HERITAGE CREEK

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DEED 80-K PG 514

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

DEE-2004-27043
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Stephen Ford, Register

DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS FOR HERITAGE CREEK SUBDIVISION AS SHOWN ON SURVEY ENTITLED HERITAGE CREEK SUBDIVISION AND RECORDED IN THE RMC OFFICE FOR SPARTANBURG COUNTY, S.C., IN PLAT BOOK 155, PAGE 92.

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, made this 25th day of May, 2004 by Roger D. Fisher and Tower Homes, Inc., A South Carolina Corporation, hereinafter referred to Declarants.

WITNESSETH:

WHEREAS, Declarants are the owners of that certain tract of land in the County of Spartanburg, State of South Carolina, which property is more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO:

WHEREAS, certain lots as shown on the above referenced plat have previously been conveyed to Tower Homes, Inc., and

WHEREAS, Tower Homes, Inc. joins in the execution of this Declaration to affirm that all lots in Heritage Creek Subdivision conveyed to Tower Homes, Inc. prior to the date and time of the recording of this Declaration are subject to the within Covenants and Restrictions.

NOW, THEREFORE, Declarants hereby declare that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictive covenants and conditions, which are hereby imposed against the property described above for the purpose of protecting the value and desirability of said property and to accomplish the systematic, uniform and harmonious development of said property into a subdivision; that the covenants, conditions and restrictions hereinafter set forth shall run with the real property described above and be binding upon all parties having any right, title to interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof until January 1, 2014 at which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each unless, by vote of two-thirds of the then owners of the lots into which the property described above shall have been developed, the within covenants, conditions and restrictions are changed or amended, in whole or in part. In the event such vote shall take place, the vote shall be cast by the legal title thereto is held jointly or otherwise.

If the undersigned, its successors or assigns, or any owner of any lot, their heirs or assigns, should violate or attempt to

violate any of the covenants, conditions and restrictions herein contained, it shall be lawful for any person or persons owning any of the real estate described above to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate same, to either prevent his or them for so doing, or to recover damages for such violations, or, in the event of the failure to secure the necessary approval as set forth in Article IV hereof, to require the removal of any non-approved building or improvement, as appropriate.

Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

DEVELOPER'S DISCLAIMER. Roger D. Fisher, Developer, (including the Developer in its capacity as the Architectural Committee), and his heirs and assigns, his agents, consultants and employees, hereby disclaim any and all warranties, express or implied, of good workmanship, design, habitability, quality, fitness for any particular purpose of merchantability or any representation concerning same, and no warranties of any kind shall arise as a result of any plans, specification, standards or approvals made or approved by Developer, or its nominees, and Developer shall not be liable to any owner or any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against any owner or such other person arising out of or in any way related to the subject matter of any review, acceptance, inspection, permission, consent or required approval which must be obtained from the Developer, whether granted or denied. Furthermore, while Developer is not aware of any lots containing fill dirt, Developer expressly disclaims suitability of a lot form residential construction, and all future owners shall be responsible for determining the suitability of a lot for residential construction.

(1) All lots shall be used exclusively for residential purposes. No structure shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family residential structure not to exceed three stories in height, and a double garage attached or detached for private passenger automobile with door opening facing the front side or rear yard, unless otherwise approved for qualification or workmanship and materials, harmony of external design with main structure and as to location with respect to topography and finished grade elevation.

(2) No tent, shack, garage, barn, storage building or other out-building shall be erected upon any lot without approval from the architectural committee and, if approved, it shall not be used as a residence either temporary nature shall be used as a residence and no house trailer, modular home or mobile home shall be placed on any lot either temporarily or permanently. Any boat, camping trailer, recreational vehicle and/or similar equipment used for the personal enjoyment of a resident of a lot shall at all times be neatly stored and positioned so as to be inconspicuous.

(3) No obnoxious or offensive activity shall be permitted

anywhere on the property nor shall anything be done which may become an annoyance, nuisance or menace to the neighborhood. No lot of any part thereof shall be used for any business, commercial or public purpose and no commercial vehicle shall be parked in the subdivision, temporarily or permanently.

(4) No animals shall be kept, maintained or quartered on any lot or tract in the subdivision. No more that two (2) mature household pets may be kept at any single family residence building so long as said animals do not constitute a nuisance or menace to the neighborhood.

(5) Tall shrubbery or hedges shall be trimmed to reasonable limits where traffic hazards may be created.

(6) No vehicle which does not have a current license plate on it may remain on the premises for more than 30 days.

(7) No transfer tractor, transfer trailer or tractor trailer combinations shall be allowed in the subdivision at any time except for loading or unloading.

(8) It is the responsibility of each lot owner and all persons or entities employed by such person to assist in the construction of any building or improvement on said lot to control the discharge of surface water or sediment from such lot onto or upon any other part of the subdivision.

(9) Any damage(s) to any street, curb or gutter which occurs as a result of construction activity relating to any lot shall be promptly repaired to Spartanburg County specifications at the expense of the owner of sail lot.

(10) All tools, lawn movers or equipment of any kind must be contained within a fenced or an enclosed area and hidden from public view when not in use.

(11) No house or portion of another house shall be moved into this subdivision.

(12) No signs shall be permitted on any lots except that a single sign offering the property for sale may be placed on such lot providing such a sign is approved by the Architectural Committee.

(13) All residences shall have a standard letter size mailbox which is to be provided by each lot owner. All boxes and posts shall be in good taste and maintained in a good state of repair at all times.

(14) The removal of any trees in excess of 12' in diameter (dbh) shall require prior approval of the Architectural Committee. No trees may be removed until final building plans have been approved by the Architectural Committee.

(15) The property within this subdivision is hereby declared to be a wildlife sanctuary and all hunting or shooting, is hereby prohibited.

(16) The owner of each lot shall cause written notice to be delivered to the Homeowners Association upon the conveyance of any lot by him advising the Homeowners Association.

(17) No satellite or television dish shall be constructed or

placed on any lot except where type, size, screening and location have been approved by Architectural Committee.

(18) No above ground pool shall be constructed or placed on any lot in the subdivision.

(19) Yard sales will be allowed by the approval of the Homeowners Association.

ARTICLE II: EASEMENTS

(1) In addition to other easements as are shown on the recorded subdivision plat, a five-foot easement and a ten-foot easement is reserved over and across all side and rear lot lines, respectively, for drainage, utility, cable television, gas, water, power, sewer and telephone installation and maintenance; provided that when more than one lot shall be used as a site for only on residence, the aforesaid five-foot easement and ten-foot easement shall apply only with respect to the exterior lines of such consolidated lot. Declarants specifically reserve the right to grant specific easements to any entity or organization, public or private, to provide any of the utility services listed herein at any time following the date hereof until any specific lot shall be conveyed by Declarants. The right is reserved to authorize the laying and placing of sewer, gas and water pipelines, telephone, cable television, telegraph and electrical light poles on any of the streets and easements shown on the recorded subdivision plat. An easement for the installation and maintenance of utilities and drainage facilities is reserved over said streets and easements.

ARTICLE III: SET BACK, LOCATION AND SIZE OF IMPROVEMENTS AND OF BUILDING PLOTS.

(1) Nothing herein contained shall be construed to prohibit the use of more than one lot or portions of one and more lots as a single residential building site, provided that said lot would otherwise meet the requirement as to size, setback line and directional facing of said building as determined by the Declarants.

(2) No building shall be erected on any lot nearer to the front lot line or nearer to the side street line than the building set back line shown on the recorded plat. Any such building shall face toward the front line of the lot except that buildings to be constructed on corner lots shall face in the directions designated by the architectural committee. No building shall be located nearer to any interior side lot line than the distance, as determined by applicable building codes.

(3) No detached building, other than the one intended to be used as a residence, shall be erected without approval as provided in Article IV and, if approved, shall be placed no nearer to any lot line than the distance as determined by applicable building codes.

(4) No wall, fence or hedge shall be erected across or along the front of any lot and nearer to the front lot line than the building set-back line having a height of more than four feet; however, upon review and approval by the Architectural Committee, placement and height of any wall, fence or hedge may be altered. Chain link fences shall not be constructed on any portion of any lot, without prior approval from the Architectural Committee.

(5) The total area of all driveways shall be paved by plant mix concrete.

(6) No lot shall be recut so as to face in any direction other than is shown on the recorded plat nor shall it be recut so as to make any building site smaller than is provided for herein.

(7) No one-story, split-level or story-and-a-half residence shall be constructed containing less than 1,600 square feet of heated floor space exclusive of porches, garages and breezeways. No two-story residence shall be erected containing less than 1,600 square feet of heated floor space total, exclusive of porches, garages and breezeways.

(8) Roger D. Fisher may waive any minimum set back line or alter any property line as deemed necessary for the development of the subdivision.

ARTICLE IV: APPROVAL OF PLANS AND CONSTRUCTION ARCHITECTURAL COMMITTEE

(1) The Architectural Committee shall be composed of Roger D. Fisher. For the purpose of these restrictions the term Declarants and Architectural Committee may be used interchangeably. In all matters, a majority vote shall govern.

(2) No improvements shall be erected, placed, altered or changed on any lot in this subdivision until and unless the building plans, specifications, and plot plan showing the proposed type of construction, exterior design, location of residence, walks, drives and fences have been approved in writing by the Architectural Committee as to conformity and harmony of external design and consistency of plan with existing residences on other lots in the subdivision and as to the location of the structure with respect to topography and finished ground elevation.

(3) The Architectural Committee shall have the right to refuse to approve any plans, specifications and/or plot plans, taking into consideration the suitability of the proposed building or other improvement, the materials or which it is to be built, whether or not it is in harmony with the surroundings and the effect it will have on other residences already constructed.

(4) Prior to the commencement of any construction, each owner shall submit to the Architectural Committee, in duplicate, plans and drawings, which shall contain at a minimum:

(a) front, rear and side elevations;
(b) floor plan;
(c) the area of heated floor space;

(d) exterior building material to include manufacturer, color and texture;
(e) exterior trim color;
(f) roofing material and color;
(g) site plan (optional);
(h) estimated completion dates of all construction and improvements;
(i) special treatment required to alleviate problems anticipated due to changes in topography.

The documents and other information required to be submitted shall be delivered or mailed to Roger D. Fisher, P.O. Box 160125, Boiling Springs, S.C. 29316. One complete set shall be retained by the Architectural Committee and the second complete set shall be returned to the applicant, with the Architectural Committee's approval or disapproval clearly noted thereon.

(5) In the event that the Architectural Committee fails to approve or disapprove such plans within thirty (30) days after they have been submitted to it, such approval will be automatic. The terms "building" or "improvements" shall be deemed to include the erection, placement or alterations of any wall, fence, driveway or parking area, or any such activity undertaken subsequent to initial construction.

(6) The Architectural Committee is authorized to approve or ratify in the construction or alteration of any building violations of the Set Back, Location and Size of Improvements article of these restrictions if, in the opinion of the Architectural Committee, such shall be necessary to prevent undue hardship.

(7) All construction by any owner shall be performed by a licensed contractor or licensed builder.

(8) Once construction is commenced, each owner shall be responsible for insuring that such work proceeds at an orderly and timely pace, with no work stoppage in excess of 14 consecutive days, acts of God excepted.

(9) After the foundation for new construction has begun on any lot in the subdivision, the owner shall have the work carried on continuously by a licensed builder without unnecessary delay, and shall have 12 months from the time the foundation has begun to complete the residence, landscape the year, and plant shrubbery.

(10) The Declarants expressly reserve the right to assign any of the duties, powers, functions and approval authority set forth herein to any assignee at Declarant's sole discretion. Roger D. Fisher will assign all above mentioned duties to Tower Homes, Inc. when Tower Homes, Inc. has purchased all lots in the subdivision.

ARTICLE V: ASSOCIATION OF OWNERS

(1) On January 1, 2005, all owners including the Declarants shall organize Heritage Creek Homeowners Association, Inc. to be chartered as a non-profit corporation, in accordance with the laws of the State of South Carolina. Every person who is a record owner

of a fee or undivided fee interest in any lot which is subject to these covenants shall be a member of the Association. There shall be only one class of membership and such members shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as the owners determine, but in no event shall more than one vote be cast with respect to any lot, and, further, no fractional vote shall be cast with respect to any lot. Each property owner shall pay $180.00 for year 2005 for dues to defray costs for expenses for lighting, maintenance, etc.

(2) The affairs of the Association shall be controlled by a Board of Directors, duly elected by the members.

(3) The Homeowners Association shall be entitled to collect dues, on an annual basis, with annual adjustments, if necessary, assessed against each lot in an amount to be determined by the Board of Directors. These dues shall be administered by the officers of the Association and used for the payment of necessary expenses for the operation of the Homeowners Association and for the maintenance of any vacant and untended lot or unkept improved lot and for the payment of any common utility expenses and for the maintenance of any property deeded to the Homeowners Association.

(4) In the event the Homeowners Association's Board of Directors and Officers shall deem it necessary to expend any sum of money for the maintenance and upkeep of any improved and unimproved lot, the Board shall be empowered to levy a special assessment applicable to that lot, but only in an amount equal to any sum or sums which had to be expended for that purpose. If any such special assessment or annual dues payment, is not paid within thirty (30) days of its due date, the amount due shall bear interest from the date of delinquency at the rate of fourteen (14%) percent interest.

(5) The Declarants may delegate and transfer to the Homeowners Association any rights, duties, and powers which Declarants have expressly reserved unto itself in these Covenants and Restrictions.

(6) If any dues or assessments are not paid when due, then such dues or assessments shall become delinquent and shall (together with interest thereon at the rate of Ten (10%) percent per annum from the date and the cost of collections as hereinafter provided) become a charge and continuing lien on the land and all improvements thereon, against which each such assessment is made. The amount of any such dues or assessments, together with reasonable attorney fees as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment became due. In the case of co-ownership, all such co-owners shall be jointly and severally liable for the entire amount of the dues or assessments.

If the assessment or dues are not paid within thirty (30) days after the due date, the Homeowners Association may bring an action at law against the owner or owners personally obligated to pay the same or to foreclose the lien against the property, and there shall

be added to the amount of such assessments or dues, all attorney fees and costs of collection and in the event a judgment is obtained, such judgment shall include prejudgment interest as hereinabove provided together with reasonable attorney fees as may be fixed by the court together with the costs of the action.

(7) The lien of the assessments or dues provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessments or dues; provided, however, that such subordination shall apply only to the assessments or dues which have become due and payable prior to the sale or transfer of such proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments or dues thereafter becoming due, nor from the lien or any such subsequent assessments or dues.

(8) Special assessments for capital improvements. 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 purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-thirds (2/3) of the votes of each owner who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

(9) Quorum for any action. The quorum required for any action respecting assessments shall be the lot owners present at a meeting duly called and convened.

(10) Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of any special assessment and at least thirty (30) days in advance of the due date of any assessment prepare a roster of the properties and assessments applicable thereto which shall be kept in the Office of the Association and shall be open to inspection by any lot owner. Written notice of the assessment shall thereupon be sent to every lot owner subject thereto. The Association shall upon demand at any time furnish to any lot owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(11) Term and election of Board of Directors: The Board of Directors shall be elected for a period of one (1) year. Election of each officer will require 2/3 votes of each lot owner who are voting in person or by proxy.

(12) Enforcement by Homeowners Association. Except for approvals and rights expressly reserved herein unto the Developer or its nominee, the Heritage Creek Homeowners Association, Inc.,

shall have standing to enforce the within restrictions, covenants and obligations in the same manner and to the same extent as does the Developer or any other owner. The powers and authorities herein granted to the said Association shall be in addition to such other and further rights, duties and obligations which may be set forth in the By-Laws of the Association adopted in accordance with the terms hereof.

(13) Board Authorization. All actions of the Association shall be authorized actions if approved by the Board of Directors of the Association in accordance with its By-Laws, unless the terms of this instrument provide otherwise. Any change in the authorities given to the Board of Directors will require approval of 2/3 votes of each lot owners who are voting in person or by proxy at an association meeting that has given thirty (30) days notice to said meeting describing in detail to the lot owner any proposed change concerning any future authority granted to the Board of Directors.

IN WITNESS WHEREOF, the undersigned have set their hands and seals this 25th day of May, 2004.

Loreza M. Messer

Tammie M Price

Loreza M. Messer

Tammie M Price

ROGER D. FISHER

TOWER HOMES, INC.

BY: PRES.

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGEMENT
COUNTY OF SPARTANBURG)

I Tammie M Price a Notary Public, do hereby certify that Roger D. Fisher personally appeared before me this 25. May, 2004.

Tammie M Price

Notary Public for S.C.
My Commission Expires: 7/24/05

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGEMENT
COUNTY OF SPARTANBURG)

I Tammie McBride a Notary Public, do hereby certify that Tower Homes, Inc. by Patty Scoggins personally appeared before me this 15th day of July, 2004.

Tammie McBride
Notary Public for S.C.
My Commission Expires: 7/24/05

EXHIBIT "A"

All those certain pieces, parcels or lots of land, situate, lying and being in the State of South Carolina, County of Spartanburg, being shown and designated as Lot Nos. 1 - 63, as shown on survey of Heritage Creek, prepared by Souther Land Surveying, Inc., dated November 6, 2003 and recorded in Plat Book 155, Page 92, RMC Office for Spartanburg County, S.C. For a more complete and particular description, reference is hereby made to the above referred to plat and record thereof.

This being the same property conveyed to Roger D. Fisher by deed of Joe W. McCarter dated February 4, 1994 and recorded in Deed Book 61-A, Page 340, RMC Office for Spartanburg County, S.C. Reference is also made to deed of Lollie C. Hutchins, et al to Roger D. Fisher dated July 14, 1994 and recorded in Deed Book 61-Q, Page 446, RMC Office for Spartanburg County, S.C.

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	Heritage Creek Homeowners Association, INC. RECORDING OF DOCUMENTS PURSUANT TO THE SOUTH CAROLINA HOMEOWNERS ASSOCIATION ACT (S.C. CODE ANN. §§ 27-30-110 TO -170): 1. HERITAGE CREEK HOA BYLAWS Declaration originally recorded in Book 80-K at Page 514

WHERAS, the South Carolina Homeowners Association Act (S.C. Code Ann. §§ 27-30-110 to -170) requires Homeowners Associations to record Governing Documents, Rules, Regulations, and amendments thereto; and

WHEREAS, the Declaration of Covenants, Conditions and Restrictions For Heritage Creek Subdivision was recorded on May 26, 2004 in the Office of the Register of Deeds for Spartanburg County in Deed Book 80-K at Page 514 (as amended and supplemented, the **"Declaration"**); and

WHEREAS, pursuant to the Declaration, Heritage Creek Homeowners Association, INC is the Homeowners Association for Heritage Creek; and

WHEREAS, Heritage Creek Homeowners Association, INC desires to comply with the recording requirements of the South Carolina Homeowners Association Act by recording its Governing Documents, Rules, and Regulations, as amended, that have not already been recorded; and

NOW THEREFORE, in accordance with the foregoing, Heritage Creek Homeowners Association, INC does hereby record the following to comply with the recording requirements of the South Carolina Homeowners Association Act:

I. Bylaws of Heritage Creek Homeowners Association, Inc., attached as **Exhibit** A

IN WITNESS WHEREOF, Heritage Creek Homeowners Association, INC has by its duly authorized officer set its hand and seal this 2 day of January, 2019.

[SIGNATURE PAGE TO FOLLOW]

DEE-2019-489

DEE BK 122-H PG 259-267

Recorded 9 Pages on 01/04/2019 03:36:40 PM
Recording Fee: $15.00
Office of REGISTER OF DEEDS, SPARTANBURG, S.C.
Dorothy Earle, Register Of Deeds

SIGNED SEALED AND DELIVERED
in the presence of:

Megan M Blackley
(witness #1)

Dunnek Crumpler
(witness #2)

Heritage Creek Homeowners Association, INC

By: Sam McComas (L.S.)

Print Name: Sam McComas

Its: President

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

ACKNOWLEDGEMENT

I, Gretchin H. McGuinn, Notary Public for the State of South Carolina, do hereby certify that Heritage Creek Homeowners Association, INC, by Sam McComas, its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 2 day of January, 2018.

Gretchin H. McGuinn
Notary Public for South Carolina
My Commission Expires: 9/19/26

Exhibit A

BYLAWS

OF

HERITAGE CREEK HOMEOWNERS ASSOCIATIONS, INC.

ARTICLE I
NAME MEMBERSHIP, APPLICABILITY AND DEFINITIONS

1.1 **Name.** The name of the corporation shall be Heritage Creek Homeowners Association, Inc. ("Association").

1.2 **Membership.** The association shall have one (1) class of membership, as is more fully set forth in that certain Declaration of Protective Covenants, Conditions and Restrictions for Heritage Creek Subdivision ("Declaration"), the terms of those of which pertain to membership are specifically incorporated by reference herein.

1.3 **Definitions.** The capitalized words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall correspond otherwise.

ARTICLE II
ASSOCIATION; MEETINGS, QUORUM, VOTING, PROXIES

2.1 **Place of Meetings.** Meetings of the Association shall be held at the Association's principal office or at such other suitable place convenient to the members as may be designated by the Board, either in the Community or as convenient to the community as possible and practical.

2.2 **First Meeting and Annual Meetings.** Annual meetings shall be set by the Board so as to occur no later than sixty (60) days after the close of the Association's fiscal year.

2.3 **Special Meetings.** The President may call special meetings. In addition, it shall be the President's duty to call a special meeting of the Association if so directed by resolution of the Board or upon a petition signed by at least five (5%) percent of the Total Association Vote (the consent of the Declarant shall not be required). The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

2.4 **Notice of Meetings.** It shall be the duty of the Secretary to mail or cause to be delivered to the owner of each Lot (as shown in the records of the Association) and to the Declarant, so long as Declarant owns any real property within the Community, a notice of each annual or special meeting of the Association stating the time and place where it is to be held and in the notice of a special meeting, the purpose thereof. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered service of notice. Notices shall be served not less than ten (10) nor more than sixty (60) days before a meeting. Members may attend all meetings of the association but may not participate unless member is in good standing (dues paid in full and fines paid in full) with the association.

2.5 **Waiver of notice.** Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the members, either before or after such meeting. Such written notice shall be delivered to the Secretary for inclusion in the Association's minutes. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

2.6 **Adjournment of Meetings.** If any meetings of the Association cannot be held because a quorum is not present, a majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than ten (10) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present any business

which might have been transacted at the meeting originally called may be transacted without further notice.

2.7 **Voting.** The voting rights of the members shall be as set forth in the Articles of Incorporation and the Declaration, and such voting rights are specifically incorporated by this reference. Members must be in good standing (dues paid in full and fines paid in full) with the association in order to vote on any matter brought before the association.

2.8 **Proxies.** At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, dated and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of such member's lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

2.9 **Quorum.** The presence, in person or by proxy, of twenty-five (25%) per cent of the total eligible Association vote shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum. If a quorum is not present, a subsequent meeting may be called at which time no quorum will be required.

2.10 **Action by Written Ballot.** Any action to be taken at any annual, regular, or special meeting of members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot of an action shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of notes that would be required to approved the matter at a meeting at which the total number of votes cast was the same as the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by written ballot shall be certified by the Secretary and shall be included in the minutes of meeting of members filed in the Association's permanent records.

ARTICLE III
BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. **Composition and selection.**

3.1 **Governing Body; Composition.** The affairs of the Association shall be governed by a Board of Directors. The Directors must reside in the Community and shall be members or spouses of such members; however, no person and his or her spouse may serve on the Board at the same time.

3.2 **Number of Directors.** The Board shall consist of at least three and no more than five members.

3.3 **Nomination of Directors.** Elected directors shall be nominated from the floor and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes. Members must be in good standing with the association for a period of three years prior to election.

3.4 **Removal of directors.** At any regular or special meeting of the Association duly called, any one or more of the directors may be removed, with or without cause, by a majority of the Total Association Vote and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed by the Owners shall be given at least ten (10) days notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than 30 days may be removed by a majority vote of the remaining

directors at a meeting.

3.5 **Vacancies.** Vacancies in the Board caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board. Each person so selected shall serve the unexpired portion of the term.

B. **Meetings.**

3.6 **Organizational meetings.** The First meeting of the Board following each annual membership meeting shall be held within ten (10) days thereafter at such time and place as shall be fixed by the board.

3.7 **Regular meetings.** Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

3.8 **Special Meetings.** Special meetings of the Board shall be held when requested by the President, Vice president, or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid;© by telephone communication, either directly to the director or to a person at the director's home or office who would reasonably be expected to communicate such notice promptly to the director; (d) electronic message, fiber optic, or telecommunication to the director; (e) by commercial delivery service to such director's home or office. All such notices shall be given or sent to the director's address, telephone number, or other place of delivery as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telecommunication shall be given at least forty-eight (48) hours before the time set for the meeting.

3.9 **Waiver of Notice.** The transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, is (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10 **Quorum of Board of Directors.** At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board. A meeting at which a quorum of directors is present initially may continue to transact business, notwithstanding the withdrawal of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors as such meeting may adjourn the meeting to a time not less than five (5) or more than thirty (30) days from the date of the original meeting. At the reconvened meeting, a quorum is present the Board may transact, without further notice, any business which it might have transacted at the original meeting. Any amendments to this Section shall comply with the provisions of the South Carolina Nonprofit Corporation Act, S.C. Code Section 33-31-10, et seq,

3.11 **Compensation.** No director shall receive any compensation from the Association for acting in such capacity.

3.12 **Open Meetings.** All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation, unless expressly so authorized by the Board.

3.13 **Executive Session.** The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

3.14 **Action Without a Formal Meeting.** Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by a majority of the directors and delivered to the Association for inclusion in the minutes for filing in the corporate records.

3.15 **Telephonic Participation.** One or more directors may participate in and vote during any regular or special Board meeting by telephone conference call or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and those directors so participating shall be present at such meeting. Any such meeting at which a quorum participates shall constitute a meeting of the board.

C. **Powers and Duties.**

3.16 **Powers.** The board shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(A) Preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the common expenses;

(B) Making assessments to defray the common expenses and establishing the means and methods of collecting such assessments;

(C) Providing for the operation, care, upkeep and maintenance of all areas which are the maintenance responsibility of the Association;

(D) Designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel in the performance of their duties;

(E) Collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(F) Making and amending use restrictions and rules and regulation;

(G) Opening of bank accounts on behalf of the Association and designating the signatories required;

(H) Enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof.

(I) Paying the cost of all services rendered to the Association or its members which are not directly chargeable to Owners;

(J) Keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, and specifying the maintenance and repair expenses and any other expenses incurred; and functions.

(K) Contracting with any Person for the performance of various duties and responsibilities for the good of the association. Contract must be in writing specifying terms and conditions of what is to be completed with authorization from board.

3.17 **Management Agent.** The Board may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The term of any management agreement shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon not more than ninety (90) days written notice.

3.18 **Fining or Suspension Procedure.** The Board shall not impose a fine (a late charge shall not constitute a fine) or suspend a member's right to use any part of the Common property unless and until the following procedure is followed:

(A) **Notice.** Written notice shall be served upon the violator by first-class or certified mail sent to the last address of the member shown on the Association's records, specifying:

(1) The nature of the violation, the fine or suspension to be imposed, and the date, not less than fifteen (15) days from the date of the notice, that the fine or suspension will take effect.

(2) That the violator may, within (10) days from the date of the notice request a hearing regarding the fine or suspension imposed;

(3) The name, address, and telephone numbers of a person to contact to challenge the fine or suspension;

(4) That any statements, evidence, and witnesses may be produced by the violator at the hearing; and

(5) That all rights to have the fine or suspension reconsidered are waived if a hearing is not requested within ten (10) days of the date of the notice.

(B) **Hearing.** If a hearing is requested, it shall be held before the Board in executive sessions, and the violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. No fine or suspension shall be imposed prior to the date that is five (5) days after the date of the hearing.

(C) **Enforcement.** In any action or proceeding to enforce the Declaration, these Bylaws, the rules and regulations of the Association, or decision of the Board, the Association shall be entitled to recover all expenses from the violator, including all attorneys' fees.

ARTICLE IV
OFFICERS

4.1 **Officers.** The officers of the Association shall be a President, Vice President, Secretary, Treasurer, and Budget Administrator. Any two or more offices can be held by the same person excepting the offices of President and Treasurer. The President and Treasurer shall be elected from among the members of the Board. The Board may appoint such other officers, including one or more Assistant

Secretaries, or Assistant Treasurers, as it shall deem desirable.

4.2 **Election, Term of Office and Vacancies.** The Officers of the Association shall be elected annually by the board at the first meeting of the Board following each annual meeting of the members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

4.3 **Removal.** Any officer may be removed by the Board whenever, in its judgment, the best interests of the Association will be served thereby.

4.4 **President.** The President shall be the chief executive officer of the Association and shall preside at all Association and Board meetings. The President shall have all the general powers and duties which are incident to the office of the President of a corporation organized under the South Carolina Nonprofit Corporation Act.

4.5 **Vice President.** If appointed by the Board, the Vice President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

4.6 **Secretary.** The secretary shall keep the minutes of all the meetings of the Association and of the Board and shall have charge of such books and papers as the Board may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with South Carolina law.

4.7 **Treasurer.** The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Board from time to time.

4.8 **Budget Administrator.** The Budget Administrator shall have responsibility for overseeing the yearly budget by analyzing income and payments monthly to alleviate shortfalls in funding. The Budget Administrator will recommend alternatives to the full Board to consider actions to stay on budget. The Budget Administrator will develop and submit to the full Board yearly budget plans. The Budget Administrator will seek 2, 3 preferable, bids and submit to the full Board for consideration of any outside contractors doing business with the Association.

ARTICLEV

COMMITTEES

Committees to perform such tasks and to serve for such periods as may be designated by the Board are hereby authorized. Each committee shall be composed and shall operate in accordance with the terms of the resolution of the Board designating the committee or with rules adopted by the Board.

ARTICLE VI

MISCELLANEOUS

6.1 **Fiscal Year.** The fiscal year of the Association shall be the calendar year, unless otherwise determined by resolution of the Board subject to the covenants conditions and restrictions.

6.2 **Parliamentary Rules.** Roberts Rules of Order (current edition) shall govern the conduct of all Association proceedings, when not in conflict with South Carolina law, the Articles of Incorporation, the Declaration, these Bylaws, or a ruling made by the person presiding over the proceeding.

6.3 **Conflicts.** If there are conflicts or inconsistencies between the provisions of South Carolina law,

the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of South Carolina law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

6.4 **Amendment.** These Bylaws may be amended by the Board if such amendment is necessary: (a) to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any title insurance company to issue title insurance coverage with respect to the Lots subject to the Declaration; (c) to meet the requirements of an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage loans on the lots subject to the Declaration; or (d) to enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Lots subject to the Declaration.

In addition, these Bylaws may be amended upon the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the Board after an open reading at an open Board Meeting.