be established and collected as

herein provided. Each assessment, together with all other charges authorized pursuant to Article IX, Section 4, which are deemed a part of the assessment, shall be a charge and a continuing lien upon the Lot against which the assessment is made from the date the assessment became due, and shall be the personal obligation of the Owner of the Lot at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them. The obligations of this article shall bind each Lot and each Owner regardless of whether ownership was acquired by deed or operation of law, and regardless of whether so expressed in the deed or other document of title. No Owner may avoid liability for the assessments provided for herein by abandonment, nonuse or waiver of the use or enjoyment of his Lot, or otherwise.

**Section 2. Purpose of Assessments.** Assessments shall be used exclusively for expenses of the Association reasonably incurred in the performance of its duties and responsibilities, including the maintenance of reasonable reserves, and to promote the health, safety and general welfare of Walnut Grove and the Owners and occupants thereof.

**Section 3. Annual Assessments.** The Board of Directors shall levy an annual assessment for each calendar year, beginning January 1, 2002. The amount of the annual assessment shall be established by the Board at least thirty days in advance of the assessment period, and written notice thereof shall be sent to every Owner. The Board shall determine when annual assessments shall be paid and may permit payment thereof in installments. During the Development Period, a Lot shall become subject to annual assessments when the Home constructed thereon is first occupied as a residence. Upon the expiration of the Development Period, all Lots shall be subject to annual assessments. Annual assessment for Lots which become subject to annual assessments during an assessment year shall be prorated and paid based on the number of whole months remaining in the assessment year.

**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 any of the purposes set forth in Section 2 of this article, provided that any such assessment shall have the assent of two-thirds of the Members (excluding Declarant during the Development Period)

voting at a meeting of the membership called for the purpose of considering the special assessment. During the Development Period, special assessments may be levied only against Lots which are then subject to annual assessments, unless Declarant consents to a special assessment against all Lots.

**Section 5. Uniform Rate of Assessment.** Both annual and special assessments shall be set at a uniform rate for all Lots.

**Section 6. Individual Assessments.** The Association may levy an individual assessment against a Lot and its Owner for costs incurred by the Association resulting from an Owner's failure to maintain the Owner's Lot in accordance with this Declaration, the Supplemental Declarations, the Board Rules or the ACC Standards, or to reimburse the Association for any damage to property owned or maintained by the Association caused by an Owner or the Owner's tenants, occupants or guests, or for any other purpose permitted by this Declaration. An individual assessment shall be paid within thirty days after notice thereof is sent to the Owner.

**Section 7. Status Certificates.** The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an authorized representative of the Association setting forth whether the assessments on a specific Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**Section 8. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to first and second Mortgages made in good faith and for value. Sale or transfer of a Lot shall not affect the assessment lien; provided, however, that the sale or transfer of a Lot by Mortgage foreclosure, or conveyance in lieu thereof, of a first or second Mortgage to which the assessment lien is subordinate shall extinguish the assessment lien as to payments which became due prior to such sale or transfer; provided, further, such sale or transfer was made in good faith and not for the primary purpose of avoiding the assessment lien. After a sale or transfer of a Lot by Mortgage foreclosure, or conveyance in lieu thereof, the Lot and the new Owner shall be subject to the lien and personal obligation for all assessments thereafter becoming due.

ARTICLE V  
ARCHITECTURAL CONTROL

**Section 1. In General.** Walnut Grove is subject to architectural and environmental review by the Architectural Control Committee ("the ACC") in accordance with this article and the ACC Standards. Each Owner acknowledges that the decor, color scheme and design of his Home are consistent and harmonious with other Homes in Walnut Grove and agrees to maintain his Lot and Home in such a manner as to maintain and perpetuate visual harmony within Walnut Grove.

**Section 2. Procedure.** The ACC shall have exclusive jurisdiction over all original construction, improvements, fences and landscaping in Walnut Grove, and all subsequent reconstruction, modifications, additions or alterations thereto. The ACC shall promulgate standards and procedures governing its area of responsibility and practice (the "ACC Standards"). The ACC Standards may impose standards not contained in or more strict than this Declaration, if consistent with the general intent thereof and not in conflict therewith. The burden shall be on the Owners and their builders and contractors to know and comply with the ACC Standards. Plans and specifications showing the nature, kind, shape, color, size, materials and location of all original construction, improvements, fences and landscaping, and all subsequent reconstruction, modifications, additions or alterations thereto shall be submitted to the ACC for approval as to quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography and finish grade elevation. In the event the ACC fails to approve or disapprove such plans and specifications or to request additional information reasonably required for a proper determination within sixty days after submission, the plans and specifications shall be deemed approved. A majority of the ACC may appoint one member to act on behalf of the entire committee and the decisions of such appointee shall bind the committee. All construction shall adhere strictly to the plans submitted to and approved by the ACC. Nothing contained herein shall be construed to limit the right of any Owner to remodel the interior of his Home or to paint the interior of his Home any color desired.



**Section 3. Membership of ACC.** The ACC shall consist of three members who are not required to be Owners or occupants of Walnut Grove. During the Development Period, Declarant shall have the right to elect and remove members of the ACC, unless Declarant sooner waives this right. Thereafter, the Board shall elect and remove the members of the ACC. The terms of the members appointed by Declarant shall expire upon the taking of office of the members elected by the Board. Members of the ACC shall serve without compensation.

**ARTICLE VI**  
**EXTERIOR MAINTENANCE**

**Section 1. Owners' Responsibility.** Each Owner shall maintain all landscaping and all improvements on the Owner's Lot, including but not limited to the exterior of all structures, all utility lines and drainage facilities, and all other improvements located outside, aboveground or underground in a clean and attractive condition, and in good order and repair consistent with the approved plans and specifications therefor. The excessive use or maintenance of statues, figurines, flags, banners, streamers, windsocks, birdhouses, birdbaths and other such items which are visible from any street is prohibited. The Board may adopt rules, which may be purely aesthetic in nature, limiting the use, maintenance and location of equipment, decorations and other items on a Lot which are visible from a street.

**Section 2. Association's Rights.** The Association may provide the maintenance (including the correction of any violation) required by Section 1 of this article, if the Owner fails to do so; subject, however, to the following provisions. Prior to performing any maintenance on an Owner's Lot, the Board, or a committee appointed by the Board, shall determine that the Lot is in need of maintenance. Except in an emergency, prior to any maintenance work, the Board shall notify the Owner that unless the specified maintenance is commenced within fifteen (15) days and thereafter diligently pursued to completion, the Association may cause the maintenance to be performed and charge the cost thereof to the Owner. Upon the failure of the Owner to act within said period of time or to thereafter diligently pursue the completion of the required maintenance, the Association may enter upon the Lot to cause such maintenance to be performed. The Association may paint, repair, replace and care for exterior building surfaces, roofs, gutters and downspouts; clean and resurface paved access ways and parking areas; trim and care for trees, shrubs, grass, walks and other landscaping and drainage improvements; and provide general cleanup and removal of debris. The Association shall not be liable to the Owner or any other person for trespass or injury to person or

property as a result of such actions unless caused by gross negligence or intentional wrongdoing. The cost of any maintenance incurred by the Association under this section shall constitute an individual assessment against the applicable Lot and Owner.

**Section 3. Access at Reasonable Hours.** For the purpose of performing the maintenance authorized by this article, the Association may enter upon any Lot and the exterior of any improvements thereon during reasonable hours on any day except Sundays and holidays, except that in an emergency, entry may be made at any time on any day.

## ARTICLE VII DESTRUCTION OF HOMES

**Section 1. Total Destruction.** In the event of the total destruction of a Home, the Owner thereof shall promptly eliminate any unsafe condition and clear the Lot of debris. The Owner may leave the Lot in a clean, orderly and safe condition or reconstruct the Home. Reconstruction shall commence within a reasonable time, not to exceed sixty days from the date of the destruction, and shall be diligently pursued until completed. The reconstruction shall be approved by the ACC, and shall be in conformity with the plans and specifications of the original structure, subject to any changes or modifications approved by the ACC.

**Section 2. Partial Destruction.** In the event of partial destruction of a Home, the Owner thereof shall promptly eliminate any unsafe condition and clear the Lot of debris. Within a reasonable time, not to exceed thirty days from the date of the destruction, repairs shall be commenced, and shall be diligently pursued until completed. The repairs shall be approved by the ACC, and shall be in conformity with the plans and specifications of the original structure, subject to any changes or modifications approved by the ACC.

**Section 3. Failure to Comply.** The Association may eliminate any unsafe condition and clear a Lot of debris as required by Section 1 or Section 2 of this article, if the Owner fails to do so; subject, however, to the following provisions. Prior to any work, the Board shall determine that the Lot requires specific work to be in compliance with said sections. Except in an emergency, prior to any work, the Board shall notify the Owner that unless the specified work is commenced within

fifteen days and thereafter diligently pursued to completion, the Association may cause the same to be performed and charge the cost thereof to the Owner. Upon the failure of the Owner to act within said period of time or to thereafter diligently pursue the completion of the specified work, the Association may enter upon the Lot to cause the specified work to be performed. The Association shall not be liable to the Owner or any other person for trespass or injury to person or property as a result of such actions unless caused by gross negligence or intentional wrongdoing. The cost of the specified work incurred by the Association under this section shall constitute an individual assessment against applicable Lot and Owner.

## ARTICLE VIII GENERAL PROVISIONS

**Section 1. Use Restrictions.** Walnut Grove shall be used exclusively for residential purposes, subject to the covenants, conditions, restrictions and reservations contained in this Declaration. Only one Home may be erected on a Lot. All Homes shall be single-family dwellings which do not exceed three stories in height. No building shall be erected, altered, placed or permitted to remain on any Lot, unless approved by the ACC. No house trailer, mobile home or modular home shall be placed upon or permitted to remain in Walnut Grove. No structure of a temporary character, trailer, motor home, tent, shack or other out building shall be used as a residence on any Lot. Notwithstanding the foregoing, Declarant and builders, contractors, real estate brokers, lenders and utility companies approved by Declarant, may maintain sales, administrative, construction and other offices, and signs and other promotional equipment and apparatus in Walnut Grove during the Development Period, and the same shall not be subject to assessment.

**Section 2. Plat Easements.** Walnut Grove is subject to the drainage easements, utility easements, minimum building lines and other easements and matters shown and noted on the recorded plats of Walnut Grove.

**Section 3. Parking.** The Board may adopt rules governing the parking of vehicles, watercraft and equipment in Walnut Grove, including, but not limited to, the designation of certain

areas for the parking of nonpassenger vehicles, trucks, recreational vehicles, trailers, motorcycles, watercraft and equipment, and including the prohibition of the parking of the same in Walnut Grove.

**Section 4. Animals.** No animals, including reptiles and fowl, may be kept in Walnut Grove unless approved by the Board, except dogs, cats, birds and fish commonly kept as household pets, as determined by the Board. Animals shall not be maintained or bred for any commercial purpose. All animals must be leashed or fenced when outside. Any animal which causes excessive annoyance or disturbs the tranquility or safety of Walnut Grove shall not be permitted to remain. The Board may adopt strict rules governing pets in Walnut Grove, and may delegate its authority to approve pets to a committee appointed by the Board.

**Section 5. Nuisances.** No noxious or offensive activity shall be permitted in Walnut Grove, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, nor shall any portion of Walnut Grove be used in any way for any purpose which may endanger the health or unreasonably disturb the residents of Walnut Grove. Surface water shall not be obstructed or diverted from drainage facilities. No business activities of any kind whatsoever shall be conducted on any Lot, except business activities of Declarant and builders, contractors, real estate brokers, lenders and utility companies approved by Declarant during the Development Period, and business activities of the Association required or permitted hereunder.

**Section 6. Signs.** No sign of any kind shall be displayed to the public view in Walnut Grove, except one sign of not more than five square feet advertising a Lot for sale or rent, and signs used by Declarant and builders, contractors, real estate brokers, lenders and utility companies approved by Declarant to advertise during the Development Period. The Board may adopt rules governing the use of signs in Walnut Grove, including, but not limited to, their size, height, location, design, color and text. The Board may adopt and require the use of a uniform sign to advertise a Lot for sale or rent.

**Section 7. Subdivision of Lots.** No Lot shall be subdivided without the approval of the ACC; provided, however, that Declarant shall have the right to alter the dimensions of any Lot or Lots, prior to the sale of any such Lot or Lots by Declarant to an Owner.

**Section 8. Oil and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted in Walnut Grove, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted in Walnut Grove. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted in Walnut Grove.

**Section 9. Exterior Antennas.** Outside antennas, including without limitation television, radio, microwave or dish antennas, are not permitted in Walnut Grove, unless the Board adopts rules permitting the use and display thereof, and unless such any antenna complies with such rules.

**Section 10. Storage Tanks, Garbage, Clotheslines, Etc.** No equipment, petroleum storage tanks or receptacles, garbage receptacles, woodpiles or storage piles shall be placed or maintained on any Lot which is visible from any street in Walnut Grove or from neighboring Homes. No clotheslines shall be placed or maintained upon any Lot. Each Owner shall promptly remove from Walnut Grove all rubbish, trash and garbage resulting from the use and occupancy of his Lot. Notwithstanding the foregoing, the Board may adopt rules governing the maintenance of equipment, the storage of firewood, and the location of garbage receptacles and petroleum storage tanks or receptacles in Walnut Grove.

**Section 11. Play Structures and Yard Accessories.** No basketball backboards and other fixed sports equipment shall be used or maintained in any street or cul-de-sac in Walnut Grove. Unless otherwise approved by the Board, all basketball backboards and other fixed sports equipment shall be located at the side or rear of the Home and within the building set back lines, and all play structures and yard accessories shall be located to the rear of the Home and within the building set back lines. Any such equipment, structure or accessory exceeding six feet in height shall require the approval of the Board.

**Section 12. Heating and Air Conditioning Equipment.** The location of all original outside heating and air conditioning equipment shall be approved by the ACC. The Board may adopt rules relating to the location, appearance and screening of outside heating and air conditioning equipment, and may prohibit window air conditioning units or impose strict rules relating thereto.

**Section 13. Garages Doors.** Garage doors which are visible from the street shall remain closed at all times except when vehicles are entering and exiting from garages.

**Section 14. Mail and Newspaper Boxes.** The ACC shall approve all mail and newspaper boxes in Walnut Grove. The Board may adopt and require the use of a uniform mail and newspaper boxes, or may require that all mail and newspaper boxes in Walnut Grove be of a uniform design and construction. In either event, only mail and newspaper boxes which conform to the requirements of the Board may be used.

**Section 15. Security.** The Board may adopt rules governing the security and protection of Walnut Grove. The Association may provide security for Walnut Grove and include the cost thereof in the annual assessments.

## ARTICLE IX ENFORCEMENT

**Section 1. Violations.** This Declaration, the Supplemental Declarations, the Board Rules, and the ACC Standards (collectively, the "Governing Documents") shall be observed by the Owners and their tenants, occupants and guests. An Owner is responsible and liable for all violations and losses caused by the Owner's tenants, occupants and guests, notwithstanding the fact that such persons are also fully liable therefor. Declarant, the Association, any member of the ACC, or any Owner may enforce and prosecute violations of the covenants, conditions, restrictions, reservations, easements, liens, charges and other provisions now or hereafter imposed by the Governing Documents, including proceedings at law or in equity. The failure to enforce a particular provision or prosecute a particular violation shall not be deemed a waiver of the right to do so thereafter.

**Section 2. Architectural Requirements.** If an Owner fails to comply with any architectural or environmental requirement of this Declaration, the ACC Standards, or the decisions of the ACC, notice of the violation shall be sent to the Owner allowing the Owner thirty days to cure the violation. If the Owner fails to cure the violation, Declarant and the Association may each enter upon the Owner's Lot, make such corrections or modifications as are necessary, remove anything in violation of such requirements, and charge the cost thereof to the Owner. Declarant and the Association shall not be liable to the Owner or any other person for trespass or damages or injury to person or property in connection with such entry unless caused by gross negligence or intentional wrongdoing. This section is in addition to, and does not limit, the general enforcement provisions of Section 1 of this article.

**Section 3. Costs of Enforcement.** Any violator under Section 1 or Section 2 of this article shall be liable for all costs reasonably and actually incurred by any authorized person prosecuting a violation of the Governing Documents. Such costs include writing delinquency and demand letters, court costs, and attorneys' fees, including appeals. Such costs may be recovered regardless of whether suit is filed. If approved by the Board, such costs shall constitute an individual assessment against the applicable Lot and Owner, and may be enforced in accordance with Section 4 of this article.

**Section 4. Nonpayment of Assessments.** An assessment levied against a Lot by the Association becomes delinquent if the assessment or any installment thereof is not paid on the date due. If the assessment is not paid within thirty days after the date due, it shall bear interest at the rate set by the Board, but not greater than the interest rate on judgments then in effect in the State of South Carolina, and shall be subject to reasonable late charges established by the Board. The delinquent assessment, together with interest, late charges, and all costs of collection reasonably and actually incurred by the Association, all of which shall be deemed part of the assessment, shall be secured by a continuing lien on the Lot pursuant to Article IV, Section 1. Costs of collection include charges for filing a claim of lien, writing delinquency and demand letters, court costs, and attorneys' fees, including appeals. Such costs may be recovered regardless of whether suit is filed. The Association may institute legal action to foreclose the assessment lien against the Lot and to collect against the Owner personally obligated to pay the assessment.

**Section 5. Sanctions.** For violations of the Governing Documents, the Board may impose sanctions, including reasonable monetary fines, suspension of an Owner's right to vote in the Association, and loss of use and enjoyment of any property owned or maintained by the Association; provided, however, that fines may not be imposed for delinquent assessments, but the Board shall suspend the voting rights in the Association of an Owner who is delinquent in the payment of assessments.

**Section 6. Remedies Cumulative.** The remedies provided by this article and elsewhere in this Declaration are not exclusive remedies, but are in addition to all other rights and remedies available to Declarant, the Association, the ACC, and the Owners now or hereafter provided by the Governing Documents, by law, or otherwise.

**Section 7. Exemptions and Immunity.** When Declarant, the Association or the ACC is granted a right or an exemption by this Declaration, or immunity from liability for exercising a right, privilege or remedy granted therein, such right, exemption and immunity shall extend to all persons acting on its behalf, for its benefit, or at its direction, including its directors, officers, committees, members, managers, contractors, agents, employees, successors and assigns.

## ARTICLE X DURATION AND AMENDMENTS

**Section 1. Duration.** This Declaration shall run with and bind Walnut Grove, and shall be and remain in effect perpetually to the extent permitted by law. Without limiting the foregoing, all easements contained herein and all affirmative obligations of Lot Owners contained herein, including, but not limited to, the obligation to pay Association assessments, shall run with and bind Walnut Grove, and shall be and remain in effect perpetually to the extent permitted by law; and all provisions hereof restricting Walnut Grove from certain uses and activities, and all architectural and environmental requirements hereof shall run with and bind Walnut Grove perpetually to the extent permitted by law.



**Section 2. Amendments.** This Declaration may be amended or terminated by an instrument signed by not less than two-thirds of the Owners. During the Development Period, any amendment shall also require the written assent of Declarant. Any such instrument must be recorded. Notwithstanding the foregoing, Declarant shall have the right to annex additional property to Walnut Grove by the filing of Supplemental Declarations. Declarant shall also have the right to alter the dimensions of a Lot or Lots by the filing of Supplemental Declarations and revised plats prior to the sale of any such Lot or Lots by Declarant to an Owner.

**Section 3. Vested Rights.** No amendment or termination of this Declaration shall affect the validity of any easements or other vested rights established hereunder for the benefit of any Owner, governmental authority, public utility, person or entity without written consent therefrom.

**Section 4. Declarant's Protection.** Notwithstanding any other provision herein, during the Development Period, no provision of this Declaration, any Supplemental Declaration, the Articles or the Bylaws shall be amended, and no rule, restriction or requirement shall be adopted or imposed, without the written approval of Declarant, which directly or indirectly, by its provisions or in practical application, does any of the following: repeals or amends any provision specifically applicable to the Development Period; repeals or amends Declarant's right to annex additional property to Walnut Grove; relates exclusively or primarily to Declarant, or which relates to Declarant in a manner different from the manner in which it relates to other Owners; repeals or amends the rights of membership in the Association, or the rights of Declarant as a Member of the Association; repeals or amends the manner of assessment applicable to Declarant or any land owned by Declarant; or repeals or amends any other provision hereof in a manner which would alter Declarant's rights or status hereunder.

**Section 5. Severability.** Invalidity of any provision of this Declaration by judgment or court order shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

**Section 6. Perpetuities.** If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one years after the death of the last survivor of the now living descendants of the persons named in the Articles as the initial directors of the Association.

**ARTICLE XI**  
**MISCELLANEOUS PROVISIONS**

**Section 1. Management Agreements.** Any agreement for professional management of the affairs of the Association, or any agreement providing for services to the Association by Declarant, may not exceed one year, and must provide for termination by either party without cause, and without payment of a termination fee, upon thirty days' written notice to the other party.

**Section 2. Insurance.** The Association may maintain hazard insurance for property owned or maintained by the Association, public liability insurance covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and liability insurance for its directors and officers. All insurance maintained by the Association shall be in such amounts and upon such terms and conditions deemed appropriate by the Board. All insurance proceeds payable to the Association shall be used or disbursed in a manner deemed appropriate by the Board.

**Section 3. Indemnification.** The Association shall indemnify every officer and director against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the current Board) to which he may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistakes of judgment, negligent or otherwise, but shall be liable only for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of

the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled.

**Section 4. Notices.** Any notice required or permitted herein shall be in writing and may be sent to an Owner at his address as shown on the records of the Association, or to any other person at his current address, or his last known address, if his current address is not known. Notices may be sent by United States first class mail, postage prepaid. Such mailing shall be deemed adequate notice, and shall be effective when mailed. Other reliable methods of delivery are permitted. Proof of receipt of notice is not required. It is the duty of each Owner to furnish the Association with the Owner's address to which notices from the Association may be sent. In an emergency, any type or method of notice may be used which is reasonable under the circumstances.

**Section 5. Interpretation and Construction.** The provisions of this Declaration shall be construed together and given that interpretation or construction which will best effect the intent of the general plan of development of Walnut Grove. The provisions hereof shall be liberally interpreted, and, if necessary, they shall be so extended or enlarged by implication so as to make them fully effective.

**Section 6. Document Conflicts.** In the event of a conflict between this Declaration or any Supplemental Declaration and the Articles, the Bylaws, the Board Rules or the ACC Standards, this Declaration or the Supplemental Declaration shall prevail. In the event of a conflict between the Board Rules and the ACC Standards during the Development Period, the ACC Standards shall prevail; thereafter, the Board Rules shall prevail.

**Section 7. Number and Gender.** Unless a contrary construction is required by the context, for all purposes under this Declaration, the singular number shall include the plural, and the masculine gender shall include all genders.

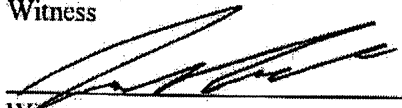
IN WITNESS WHEREOF, Declarant has caused this Walnut Grove Declaration to be executed and sealed by its general partner, this 3<sup>RD</sup> day of December, 2001.

HOME SITES, LTD.

By:  [SEAL]  
OTIS L. CROWELL, As Its General Partner

SIGNED, SEALED AND DELIVERED  
in the presence of:

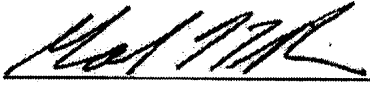
  
\_\_\_\_\_  
Witness

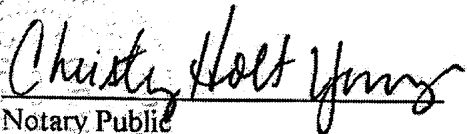
  
\_\_\_\_\_  
Witness

**PROBATE**

Before me personally appeared the undersigned witness and made oath that said witness saw the within named OTIS L. CROWELL, as the General Partner of HOME SITES, LTD., sign, seal and, as the act and deed of said limited partnership, deliver the within Declaration for the uses and purposes therein mentioned, and that said witness, together with the other subscribing witness, witnessed the execution thereof.

SWORN TO AND SUBSCRIBED  
before me, this 3<sup>RD</sup> day of  
December, 2001.

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Notary Public  
My Commission Expires  
November 12, 2005

**Exhibit A**

All that tract or parcel of land situate, lying and being in the City of North Augusta, Aiken County, South Carolina, containing 9.11 acres, known and designated as Walnut Grove, Section Seven, as shown on a plat thereof recorded in the Office of the Register of Mesne Conveyances of Aiken County, South Carolina in Plat Book 44, page 294, to which plat reference is made for a more complete and accurate description and location of said property; excluding, however that certain strip of land shown thereon as "20' Walkway". Said property contains 27 residential lots (Lots 24-34, Block D, inclusive; Lots 1-5, Block F, inclusive; and Lots 37-47, Block F, inclusive) and portions of streets known as Walnut Branch and Andrew's Branch shown on said plat.

*City of North Augusta  
P.O. Box 6400  
North Augusta, S.C.  
29861-6400*

RECORDED 12-13-01 @ 0945 hrs  
Daniel V. Warner  
R.M.C. AIKEN COUNTY