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### STORM WATER FACILITIES MAINTENANCE AND RESTRICTIONS AGREEMENT

THIS STORM WATER FACILITIES MAINTENANCE AND RESTRICTIONS AGREEMENT ("Agreement") is made and entered into as of the 10th day of October, 2017 by SBS Contractors LLC, a South Carolina limited liability company ("SBS") and Lincolnville Property Owners Association, Inc., a South Carolina non-profit corporation ("Association").

### WITNESSETH:

WHEREAS, SBS and others are the fee owners of certain residential lots situated in the Town of Lincolnville, South Carolina, as more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Lots"); and

WHEREAS, the Association is a property owners association incorporated by SBS for the purpose of maintaining certain storm water facilities for the benefit of the Lots in accordance with the provisions set forth herein and enforcing certain use restrictions for the Lots;

WHEREAS, SBS desires to establish and set forth the agreement for the maintenance of a dry storm water retention facility and other related storm water facilities for the benefit of the Lots.

NOW, THEREFORE, for and in consideration of the sum of Ten and NO/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Grant of Easement - Pond. SBS hereby grants, bargains, assigns, sets over, conveys and dedicates for the use, benefit and enjoyment of Lots, a perpetual, non-exclusive appurtenant easement in, under, over, through and across the area of the property owned by SBS identified on **Exhibit B** attached hereto and by reference made a part hereof (the "Pond Easement Area"), for the purpose of constructing a dry storm water retention facility for the benefit of the Lots (the "Pond"). The Association and SBS hereby reserves the right, at any time and from time to time in its reasonable discretion, to reconfigure and/or relocate the Pond within the Pond Easement Area, however, subject to the requirement that the Lots shall thereafter be provided with storm water retention facility substantially equivalent to the storm water retention facility provided for herein, and provided that such reconfiguration or relocation of the Pond shall be done at the Association's or SBS's respective sole cost and expense. SBS will convey the Pond Easement Area to the Association subject to the terms of this Agreement.

Together with the grant of the easement over Pond Easement Area to the Lots, SBS reserves for itself and its successors and assigns, including the Association, a 20 foot access easement for vehicular and pedestrian purposes over and across Lot 11, Block 99, for ingress and egress to the Pond Easement Area from Slidel Street in the location identified on **Exhibit B** attached hereto. The owner of the Pond Easement Area shall be entitled to use the 20 foot access easement in furtherance of its obligations to maintain the Pond Easement Area as discussed below. The owner of Lot 11, Block 99 shall not interfere with the use of the 20 foot access

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easement by the owner of the Pond Easement Area or otherwise limit or restrict access to the Pond Easement Area by its owner for such maintenance purposes as discussed below.

2. Grant of Easement – Storm Water Facilities. SBS hereby grants, bargains, assigns, sets over, conveys and dedicates for the use, benefit and enjoyment of all of the Lots, a perpetual, non-exclusive appurtenant easement in, under, over, through and across the portions of the Lots designated as utility and drainage easements on the plat referenced on **Exhibit B** attached hereto. Each burdened Lot owner is granted the right, at any time and from time to time in its reasonable discretion, to reconfigure and/or relocate the utility and drainage easements located within its respective Lot, provided that the Lot shall thereafter provide a drainage and utility easement area substantially equivalent to the drainage and utility easement area provided for herein and as depicted on the plat referenced on **Exhibit B**, and provided that such reconfiguration or relocation shall be done at the sole cost and expense of the owner of the Lot. The owner of a Lot shall not interfere with the use the easement area on his Lot and shall not otherwise limit or restrict access to any easement area on his Lot.

SBS further hereby grants, bargains, assigns, sets over, conveys and dedicates to the Association for the use, benefit and enjoyment of the members of the Association, a perpetual, non-exclusive easement in, under, over, through and across those areas of each of the Lots reasonably necessary in order for the Association to comply with its maintenance obligations of the Pond and the Pond Easement Area and to ensure that the storm water drainage system is functioning as designed for the benefit of all of the Lots and, in addition, to ensure compliance with any applicable governmental authorities.

- 3. <u>Construction</u>. SBS is solely responsible for the construction of the Pond in the Pond Easement Area, in a good and workmanlike manner and in accordance with applicable law and the construction of the storm water drainage system for the benefit and use of the Lots and in a manner approved by the applicable governmental authorities.
- 4. <u>Maintenance Responsibilities</u>. The Association shall be solely responsible for the maintenance and repair of the Pond Easement Area, including the mowing, edging, waste removal, landscaping and cleaning of the Pond Easement Area and any other matters regarding the function of the storm water drainage system stated herein, including with respect to governmental compliance. Membership in the Association shall be tied directly to the fee ownership of the Lots; that is an owner of a Lot ("Owner") shall automatically become a member of the Association upon its acquisition of its respective Lot and shall no longer be a member of the Association upon the conveyance of its respective Lot.

### 5. Payment of Costs and Fees. Payments to the Association:

(a) The Owners of each of the Lots shall pay their share of the maintenance expenses on an annual basis commencing on January 1, 2019 and the payment obligation shall continue on January 1 of each year thereafter. Except in the event of the reckless, negligent or intentional misuse or damage to the Pond Easement Area or related drainage facilities, in which case the owner of the Lot responsible for such damage will be solely responsible for the cost of the repair to the damaged drainage facilities; expenses will be evenly allocated to each Lot with each Lot responsible for 3.33% of the total expenses.

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- Beginning on November 1, 2018 and continuing on November 1 of each (b) year thereafter, the Association will prepare an annual budget which will include the annual operating and maintenance expenses, insurance, reserves for any future anticipated maintenance costs for the Pond, and other expenses deemed necessary and appropriate by the Association for the Pond and the related storm water drainage facilities (the "Annual Budget") and send a copy of the Annual Budget to each of the Owners of the Lots. Each Owner shall pay its Allocated Costs (as hereinafter defined) on an annual basis in full beginning on January 31, 2018 and continuing on with such payments being due on January 31st of each year thereafter. The Annual Budget will include a statement of the actual expenses incurred by the Association for the Pond and any related storm water drainage facilities for the previous year. The Allocated Costs for each Lot are the total amount estimated to be incurred or reserved for the operation and maintenance of the Pond and any related storm water drainage facilities as stated on the Annual Budget multiplied by 3.33%. Upon request by any Owner, the Association shall make available for inspection such bills, invoices and other documentation that shall be reasonably necessary for an analysis of the expenses incurred.
- (c) <u>Late Charges</u>. If the Allocated Costs are not paid by an Owner in full on or before January 31<sup>st</sup>, then the party responsible for the payment of such Allocated Costs shall also pay a late payment service charge (covering administrative and overhead expenses) equal to 10% of the amount of such unpaid Allocated Costs. The foregoing provisions shall not be construed to extend the day for payment of any sums required to be paid hereunder or relieve any Owner of its obligation to pay all such sums at the time or times herein stipulated. Payments made by Owners shall be applied (i) first to the late charge; (ii) then to the costs of collections; and (iii) then to the delinquent amounts.
- (d) Enforcement. Any Allocated Costs if not paid when due shall be delinquent, and the Association shall have the right to institute and enforce by such remedies at law or in equity as it may determine to be necessary or appropriate to collect such Allocated Costs as are due. Provided, however, that written notices, and a ten day opportunity to cure, must be given to the delinquent party before any action can be taken. The Association shall be entitled to recover from the delinquent Owner, in addition to the unpaid amounts or installments thereof, interest and late payment charges as provided above, and all costs and expenses, including reasonable attorney's fees incurred in preparation for and in bringing in such proceedings.
- 6. <u>Use Restrictions</u>. SBS desires to impose upon the Lots certain use restrictions in furtherance of the residential character, development and use of the Lots which restrictions are more fully stated on <u>Exhibit "C"</u> and made a part hereof (the "Use Restrictions"). In the event of any breach of the Use Restrictions stated herein, then the Association and also the owner of any Lot shall be entitled to seek specific performance, injunctive relief and any other equitable remedies available for the breach of the Use Restrictions and, in addition, shall be entitled to recover damages for any such breach (including, but not limited to, all costs and attorneys' fees incurred in connection with any enforcement of the Use Restrictions).
- 7. <u>Covenants Running with the Land</u>. The parties hereby agree and declare that all of the provisions contained herein and all of the rights, easements and obligations hereunder,

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shall be and constitute appurtenant covenants running with the fee simple estate of each of the Lots.

- 8. <u>Damage and Destruction to Storm Water Facilities</u>. Any damage to the Storm Water Facilities caused directly by an Owner, its respective agents, contractors, tenants, employees, licensees or permittees in its use of the easement rights expressly granted herein shall be repaired by such Owner, at its sole cost and expense. In the event such Owner shall fail to repair such damage within a reasonable time following written notice from the Association, the Association shall have the right to repair such damage and hold the Owner responsible for such damage, within thirty (30) days of written demand therefor, shall reimburse the Association for all reasonable costs incurred by the Association directly in connection with such repair.
- 9. <u>Successors and Assigns</u>. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.
- 10. Attorneys' Fees. In any legal action between the parties hereto arising out of the terms of this Agreement that terminates in a final judgment, the prevailing party shall be entitled to collect from the non-prevailing party its reasonable attorney's fees actually incurred and all related court costs and expenses (including, without limitation, reasonable expert witness fees and all reasonable trial and appellate expenses).
- 11. <u>Counterparts</u>. This Agreement may be executed in any number of identical counterparts. If so executed, each such counterpart is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one agreement, but in making proof of the grant of easement, it shall not be necessary to produce or account for more than one such counterpart.

[remainder of page intentionally blank; signature pages to follow]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

	<u>8B8</u> :
WITNESSES  Signature of 1 <sup>st</sup> Witness  Signature of 2 <sup>nd</sup> Witness	SBS Contractors LLC, a South Carolina limited liability company  By: Print Name: And Stock Print Title: member
STATE OF SOUTH CAROLINA ) COUNTY OF CHARLESTON )	ACKNOWLEDGMENT
limited liability company, by Atila 5	oy certify that SBS Contractors LLC, a South Carolina olf , its
Witness my hand and official seal t	his the 17 day of November, 2017.
[Notary Seal]	Notary Public for the State of South Carolina Print Name of Notary: Hell Hoss My Commission Expires: 4-26-2020

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	ASSOCIATION:
WITNESSES:	Lincolnville Property Owners Association,
Signature of 1st Witness	By: Atila Stolf/its President
	`
Signature of 2nd Witness	
COUNTY OF Dorchester	) ACKNOWLEDGMENT )
Association, Inc., by Atila Stolf, it acknowledged the due execution of Agreement.	do hereby certify that Lincolnville Property Owners is President, personally appeared before me this day and the Storm Water Facilities Maintenance and Restrictions
Witness my hand and official	seal this the 19th day of March, 2018.
	Notary Public for the State of South Carolina
[Notary Seal]	Print Name of Notary: J. Han Z. Han, Jr.
	My Commission Expires: 8/26/2026
The State of the S	BLIC :
	CASON IND.

# WITNESSES: Lincolnville Property Owners Association, Inc. By: Print Name: A711A 5701F Print Title: Musson Signature of 2nd Witness STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON ACKNOWLEDGMENT ACKNOW

[Notary Seal]

Notary Public for the State of South Carolina
Print Name of Notary: ++1 ++5

My Commission Expires: +-26-2020



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# The State of South Carolina



# Office of Secretary of State Mark Hammond

# Certificate of Existence, Nonprofit Corporation

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

LINCOLNVILLE PROPERTY OWNERS ASSOCIATION, INC., a nonprofit corporation duly organized under the laws of the State of South Carolina on March 13th, 2018, has as of the date hereof filed as a nonprofit corporation for religious, educational, social, fraternal, charitable, or other eleemosynary purpose, and has paid all fees, taxes and penalties owed to the State, that the Secretary of State has not mailed notice to the company that it is subject to being dissolved by administrative action pursuant to S.C. Code Ann. §33-31-1421, and that the nonprofit corporation has not filed articles of dissolution as of the date hereof.

Given under my Hand and the Great Seal of the State of South Carolina this 14th day of March, 2018.

Mark Hammond, Secretary of State

# Consent to Storm Water Facilities Maintenance and Restrictions Agreement (Ateras Yuri Stolf)

Ateras Yuri Stolf as the owner of Lot 6, Block 99 (TMS No. 376-08-00-088) as described on **Exhibit A** attached hereto hereby evidences by his signature below his consent to the terms of the Storm Water Facilities Maintenance Agreement and his consent and agreement to Storm Water Facilities Maintenance and Restrictions Agreement being made subject to the terms thereof.

WITNESSES:	
Signature of 1st Witness	By: Ateras Yuri Stolf
Signature of 2 <sup>nd</sup> Witness	
STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	) ACKNOWLEDGMENT
I, the undersigned notary, d before me this day and acknowle Facilities Maintenance and Restrict	lo hereby certify that Ateras Yuri Stolf, personally appeared edged the due execution of this Consent to Storm Water ions Agreement.
Witness my hand and officia	al seal this the 17 day of November, 2017.
[Notary Seal]	Notary Public for the State of South Carolina Print Name of Notary: Hell Hess My Commission Expires: 4 - 26 - 2020

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# Consent to Storm Water Facilities Maintenance And Restrictions Agreement (Candido Farias de Silva)

Candido Farias de Silva as the owner of Lot 13, Block 99 (TMS No. 376-08-00-094) as described on **Exhibit A** attached hereto hereby evidences by his signature below his consent to the terms of the Storm Water Facilities Maintenance Agreement and his consent and agreement to the Storm Water Facilities Maintenance and Restrictions Agreement being made subject to the terms thereof.

WITNESSES:	
Signature of 1st Witness	By: Candido Farias de Silva
Signature of 2 <sup>nd</sup> Witness	
STATE OF SOUTH CAROLINA ) COUNTY OF CHARLESTON )	ACKNOWLEDGMENT
	reby certify that Candido Farias de Silva, personally owledged the due execution of this Consent to Storm tions Agreement.
Witness my hand and official seal	this the 17 day of Novanbar, 2017.
	Notary Public for the State of South Carolina
[Notary Seal]	Print Name of Notary:

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### EXHIBIT A

### **Description of Lots**

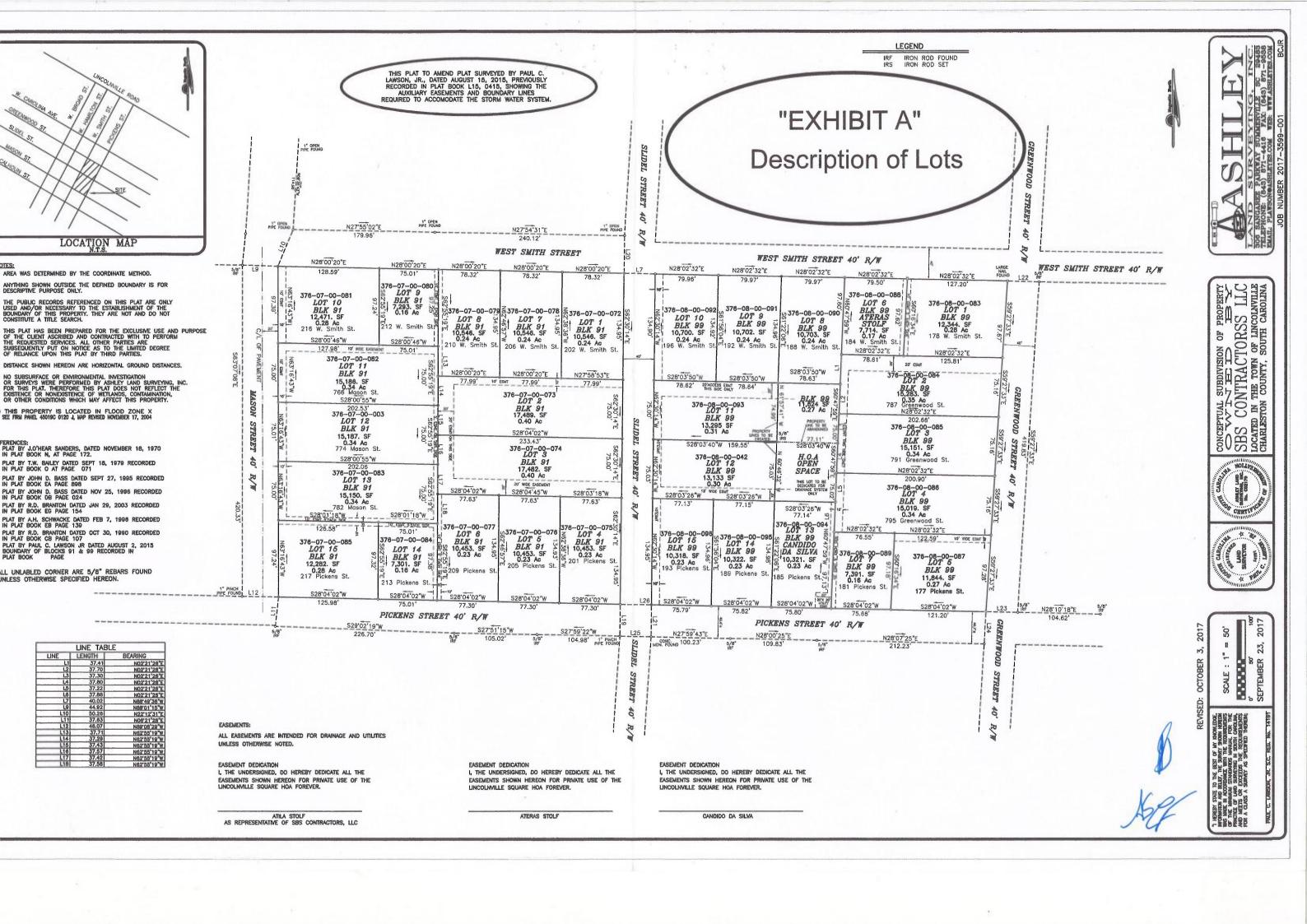
Lots 1 through 15, Block 91 and Lots 1 through 15, Block 99, located in the Town of Lincolnville, Charleston County, as depicted on the Plat entitled "585 | LINCOLVICE" recorded in Plat Cabinet L17, Page 0621 Charleston County RMC Office on 550AM., 2017.

See attached plat labeled:

EXHIBIT A

**Description of Lots** 

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# EXHIBIT B Description of Pond Easement Area

See attached plat labeled:

EXHIBIT B
Description of Pond Easement Area

Sheet Sheet

### EXHIBIT "C"

### **USE RESTRICTIONS**

- 1. Mobile homes are prohibited on all Lots. Recreational vehicles, tents, and camping trailers are permitted within a Lot so long as they are parked or located on a Lot in furtherance of the use of a home constructed on a Lot and are located on the Lot for storage purposes only; and not used for dwelling purposes. Any home constructed on a Lot shall be stick built, brick homes, or otherwise a permanent structure constructed on the Lot.
- 2. Inoperable vehicles or vehicles without current and valid government issued license plates shall not be parked on a Lot in any location other than in an enclosed structure (e.g. garage or shed).
- 3. Parking of more than two boats, trailer, or other watercraft at any home is prohibited.
- 4. Portable storage units are not permitted to remain at a home site in excess of thirty (30) calendar days in any calendar year. Portable storage units shall only be placed on the driveway or other designated parking area. No more than one portable storage unit is permitted at any time. Portable storage units shall not be larger than eight feet high by eight feet wide by sixteen feet long.
- 5. Persons shall not permit his or her dog or cat to discharge its excreta anywhere within the Lots except at Lot in which the owner of the animal resides.
- 6. A reasonable number of dogs, cats, or other usual and common household pets may be permitted in a house site. Dogs shall be kept on a leash or otherwise in a confined manner whenever outside a home or outside a fenced area. All animals shall be registered, licensed and inoculated as required by law.
- 7. Activities which emit foul or obnoxious odors or create noise (including the discharge of any radio, loudspeaker, horn, whistle, bell, amplifier or other sound device) or other conditions which tend to disturb the peace or threaten the safety of other persons living on other Lots are prohibited. However, alarm devices used exclusively for safety or security purposes which shut off automatically are permitted.
- 8. The accumulation of rubbish, trash, furniture, yard debris, or garbage or an unsightly condition at any home or its surrounding yard within a Lot is prohibited.
- 9. Outside burning of trash, leaves, debris or other materials is prohibited.
- 5. Dumping of grass clippings, leaves or other debris, petroleum products, chemicals, fertilizers, or any potentially hazardous or toxic substances in any of the following areas is prohibited: (a) Pond; (b) Pond Easement Area; (c) any easement area, drainage or irrigation ditch or swale located within any Lot; and (d) on any Lot other than the Lot owned by the person seeking dispose of the materials.
- 11. Obstruction, rechanneling or any other interference with drainage flows within any Lot is prohibited.
- 12. Obstruction, rechanneling or any other interference with any easements for access, utilities, drainage or other matters is prohibited. No improvements shall be placed in any easement area located within a Lot.

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13. A home business may be conducted within a Lot so long as the following conditions are met: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the house; (ii) the business activity conforms to all zoning requirements; (iii) the business activity does not involve regular visitation of the a house by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents on other Lots; and (iv) the business activity is consistent with the residential character of the Lots and does not constitute a nuisance, or a hazardous use, or threaten the security or safety of other residents of the Lots. In particular, dog kennel and auto repair businesses are prohibited.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

The leasing of a home shall not be considered a business or trade within the meaning of this subsection.

- 14. Capturing, trapping or killing of wildlife within a Lot, except in circumstances posing an imminent threat to the safety of persons, is prohibited.
- 15. Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Lots or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution is prohibited.
- 16. Grass must not be allowed to exceed 12 inches in height.
- 17. Chain link fences are prohibited.
- 18. The exterior of a home construction on a Lot shall be maintained in a good condition, including all exterior walls, roofs, foundation, chimneys, windows, window frames, and other areas visible from outside of the home. Driveways shall be kept in a good condition and constructed with rock, gravel, cement or other construction material. Dirt driveways are prohibited.
- 19. Structures, equipment or other items on the exterior portions of a house, including but not limited to, any ancillary structures, play houses, dog house, fences, roof, painting, or siding, which have become rusty, dilapidated or otherwise fallen into disrepair are prohibited.
- 20. Any construction activities, tree removal, or other activities on a Lot that is subject to governmental oversight and approval must be conducted in strict accordance with such governmental rules and regulations and with the necessary approvals and permits.

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# **RECORDER'S PAGE**

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### **RECORDED** November 20, 2017 Date: Time: 3:15:03 PM **DocType Book Page** 0681 107 Misc Elaine H. Bozman, Register **Charleston County, SC**

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Charleston County, SC					

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