

Community Association Budget for 2016

Following is the proposed budget for Riverwood Athletic Club Community Association, Inc. (the “**Association**”) for the 2016 calendar year and fiscal year for the Association:

[insert budget]

Some frequently asked questions concerning the Association budget, and the answers to those questions, follow:

1. *Explain some of the major Income line items:*

- Section 8.1 of the Declaration of Covenants, Conditions, and Restrictions (the “**CC&Rs**”) for Riverwood Athletic Club (the “**Community**”) provides that each fiscal year the Association Board must approve a Base Assessment to be levied against all Units. The 2016 budget contemplates a Base Assessment of \$60 per Unit Per month, and that there are 1,022 Units.
- Section 8.5 of the CC&Rs provides that the Board may levy a Specific Assessment against a particular Unit, to recover the cost of special services rendered to the owner of that Unit upon request of that owner (and not generally to all owners). The only special services contemplated by the 2016 budget are Silver, Platinum, or Gold level memberships in the Fred Smith Company Sports Club (the “**Sports Club**”), and the Specific Assessment reflects the additional costs for those Sports Club memberships.
- The Capital Contribution reflects a \$200 contribution made on the initial transfer of record title to a Unit other than to Riverwood on the Neuse, LLC (the “**Declarant**”) or a Builder, per Section 8.10 of the CC&Rs. This amount funds a capital expenditure reserve established by the Association.
- The Administrative Charge reflects a \$245 per Unit administrative charge, imposed upon the transfer of a Unit pursuant to Article XV of the CC&Rs.
- In 2001 the Declarant and the Town of Clayton entered into a “**Utilities Agreement**,” allowing the Declarant to install (at the Declarant’s cost) custom street lighting within the Community, and for which the Town of Clayton would reimburse the Declarant for the cost of “standard” street lighting. The Utility Reimbursement amount represents the expected reimbursement for 2016.

2. *Explain some of the major Expense line items:*

- Per Section 13.1 of the CC&Rs, the Association and FSC I, LLC d/b/a Fred Smith Company have entered into an agreement pursuant to which FSC I provides to the Association, for the use of each owner of a Unit in the Community, a Bronze level membership in the Sports Club. That agreement provides that the Association will pay to Fred Smith Company \$58 per month for each Bronze membership, as compared to the \$89 per month Fred Smith Company charges families who are

not owners of a Unit in the Community for a Bronze membership in the Sports Club. The Amenities Fee represents the cost to the Association of those Bronze level memberships.

- The Amenities Upgrade Fee represents the additional cost to the Association of Silver, Platinum, or Gold level memberships in the Sports Club, and equals the Specific Assessment income amount.
- The Administrative Fee reflects the payment to Fred Smith Company by the Association of an administrative fee of \$45, upon the transfer of a Unit (other than the initial transfer to or by a Builder), to be paid from the Administrative Charge described among the Income items.
- The Utility Expense represents utility charges with respect to street lighting in the Community (for which the Association is responsible, pursuant to the Utilities Agreement) and for common areas within the Community, such as electricity costs for common area lighting and powering common area irrigation systems and fountains.
- The Association leases space located in the Community town center, for use as the Community mail room, and the amount shown is the rental under that lease.
- Association assessments, fees, and other charges collected via credit card are subject to a service charge imposed by the credit card company, and the CC Discount Fee represents the budgeted amount for those service charges.
- Pursuant to an agreement between the Association and Fred Smith Company, the Association pays Fred Smith Company a fee of \$5 per month per Unit for providing common area maintenance within the Community. The budget contemplates that this fee will be paid for 1,022 Units.
- Pursuant to an agreement between the Association and Fred Smith Company, the Association pays Fred Smith Company a fee of \$7.50 per month per Unit for providing management services to the Association. The budget contemplates that this fee will be paid for 1,022 Units.

3. *What is the Declarant Contribution and why is it shown as an Income line item?*

It is typical of community associations that, until the community is built out, the income from owner assessments is not sufficient to cover association expenses. Thus, typically the developer of the community subsidizes the association until the community approaches build-out.

The third paragraph of Section 8.1 of the CC&Rs provides that the “Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy ..., which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant’s discretion. Any such subsidy shall be

disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.” The definition of “Declarant” in Article II of the CC&Rs includes “Fred Smith Company acting in its capacity as the managing member of Riverwood on the Neuse, LLC.”

The amount shown as the Declarant Contribution reflects the budgeted amount of the subsidy to the Association by the Declarant and/ or by Fred Smith Company for 2016.

4. *What is the process for approving the Association budget?*

Pursuant to the North Carolina Planned Community Act (the “Act”) and the CC&Rs, each year the Association Board first adopts a budget. The adopted budget is then transmitted to the members, with a notice of a meeting of members to consider ratification of the budget. At the member meeting the adopted budget will be ratified and approved by the members, unless “disapproved” or “rejected” by at least 75% of the total Class A votes in the Association and by the Class B member in the Association. It is not necessary that a quorum of members be present at a meeting to consider ratification of the budget. In the event the adopted budget is rejected, the budget then in effect will continue until a new budget is adopted and ratified.

5. *Why is the budget subject to the approval of the Class B Member?*

The Act provides that the declaration of covenants for a planned community may provide for a period of declarant control of the association, during which the declarant or persons designated by the declarant may appoint and remove the officers and members of the executive board. Typically a declarant will maintain control of an association until the community is “built out” and the association is no longer subsidized by the declarant.

Section 6.3 of the CC&Rs and the Association Bylaws provides that the Association has Class A members, consisting of Unit owners, and during a “Class B Control Period” a Class B member, which will be the Declarant. The “Class B Control Period” continues until the first to occur of (a) the issuance of certificates of occupancy for 75% of the maximum total number of Units in the Community have been issued, (b) December 31, 2025, or (c) the Class B member so determines. The hope is that at the time of the expiration of the Class B Control Period the Association income will equal or exceed the Association expenses, making unnecessary a Declarant subsidy.