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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
CARLTON CREEK SUBDIVISION**

THIS DECLARATION is made on the 25th day of January 2008, hereinafter set forth by South Tyger Properties, LLC (hereinafter referred to as "Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of certain real property lying and being in Spartanburg County, South Carolina, being more particularly described in Exhibit "A", attached hereto; and

WHEREAS, Declarant intends to develop on lands, including the real property described above, a development to be known as Carlton Creek (hereinafter referred to as the "Development"); and

WHEREAS, Declarant has caused or will cause the Association (as hereinafter defined) to be formed as a non-profit civic organization to perform certain functions for the common good and general welfare of the Owners (as hereinafter defined);

NOW, THEREFORE, the Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to this Declaration of Covenants, Conditions and Restrictions, which is for the purpose of enhancing and protecting the desirability and attractiveness of, and which shall run with, the real property, and be binding on all parties having any right, title or interest in the described property or any part thereof, and shall subject said parties to all limitations herein provided, and inure to the benefit of each Owner, his heirs, grantees, distributees, successors and assigns and to the benefit of the Association.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration of Covenants, Conditions and Restrictions, shall have the following meanings:

- 1.01 Additional Property. "Additional Property" means any additional property, which may be added to the Property and made subject to this Declaration pursuant to Article X hereof.
- 1.02 Association. "Association" means Carlton Creek Homeowners Association, a non-profit corporation organized under the South Carolina Nonprofit Corporation Code, its successors and assigns.
- 1.03 Board. "Board" means the Board of Directors of the Association.
- 1.04 By-Laws. "By-laws" mean the By-laws of the Association.
- 1.05 Common Property. "Common Property" means all real and personal property now or hereafter owned by the Association or in certain instances over which the Association has been granted permanent easements, for the common use and enjoyment of the Owners.

- 1.06 Open Space: "Open Space" means Common Property that conforms to the Spartanburg County Zoning Ordinances, and that is described by metes and bounds and labeled as "Common Area" on that certain plat of Carlton Creek prepared by Souther Land Surveying, LLC, dated December 17, 2007, and recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 162 Page 591. Open Space provides for the protection of trees and other natural amenities, with permitted removal and destruction of trees and natural vegetation permitted in accordance with the provisions in section 2.04(c).
- 1.07 Declarant. "Declarant" means (i) South Tyger Properties, LLC, its successors and assigns, or (ii) any successor in title to all or some portion of the Property or the Additional Property, provided such successor in title shall acquire such property for the purposes of development or sale, and provided further, that in a written instrument, such successor in title is expressly assigned all rights, privileges and options herein reserved to Declarant by the Declarant as hereunder defined at the time of such conveyance; or (iii) should any of the property or the additional property become subject to a first mortgage given by Declarant as security for the repayment of a development loan, then all the rights, privileges and options herein reserved to the Declarant shall inure to the benefit of the holder of such first mortgage upon its becoming the actual owner of the property and additional property then subject to such first mortgage through a judicial foreclosure or sale made pursuant to any power of sale contained in such first mortgage or by a transfer by deed in lieu of foreclosure. All rights, privileges and options herein reserved to the Declarant may be transferred to the successor in title of any such acquired property, provided any such successor in title shall acquire for the purpose of development or sale, all or some portion of such property, and provided further, that in a written instrument, such successor in title is expressly assigned all rights, privileges and options herein reserved to Declarant by the Declarant as hereunder defined at the time of such conveyance.
- 1.08 Lot. "Lot" means any numbered parcel of land together with improvements thereon shown upon the plat of survey, recorded in Plat Book 162, Page 591, Spartanburg County, South Carolina Records, or as similarly shown on supplemental surveys of such tract or such additional tracts as may be added to the property from time to time, as provided herein; provided however, that no portion of the Common Property shall ever be a lot except as provided for in Section 2.04.
- 1.09 Member. "Member" means any member of the Association.
- 1.10 Owner. "Owner" means the record owner (including Declarant) whether one or more persons or entities, of a fee simple title to any Lot, provided, however, that where fee simple title has been transferred and is being held merely as security for repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner.
- 1.11 Property. "Property" means that certain real property (other than Common Property) hereinabove described together with such additional real property as the Declarant may acquire and subject to the provisions of this Declaration of Covenants, Conditions and Restrictions in accordance with the provisions of Article X hereof.
- 1.12 Restrictions. "Restrictions" means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.
- 1.13 Structure. "Structure" means:
- (a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, tree, shrub, sign, signboard, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;
  - (b) any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow or surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

- (c) any change in the grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 1.13 applies to such change.

ARTICLE II

COMMON PROPERTY

2.01 Conveyance of Common Property.

- (a) The Declarant may from time to time convey to the Association or grant easements to the Association, at no expense to the Association and in accordance with this Section, real and personal property for the common use and enjoyment of the Owners (such real and personal property is hereinafter collectively referred to as "Common Property") and, to the extent set forth in this Declaration of Covenants, Conditions and Restrictions, the general public. The Association hereby covenants and agrees to accept from the Declarant all such conveyances of Common Property.
- (b) It is contemplated by the Declarant that the Declarant will convey to the Association Common Property for scenic and natural area preservation and for general recreational use. The Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce or otherwise change the Common Property contemplated to be conveyed to the Association in accordance with this subsection (b) of this Section 2.01 at any time prior to conveyance of such Common Property to the Association.
- (c) In addition to the property described in subsection (b) of Section 2.01, the Declarant may convey to the Association such other real and personal property as the Declarant may determine to be necessary or proper for the completion of the Development.
- (d) Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Property owned by the Declarant and designated as Common Property or designated for public use shall be reserved to the Declarant until such time as the same shall be conveyed to the Association or to any municipality or other governmental body, agency or authority.

2.02 Right of Enjoyment. Every Owner shall have a right and easement to use and enjoy the Common Property in accordance with these Restrictions and subject to the rules and regulations which may be adopted by the Association, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer, provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The Association may permit persons who are not owners to use and enjoy any part or all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. The right and easement of enjoyment granted or permitted by this Section is subject to suspension by the Association as provided in Sections 2.03(c) and 3.06.

2.03 Rights of the Association. The rights and privileges conferred in Section 2.02 hereof shall be subject to the right of the Association acting through the Board to:

- (a) promulgate rules and regulations relating to the assignment, use, operation and maintenance of the Common Property;
- (b) charge reasonable fees in connection with the admission to and use of facilities or services; provided that in setting any such fee the Board may establish reasonable classifications, which shall be uniform within each such class but need not be uniform between such classes;

- (c) suspend, pursuant to Section 3.06, the voting rights of any Member and the right of enjoyment granted or permitted by Section 2.02;
- (d) grant easements or rights of way over Common Property to any municipality or other governmental body, agency or authority; to any quasi-public agency or to any utility company or cable television system;
- (e) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof;
- (f) borrow money for the purpose of carrying out the activities of the Association, including the acquisition, construction, improvement, equipping and maintenance of Common Property, and in aid thereof to encumber by deed to secure debt, mortgage or other security interest, any or all of the Association's property including Common Property and revenues from assessments, user fees and other sources;
- (g) dedicate or transfer all or any part of the Common Property or interests therein to any municipality or other governmental body, agency or authority for such purposes and subject to such provisions and conditions as may be agreed upon the Association and such grantee, including a provision that such property or interest held by any such municipality or authority shall cease to be subject to this Declaration or all or any part of the Restrictions.
- (h) to sell, lease or otherwise dispose of all or any part of its properties and interests therein; provided, however, that the Association shall not sell, encumber by security interest, convey, dedicate or transfer any Common Property or interest therein without the approval of two-thirds (2/3) of each class of members.

2.04 Types of Common Property. At the time of the conveyance of any real property or grant of easement by the Declarant to the Association to be used as Common Property, the Declaration shall designate in the deed of conveyance or easement that such real property is to be Common Property, and further may designate in the deed of conveyance or easement the specific or general purpose or purposes for which such real property or any portion thereof may be used, and in such event, such real property or portion thereof shall not, without a two-thirds (2/3) vote of each class of Members of the Association, be used for any different purpose or purposes.

- (a) It is contemplated that certain easements for the erection and maintenance of entrance monuments, subdivision signs, walls, fences and other structures intended to provide an attractive atmosphere or to provide privacy to Owners within the Development will be reserved by the Declaration and set forth on plats of survey of the Development recorded in the County Records. Such easements shall be perpetual in duration and shall include the right to erect, maintain, repair, replace and re-erect any such structures within the easement areas, as well as the right to plant grass, plants, flowers, shrubs and trees; to tend and garden same, and to generally landscape the area within said easements to keep them clean, attractive and uniform in appearance for the benefit of all Owners within the Development. Said easement areas shall be designated as such and all Owners taking title to any Lot upon which such an easement lies will take title subject to the easement rights set forth herein, as well as such rights as may be set forth in the deed conveying such easement to the Association. Such easements shall be common property.
- (b) Encroachment Easements. If any buildings or other improvements initially constructed on any of the Lots, including without limitation, any eaves, roof overhangs, balconies, siding, porches, or other structures which may be attached to the walls and roof of such buildings, and which may encroach onto or over or extend into the air space of any portion of the Common Property, or conversely, if any such improvements initially constructed on the Common Property encroach onto or over portions of any Lot, a valid easement for the encroachment and for the maintenance, repair and replacement thereof, shall exist so long as the encroachment exists.

- 2.05 Delegation of Use. Any Owner may delegate his right to use and enjoy the Common Property to the members of his family, his social invitees or his tenants who reside on a lot. Tenants who reside on a Lot shall have the same rights of delegation as an Owner. Any delegation of rights must be made in accordance with the By-laws and will be subject to reasonable regulation by the Board and in accordance with procedures it may adopt.

### ARTICLE III

#### THE HOMEOWNERS' ASSOCIATION

- 3.01 Purposes, Powers and Duties of the Association. The Association shall be formed as a non-profit civic organization for the sole purpose of performing certain functions for the common good and general welfare of the residents of the Development. To the extent necessary to carry out such purpose, the Association shall have all of the powers of a corporation organized under the South Carolina Nonprofit Corporation Code and shall have the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration.
- 3.02 Membership in the Association. Every owner shall automatically be a member of the Association and such membership shall terminate only as provided in this Declaration of Covenants, Conditions and Restriction.
- 3.03 Voting rights. Subject to the following provisions of this Section 3.03, the Association shall have two classes of voting membership: Class A and Class B.

- (a) Class A. Every person who is an Owner, with the exception of the Declarant except as otherwise set forth herein, shall be a Class A member and shall be entitled to one vote for each Lot owned. When more than one person is a Class A member by virtue of an ownership interest in the same Lot, the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot. In the event of disagreement among such persons and an attempt by two or more of them to cast the vote of such Lot, such persons shall not be recognized and the vote of such Lot shall not be counted. The membership of Class A members shall automatically terminate upon the members' sale of his Lot.

No termination of Class A membership shall affect such members' obligation to pay assessments, as hereinafter provided for, due and payable for any period prior to the date of such termination, and there will be no refund for assessments paid for periods falling after the date of such termination.

- (b) Class B. The Declarant shall be the sole Class B member. Class B membership shall be a full voting membership and during its existence the Class B members shall be entitled to vote on all matters and in all events. The Class B members shall be entitled to three (3) votes for each Lot owned. The Class B memberships shall cease and shall be converted to Class A membership at such time as the first of the following events occur: (i) the expiration of four (4) years from the date of recording of the final plat; (ii) the date three-fourths (3/4) of the Lots which may be developed on the Property and on the Additional Property shall have been conveyed by either Declarant or by a builder who purchased the Lot from Declarant for the purpose of erecting a dwelling thereon, to an individual Owner or Owners for residential occupancy; or (iii) the surrender by the Declarant of the authority to appoint and remove members of the Board of the Association by an express amendment to this Declaration executed and recorded by the Declarant; provided, however, that so long as any Mortgagee of Declarant holds a security interest in any portion of the Property as security for a Development Loan to Declarant, the Class B membership shall not terminate without the prior written consent of such Mortgagee. If at the time of termination of the Class B membership Declarant still owns any Lots, then as to each such Lot, Declarant shall be deemed to be a Class A member.

- 3.04 Board of Directors and Officers.

- (a) Board. The affairs of the Association shall be managed by a Board of Directors. The number of directors and the method of election of directors shall be as set forth in this Declaration and in the By-laws of the Association. Except to the extent otherwise expressly required or authorized by the South Carolina Nonprofit Corporation Code or this Declaration, the Association's By-laws or Articles of Incorporation, the powers inherent in or expressly granted to the Association may be exercised by the Board, acting through the officers of the Association, without any further consent or action on the part of the Members.
- (b) Officers. The number of officers and the method of election of officers shall be as set forth in this Declaration and the By-laws of the Association. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the By-laws of the Association, officers of the Association shall be appointed by the Board until such times as Declarant no longer have the right to appoint members to the Board.
- (c) Casting of Votes. The votes of the members shall be cast under such rules and procedures as may be prescribed in this Declaration or in the By-laws of the Association, as amended from time to time, or by law.
- 3.05 Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The number of Directors and the method of election of Directors shall be as set forth in this Declaration and the By-laws of the Association.
- 3.06 Suspension of Membership. The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:
- (a) shall be subject to the right of abatement, as defined in Section 8.02 by reason of having failed to take the reasonable steps to remedy a violation or breach of the Restrictions within thirty (30) days after having received notice of same pursuant to the provisions of Section 5.11 or 8.02 hereof;
- (b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article IV hereof; or
- (c) shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property.
- Any suspension shall be for the balance of the period in which said Member or person shall remain in violation, breach or default, as aforesaid, except that in the case of a violation described in subsection (c) of this Section 3.06, the suspension may be for a period of time not to exceed 60 days after the cure or termination of such violation. No suspension shall prevent an Owner's ingress to or egress from his Lot.
- 3.07 Voting Procedure. The procedure for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration, the South Carolina Nonprofit Corporation Code, the Articles of Incorporation of the Association, and the By-laws of the Association, as each shall from time to time be in force and effect.
- 3.08 Control by Declarant and Appointment of the Board. Until such time as Declarant no longer has the right to appoint members to the Board, the Board of the Association shall consist of three (3) members. Notwithstanding any other language or provision to the contrary in this Declaration, the Articles of Incorporation, or the By-laws of the Association, the Declarant hereby retains the right to appoint two (2) members to the Board. The right of Declarant to appoint members of the Board also includes the right to remove and replace their appointees until such time as the first of the following events shall occur: (1) the expiration of four (4) years from the date of recording of the final plat; (2) the date upon which three-fourths (3/4) of the Lots which may be developed on the Property and on the Additional Property shall have been conveyed by either Declarant or by a builder who purchased the Lot from Declarant for the purpose of erecting a dwelling thereon, to an individual Owner or Owners for residential occupancy; or (3) the

surrender by the Declarant of the authority to appoint and remove members of the Board of the Association by an express amendment to this Declaration executed and recorded by the Declarant. Upon the expiration of the Declarants' right to appoint and remove directors of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots. Upon the final expiration of all rights of Declarant to appoint and replace directors of the Association, a special meeting of the Association shall be called. At such special meeting, the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association, and any agreements or contracts executed by or on behalf of the Association during such period which Declarant had in its possession. Each Owner by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and replace directors and officers of the Association as provided in the Section. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law and any other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

- 3.09 Distribution of Assets Upon Dissolution. In the event of the dissolution of the Association, the assets thereof shall be distributed to one or more public bodies, corporate or politic, or conveyed to one or more non-profit organizations having purposes similar to those of the Association.
- 3.10 Dissolution of Corporation Prohibited Without Consent of «County» County Board of Commissioners. Dissolution of the Association is prohibited without first obtaining written approval from the «County» County Board of Commissioners.

#### ARTICLE IV

##### ASSESSMENTS AND MAINTENANCE CHARGES

- 4.01 Covenant for Assessments and Creation of Lien and Personal Obligations. Each Owner hereby covenants and agrees, jointly and severally, for himself, his heirs, distributees, legal representatives, successors and assigns, by acceptance of a deed for a Lot, whether or not the covenants contained hereby shall be expressed in any such deed, as follows:
- (a) to pay the Association the annual assessments, which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;
  - (b) to pay to the Association any special assessments for capital improvements and other charges which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;
  - (c) That there is hereby created a continuing charge and lien upon all Lots owned by him against which all such assessments are made to secure payment of such assessments and any penalties and interest thereon as provided in Section 4.08 hereof and costs of collection including reasonable attorneys' fees;
  - (d) that such continuing charge and lien on such Lots binds such Lots in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or the instrument, except (I) such liens for taxes or other public charges as are by applicable law made superior, and (II) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a Lot or Lots (together with any and all Structures which may from time to time be placed or located thereon) and (2) to finance the construction, repair or alteration of Structures;
  - (e) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Lot or Lots from liability for any assessment thereafter assessed;

- (f) that all annual and special assessments (together with interest thereon as provided in Section 4.08 of this Declaration and costs of collection including reasonable attorneys' fees) levied against any Lot or Lots owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Lot or Lots as provided in Section 4.01(c) of this Declaration) a personal obligation which will survive any sale or transfer of the Lot or Lots owned by him; provided, however, that such personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor.
- 4.02 Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of providing for the common good and general welfare of the people of the new community of the Development, including, but not limited to, and in addition to other purposes set forth in this Declaration, security, the acquisition, construction, improvement, maintenance and equipping of Common Property, the enforcement of the Restrictions contained in this Declaration, the enforcement of the Design Standards of the ACC, the payment of operating costs and expenses of the Association, the payment of taxes on any Common Property, and the payment of all principal and interest when due on all debts owed by the Association.
- 4.03 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes.
- 4.04 Annual Assessment of Maintenance Charge.
- (a) Subject to the terms of this Article, each Lot in the Property is hereby subjected to an annual maintenance charge for the purpose of creating a fund to be known as the "maintenance fund". The amount of the annual assessment shall be set forth in an annual budget to be prepared by the Board of Directors covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund, in accordance with a capital budget. The Board shall cause a copy of the budget, and the amount of the assessments to be levied against each Lot for the following year, to be delivered to each Owner at least fifteen (15) days prior to the proposed effective date. The budget and the assessments shall become effective unless disapproved by a vote of at least a majority of the total Association membership. Unless requested by the Members in accordance with the provisions for calling a special meeting by the Members, as set forth in the By-Laws, the budget and assessment may take effect without a meeting of the Members. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, the budget and assessment in effect for the then current year shall continue; and the Board may propose a new budget at any time during the year by causing to be delivered to the Members such proposed budget and assessment at least fifteen (15) days prior to the proposed effective date. Annual assessments or maintenance charges will be paid by the Owner or Owners of each Lot within the Property (and any area annexed under the jurisdiction of the Association) in advance in monthly, quarterly or annual installments.
- (b) The annual maintenance charge and assessment will commence as to each Lot on the first day of the month following the earliest to occur of the following events: (i) upon the occupancy of a permanent dwelling located on the Lot as a resident; or (ii) upon the conveyance by a builder who has purchased the Lot from Declarant for the purpose of erecting a dwelling thereon to an Owner or tenant for residential occupancy.
- (c) Neither the Declarant nor any builder who has purchased a Lot from Declarant for the purpose of erecting a dwelling thereon shall be subject to the annual maintenance charge and assessment.

Notwithstanding the preceding, the annual maintenance charge and assessment will commence as to each Lot owned by Declarant or a builder upon the occupancy of a permanent dwelling located thereon as a residence. For the calendar year in which the sale is closed, the maintenance charge shall be prorated as of the date of closing. If required by law or upon consent by Declarant, or for any other reason, Declarant is required to pay assessments on unoccupied Lots, any builders, who have purchased a Lot from Declarant for the purpose of erecting a dwelling thereon shall likewise be required to pay assessments with respect to any such Lots owned by them. Assessments due for each Lot owned by a builder shall equal the assessments due for each Lot owned by Declarant, unless that amount would exceed the assessments due from regular residential Owners. In no event shall Declarant or any builder be required to pay any portion or portions of assessments, which are due and payable prior to the date upon which the Declarant is required to pay assessments. In addition and notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money (herein collectively called "in kind contribution"). The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as to the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors, approved by the Declarant, who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

- 4.05 Special Assessments for Working Capital Fund, Nonrecurring Maintenance and Capital Improvements. In addition to the annual assessments authorized by this Article IV, the Association may levy:
- (a) 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 nonrecurring maintenance, or the acquisition, construction, reconstruction, repair or replacement of a capital improvement upon Common Property, including fixtures and personal property related thereto, provided that any such assessment shall have been approved by a two-thirds (2/3) vote of each class of Members of the Association who are present in person or by proxy at a meeting duly called for such purpose. The aggregate fund established by such special assessment shall be maintained in a segregated account, and shall be for the purpose of insuring that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment, the cost of nonrecurring maintenance or services deemed necessary or desirable by the Board; and
- 4.06 Notice and Quorum. Written notice of any meeting called for the purpose of taking action authorized under Sections 4.04 or 4.05 shall be sent to all Members, or delivered to their residence, not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
- 4.07 Effect of Nonpayment of Assessments. If any assessment or installment is not paid within fifteen (15) days after the Due Date there may be imposed a late or delinquency charge in the amount of Five Dollars (\$5.00) or ten percent (10.0%) of the amount of each assessment or installment whichever is greater, and any late charge connected therewith, which is not paid within thirty (30) days after the Due Date of the assessment, shall bear interest (from the Due Date with respect to the assessment or installment, and from the date such charge was imposed with respect to the late charge), at such rate of interest as may be established by the Board of the Association, or if no rate has been established by said Board, at the rate of ten percent (10%) per annum; provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of South Carolina. If any one or more installments of any assessment is

not paid within thirty (30) days after the Due Date, the Board may declare any remaining balance of the assessment at once due and payable. In the event that an Owner shall fail to fully pay any portion of any assessment or installment on or before the date on which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with any delinquency charges, interest, and costs of collection, including court costs, the expenses of sale, any costs required for the protection and preservation of the Lot, and reasonable attorney's fees, shall be a binding personal obligation of such Owner, as well as the lien on such Owner's Lot enforceable in accordance with the provisions of the Declaration. In addition to the above, if any Owner has not paid any assessment or installment, or any late charges or expenses related thereof, within sixty (60) days after the Due Date of the assessment or installment, the Association shall have the right to notify any or all mortgagees having a security interest in such Owner's Lot or Lots that such Owner is in default in the performance of his obligations under the Development Documents, and of those actions taken or proposed to be taken by the Association as a result of the default.

- 4.08 Certificate of Payment. Upon written demand by an Owner, the Association shall within a reasonable period of time, issue and furnish to such Owner a written certificate stating that all assessments (including penalties, interest and costs, if any) have been paid with respect to any Lot owned by said Owner as of the date of such certificate, or that all assessments, interest and costs have not been paid, setting the amount then due and payable. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot in question.

#### ARTICLE V

##### ARCHITECTURAL CONTROL

- 5.01 Architectural Control Committee - Creation and Composition. An Architectural Control Committee (the "ACC") shall be established consisting of three (3) individuals to be appointed by the Board of Directors; provided however, so long as the Declarant, or any builder who has purchased a Lot from Declarant for the purpose of constructing a dwelling thereon owns at least one Lot on the Property (or on the Additional Property if at any time submitted to these Restrictions by annexation) being held primarily for sale to an Owner for residential occupancy, the ACC shall be comprised solely by Declarant, or by such representatives as may be designed by Declarant, which shall have the power to exercise all powers herein given to the ACC. Declarant's power to maintain control of the ACC may be surrendered prior to that time described in the preceding sentence only by an express amendment to this Declaration executed and recorded by Declarant.
- 5.02 Purpose, Powers and Duties of the ACC. The purpose of the ACC is to review and approve any proposed installation, construction or alteration of any Structure on any Lot. All plans shall be submitted to the ACC for approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the Development, and (ii) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.
- 5.03 Officers, Subcommittees and Compensation. The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be reimbursed by the Association for traveling expenses and other out-of-pocket costs incurred in the performance of their duties as members of the ACC.
- 5.04 Operation of the ACC.

- (a) Meetings. The ACC shall hold regular meetings at least once every three (3) months or more often as may be established by the ACC. Special meetings may be called by the Chairman and shall be called by the Chairman upon the written request of a majority of the members of the ACC then in office. Regular and special meetings of the ACC shall be held at such time and at such places as the ACC shall specify. Notice of each regular or special meeting of the ACC shall be mailed to each member thereof at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any member of the ACC who signs a waiver of notice either before or after the meeting. Attendance of a member of the ACC at a meeting shall constitute a waiver of notice of such meeting and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the member states, at the beginning of the meeting, any such objection or objections to the transaction of business. At each meeting of the ACC, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the ACC present at any regular or special meeting thereof at which a quorum is present shall constitute the action of the ACC. In the absence of a quorum, any member of the ACC present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. The ACC shall maintain both a record of votes and minutes for each of its meetings. The ACC shall make such records and minutes available at reasonable places and times for inspection by Members of the Association and by the Secretary. Any action required to be taken at a meeting of the ACC, or any action which may be taken at a meeting of the ACC, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the ACC and be filed within the minutes of the proceedings of the ACC. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ACC. The provisions contained in this subsection (a) shall only become effective upon the termination of Declarant's power to control the ACC.
- (b) Activities.
- (i) The ACC may adopt and promulgate the Design Standards described in Section 5.05 hereof and shall, as required, make findings, determinations, rulings, and orders with respect to the conformity with said Design Standards of plans and specifications to be submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations, or approvals, which may include specified requirements or conditions, pursuant to the provisions of this Declaration.
- (ii) Any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to all matters over which the ACC has authority as may be specified by resolution of the ACC, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or appeal by the applicant to the ACC as provided in this paragraph (ii). Written notice of the decision of such two (2) or more members shall, within thirty (30) working days thereof, be given to any applicant for an approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision, which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by, the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

- (iii) Notwithstanding any other provision to the contrary, until such time as the Declarant's power to control the ACC has terminated, the Declarant or any such representatives as may be so designated by Declarant may exercise the full authority of the ACC with respect to all matters over which the ACC has authority, including, and without limitation, the adoption or promulgation of the Design Standards.

5.05 Design Standards.

- (a) The ACC may from time to time adopt, promulgate, amend, revoke and enforce guidelines (the "Design Standards") for the purposes of:
  - (i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration;
  - (ii) governing the procedure for such submission of plans and specifications;
  - (iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, location and size of Structures and all other matters that require approval by the ACC pursuant to this Declaration; and
  - (iv) assuring the conformity and harmony of external design and general quality of the Development.
- (b) The ACC may publish copies of its current Design Standards, in which case it shall be made readily available to Members and prospective Members of the Association and to all applicants seeking the ACC's approval.

5.06 Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall any existing Structure upon any Lot be altered, including painted or stained, in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefore shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards, including where applicable, and without being limited to:

- (a) a site plan showing the location of all proposed and existing Structures on the lot including building setbacks, open space, driveways, walkways and parking spaces including the number thereof and all siltation and erosion control measures;
- (b) a foundation plan;
- (c) a floor plan;
- (d) exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures shall appear after all back-filling and landscaping are completed;
- (e) specifications of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures; and
- (f) plans and landscaping and grading.

5.07 Approval of Plans and Specifications. Upon approval by the ACC of any plans and specifications submitted pursuant to this Declaration, two (2) copies of such plans and specifications, as approved, shall be deposited for permanent record with the ACC and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection

with any Lot or Structure of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plan, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

- 5.08 Disapproval of Plans and Specifications. The ACC shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration for any of the following reasons:
- (a) the failure to include information in such plans and specifications as may have been reasonably requested;
  - (b) the failure of such plans or specifications to comply with this Declaration of the Design Standards;
  - (c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure (i) to fail to be in conformity and harmony of external design and general quality with the standards of the Development as set forth in Design Standards, or (ii) as to location to be incompatible with topography, finished ground elevation and surrounding Structures. In any case in which the ACC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.
- 5.09 Obligation to Act. The ACC shall take action on any plans and specifications submitted as herein provided within thirty (30) days after receipt thereof. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by ACC to take action within thirty (30) days of receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.
- 5.10 Inspection Rights. Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable time or times enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration; and neither the Association, nor the ACC, nor any such agent, shall be deemed to have committed a trespass or other unlawful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.
- 5.11 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the violation, then the Board shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in Section 8.02 hereof.
- 5.12 Certification of Compliance.
- (a) Upon completion of the installation, construction or alteration of any Structure in accordance with plans and specifications approved by the ACC, the ACC shall, upon written request of the Owner

thereof or upon the ACC's own initiative, issue a Certificate of Compliance, identifying such Structure and Lot upon which such structure is placed, and stating that the plans and specifications have been approved and that such Structure complies with such plans and specifications. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the ACC.

- (b) Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated; and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article, provided, however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction of Structures or of the workmanship, or to represent or warrant to anyone the quality, function or operation of the Structures or of any construction, workmanship, engineering, materials or equipment. The issuance of the Certificate shall in no way be construed to certify to any party that the Structures have been built in accordance with any applicable rule or regulation other than those of the ACC.
- 5.13 Fees. The ACC may impose and collect a reasonable and appropriate fee to cover the cost of inspections performed pursuant to Section 5.10. The fee shall be established from time to time by the ACC and published in the Design Standards.
- 5.14 Nondiscrimination by ACC. The ACC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age or national origin. Further, the ACC in the exercise of its powers granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, age or national origin.
- 5.15 Time Allowance for Construction. If construction has not commenced within one (1) year from the date the Plans are approved, then the approval given pursuant to this Article shall be deemed to be automatically revoked by the ACC, unless the ACC extends the time for commencing construction. In any event, all work covered by such approval shall be completed within nine (9) months of the commencement thereof unless the ACC extends the time for completion or such period of time as completion is rendered impossible or would result in great hardship due to strikes, fires, national emergencies, critical material shortages or other intervening forces beyond the control of the Owner.

## ARTICLE VI

### GENERAL COVENANTS AND RESTRICTIONS

- 6.01 Application. The covenants and restrictions contained in this Article VI shall pertain and apply to all Lots and to all Structures erected or placed thereon.
- 6.02 Residential Use. All Lots shall be used for single-family residential purposes only and for no other purpose provided that Declarant may operate a sales office and/or model home on a Lot or Lots designated by Declarant.
- 6.03 Resubdivision of Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, without the prior written approval of the ACC of plans and specifications for such split, division or subdivision. Notwithstanding the foregoing, nothing herein shall prevent Declarant or the Owners of any contiguous Lot from combining two or more Lots into one Lot for construction of a single residence thereon; provided however, that such combined Lot may not be subdivided thereafter; and provided further, that the Owner of the residence on such Lot shall be responsible for annual and special assessments based on the number of Lots combined into one Lot.
- 6.04 Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval by the ACC of plans and specifications for the prevention and

control of such erosion or siltation. The ACC may, as a condition of the approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include, by way of example and not of limitation, physical devices of controlling the runoff and drainage of water, special precautions in grading and otherwise changing the natural landscaping.

- 6.05 Signs. No sign of any kind shall be erected by an Owner or occupant of a Lot within the Development. Notwithstanding the foregoing, residents shall have the right to erect reasonable and appropriate "For Sale" signs. Declarant may erect entry signs and sales and information signs.
- 6.06 Vehicles. The term "vehicles" as used herein shall include, without limitation, motorcycles, minibikes, scooters, go-carts, trucks, vans, and automobiles. All vehicles shall be parked within garages, driveways or other paved parking areas located on a Lot. Parking in yards or on streets within the Development is prohibited. Lot Owners' visitors may temporarily park on the street. No inoperable, junk or abandoned vehicles shall be allowed on the property.
- 6.07 Recreational Equipment, Vehicles and Trailers. No school bus, truck or commercial vehicle over one (1) ton capacity, house trailer, mobile home, motor home, recreational vehicle, or like equipment shall be permitted on any Lot on a permanent basis, but shall be allowed on a temporary basis not to exceed three (3) consecutive days within a six month period. Boats, boat trailers, motor homes, recreational vehicles and campers shall be permitted, but only if stored inside the garage or in the rear of each unit and is concealed from view by neighboring residences and streets, and only after obtaining written consent of the ACC. No aboveground swimming pools will be allowed and trampolines shall not be visible from the street. Any trash, firewood, wood scraps, building materials or other such materials on a lot or contained in any vehicle or trailer shall be covered from view. This provision shall not apply to Declarant or any builder in the process of constructing an approved structure on any Lot.
- 6.08 Occupancy of Houses. All houses constructed on Lots in the Development must be finished before it can be occupied. The entire yard must be planted with grass or other suitable ground cover, and the driveway must be paved with concrete. The front yard must be sodded with Bermuda, Zoysia or Fescue, covering at a minimum the area from the front corners of the house to the street or as otherwise noted on the recorded final plat.
- 6.09 Siding Material of Dwelling. The exterior siding on the front of every dwelling shall be concrete siding with brick or stone accents and the remaining sides shall be brick, stone, stucco, or concrete siding, unless otherwise noted on the recorded final plat. Declarant reserves the right to approve all exterior finishes.
- 6.10 Square Footage Requirements. All homes must contain at least 1600 "heated" square feet exclusive of any space in garage, porches and finished basements, unless otherwise noted on the recorded final plat.
- 6.11 Garages. All garages are to be enclosed with doors. All primary garages must be no less than two cars in size. Unattached garages are permissible as long as such garage is constructed in the same architectural style, with the same colors as the dwelling on the Lot. An unattached garage that meets the above specifications may face the front of the Lot.
- 6.12 Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number. Potbelly pigs are not considered household pets. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs, which are household pets, shall at all times, when outside, be on a leash or within an allowable fence.
- 6.13 Fences and Outbuildings. No fence, wall or outbuilding of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the ACC of plans and specifications for such fences and walls. Under no circumstances shall any regular chain link, barbed wire or hog wire fence be permitted in the Development. Black vinyl coated chain link fences will be allowed. All fencing must tie from and run parallel with the back of house to property line. Corner lots shall have no fencing installed inside of right

of way. All fencing must have "finished" side facing out. No sectional fencing will be allowed on uneven topography, "continuous top" must be built if grade is not flat.

All sheds, tool storage areas, workshops or outbuildings shall be constructed in the same architectural style using similar colors as the main dwelling on the Lot. Each Lot shall be restricted to only one outbuilding. No metal buildings will be allowed.

- 6.14 Antennae. No exterior television or radio antenna, satellite dish or receiver shall be placed, allowed, or maintained upon any portion of the Development, including any Lot, if such antennae is visible from any public or private street providing access to or located within the Development. Notwithstanding the above, no satellite dish larger than 18" shall be placed, allowed, or maintained upon any portion of the Development, including any Lot. Each Owner and occupant of a Lot acknowledges that this provision benefits all Owners and occupants of Lots and each Owner and occupant of a Lot agrees to comply with this provision despite the fact that the erection of any outdoor antennae or similar device would be the most cost effective way to transmit or receive the signals sought to be transmitted or received.
- 6.15 Tree Removal. No trees shall be removed except for (a) diseased or dead trees; (b) trees needing to be removed to promote the growth of other trees or safety reasons; and (c) trees within ten (10) feet of the residence, driveway, walkways and septic field, whose removal is necessary for the construction of same.
- 6.16 Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, swimming pool pumps, filters and related equipment and other items shall be located or screened, so as to be concealed from view of neighboring streets and property. Clotheslines will not be permitted in the subdivision.
- 6.17 Firearms. The discharge of firearms in the Development is prohibited. The term "firearms" includes "B-B" guns, pellet guns and guns of all types.
- 6.18 Mailboxes. All mailboxes and stands shall be of similar style and approved by the ACC. All mailboxes and stands shall be maintained in a good state of repair.
- 6.19 Monuments, Statues, Birdbaths, Etc. No monuments, statues, birdbaths or decorative structures shall be erected or placed in the front of any dwelling without the prior written approval of the ACC.
- 6.20 Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Development shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Development, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device shall be used except those devices used exclusively for security purposes or required by law.
- 6.21 Property Maintenance Requirements. The grounds of each lot (whether vacant or occupied) shall be maintained in a neat and attractive condition. Upon the failure of any owner to maintain his lot (whether vacant or occupied) in a neat and attractive condition, the Association or its agents, may after ten (10) days' notice to such owner/occupant, enter upon such lot and have the grass, woods and other vegetation cut when, and as often as, the same is necessary in its judgment, and may have dead trees, shrubs, and other plants removed. The Association, or its agents, will assess the owner of the lot the actual cost incurred with a minimum cost of \$50.00 per violation to recoup its expenses in maintaining the lot for the owner. Although notice given as herein provided shall be sufficient to give the Association or its designated committee, or its successors and assigns, the right to enter upon any such lot and perform the work required, entry for the purpose of performing the work required shall be only between the hours of 7:00 a.m. and 6:00 p.m., and on any day of the week except Sunday.

- 6.22 Sidewalks. Any specific dimensions or guidelines will be stated on the recorded final plat.
- 6.23 Holiday Decorations and Lighting. There shall be no permanent seasonal structures (i.e. Christmas Lights) attached to said property. All Holiday decorations and lighting must be removed within 20 days of said holiday.
- 6.24 Storm Water Management Systems. It shall be the responsibility of the ASSOCIATION for any repair, replacement, or improvement of any component of the Storm Water Management System not located within the Right-of-way. This includes, but is not limited to, detention ponds and drainage easements. It shall also be the responsibility of the ASSOCIATION to purchase liability insurance covering the Storm Water Management System. The funds for maintenance and insurance will be a part of the annual assessment.

## ARTICLE VII

### EASEMENTS, ZONING AND OTHER RESTRICTIONS

- 7.01 Structural Support. Every portion of a dwelling or any other Structure which contributes to the structural support of another dwelling or Structure shall be burdened with an easement for structural support, and each Lot shall also have the right to lateral support which shall be appurtenant to and pass with the title to such Lots.
- 7.02 Other Easements.
- (a) Declarant hereby expressly reserves to the Declarant, their successors and assigns forever, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose, which Declarant deems necessary, including, by way of illustration and not limitation, the following:
    - (i) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television and other utilities and similar facilities;
    - (ii) the erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function;
    - (iii) slope control purposes, including the right to grade and plant slopes and to prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;
    - (iv) the planting or re-planting of hedges, shrubbery, bushes, trees, flowers and plants of any nature; and
    - (v) the erection, installation, construction and maintenance of fences, walls, monuments, signs, etc. along streets in, around and along entrances to the Development; including the right to landscape such areas, plant, re-plant and prune hedges, shrubbery, bushes, trees, flowers, grass and plants of any nature.
    - (vi) Conservation Easements for the purpose of satisfying the open space requirements of the Spartanburg County Zoning Ordinance.

- (b) No Owner shall have any right to use any easement created by the Declarant in, on or over any portion of the Property unless such easement has been assigned by the Declarant to the Association.
- (c) The Declarant hereby reserves for himself, his successors and assigns, across the initial phase of the Property and across each portion of the Additional Property subsequently submitted to this Declaration by Annexation as provided in Article X hereof, perpetual easements appurtenant to said property for the following uses and purposes:
- (i) ingress and egress by vehicular and pedestrian traffic over such drives, roadways, walkways and paths as are shown on the plat or plats recorded in connection with the initial phase of the Property and such portions of the Additional Property as are submitted to this Declaration, and such drives, roadways, walkways and paths as may be constructed in the future;
  - (ii) installing, operating, maintaining and replacing wires, pipes, conduits and other structures and facilities necessary to the furnishing of gas, water, sewerage, storm drainage, electricity, street lights, telephone, and other utilities and services, including the right to use in common with the Owners in the initial phase of the Property and portions of the Additional Property subsequently submitted to this Declaration, and wires, pipes, conduits, and other structures and facilities furnishing such utilities and services to such Owners.
- (d) In addition to the above, the Declarant hereby grants a general easement in favor of utility, cable television and other such service companies across the initial phase of the Property, and across each portion of the Additional Property subsequently submitted to this Declaration by Annexation as provided in Article X hereof, to maintain, repair, replace and service wires, pipes, conduits, street lights and other structures and facilities provided for the benefit of the Owners.
- (e) The easements created in this Article VII are in addition to any easements or rights created elsewhere in this Declaration or in other easements of record. The provisions of this Article VII may not be amended without the written consent of the Declarant, their successors and assigns.
- 7.03 Easement Area. The words "Easement Area" as used herein shall mean those areas on any Lot with respect to which easements are shown on a recorded deed or on any filed or recorded map or plat relating thereto.
- 7.04 Entry. The Declarant and their employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance the provisions of this Article. The Declarant and their employees, agents, successors and assigns shall be responsible for leaving each lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of Section 7.02.
- 7.05 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations or any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

#### ARTICLE VIII

#### ENFORCEMENT

8.01 Right of Enforcement. This Declaration and the restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as they are an Owner, (ii) the Association and (iii) each Owner, his legal representatives, heirs, successors and assigns.

8.02 Right of Abatement

- (a) Except where different notice provisions are provided in Section 5.11 and 6.21, in the event of a violation or breach of any Restriction contained in this Declaration the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of such written notice, then the Association shall have the Right of Abatement. If any assessment, interest, cost or charge required by this Declaration is not paid within sixty (60) days after such assessment is due or such charge is imposed, the Association shall have the right to notify any or all mortgagees having a security interest in the Owner's Lot or Lots that such Owner is in default in the performance of their obligations under the Development Documents, and of those actions taken or proposed to be taken by the Association as a result of the default.
- (b) The Right of Abatement, as used in this Section and Sections 5.11 and 6.21 hereof, means the rights of the Association, through its agents and employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section, and with the cost thereof, together with interest thereon at the lower of the highest rate permitted by law, or 10%, to be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of Section 8.04 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by Section 4.01 hereof and (iii) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a lot or lots (together with any and all structures which may from time to time be placed or located thereon) and (2) to finance any construction, repair or alteration of structures.

8.03 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by this Declaration; and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity.

8.04 Collection of Assessments and Enforcement of Lien.

- (a) If any assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring either an action at law against the Owner personally obligated to pay same, or an action to foreclose any lien created by this Declaration against the Lot or Lots subject to the lien, or both, for the purpose of collecting such assessment, cost or charge, plus any interest thereon and costs of collection, including reasonable attorneys' fee.
- (b) As an additional remedy, but in no way as a limitation on the remedies, if any assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants the Association and its assigns the following irrevocable power of attorney: To sell said Lot or Lots

subject to lien at auction, at the usual place for conducting sales at the courthouse in «County» County, South Carolina, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for four weeks immediately preceding such sale (but without regard to the number of days) in the paper in which the Sheriff's advertisements for «County» County, South Carolina are published, all other notice being hereby waived by each Owner, and the Association or any person on behalf of the Association, or assigns, may bid and purchase as such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of the default upon which the execution of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and assigns, the agent and attorney in fact of each owner to make such recitals, and hereby covenants and agrees that the recitals so made by the Association, or assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, executors, administrators and assigns of such Owner. The conveyance to be made by the Association or assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of assessment, interest, cost or the charges due, together with all costs and expenses of the sale and fifteen percent of the aggregate amount due for attorneys' fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law. The power of attorney and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

WAIVER. EACH OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT SUBJECT TO THIS DECLARATION, WAIVES ANY RIGHT WHICH OWNER MAY HAVE UNDER THE CONSTITUTION OR THE LAWS OF THE STATE OF SOUTH CAROLINA OR THE CONSTITUTION OR THE LAWS OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THIS DECLARATION AND OWNER WAIVES OWNER'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITH A PRIOR JUDICIAL HEARING. ALL WAIVERS BY OWNER IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY AFTER OWNER HAS FIRST BEEN ALLOWED THE OPPORTUNITY TO CONSULT LEGAL COUNSEL WITH RESPECT TO OWNER'S POSSIBLE RIGHTS.

- 8.05 No Waiver. The failure of the Declarant, the Association, or the Owner of any Lot, his or its respective legal representatives, heirs, successors and assigns, to enforce any Restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

#### ARTICLE IX

##### DURATION AND AMENDMENTS

- 9.01 Duration. The provisions of these covenants shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law.
- 9.02 Amendments.
- (a) These covenants may be amended unilaterally at any time by Declarant so long as Declarant has the right unilaterally to subject additional property to the Declaration; or if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial determination which shall be in conflict therewith; if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots subject to these Covenants; if such amendment is required by an institutional or governmental lender or purchaser of mortgage loan in order for such lender to make or purchase loans on the Lots subject to these Covenants; or if such amendment is necessary to enable any

governmental or private mortgage insurance company to insure mortgage loans on the Lots subject to these Covenants, provided any such amendments shall not adversely affect the title to any Owner's Lot, unless any such Owner so affected thereby shall consent thereto in writing.

- (b) These Covenants may be amended at any time and from time to time by an agreement signed by at least seventy-five (75%) percent of the Owners; provided, however, such amendment by the Owners shall not be effective unless also signed by the Declarant if the Declarant are the owners of any real property subject to these Covenants.

#### ARTICLE X

#### ANNEXATION

Declarant shall have the option and right, from time to time, without the necessity of consent by the Association, the Board or the Owners, to submit all or portions of any Additional Property to this Declaration and thereby cause the Additional Property, or such portions thereof, to become part of the Property.

#### ARTICLE XI

#### MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first mortgages on residences in the Development. The provision of this Article applies to both this Declaration and to the By-Laws, notwithstanding any other provision contained therein.

#### 11.01 Special Mortgagee Provisions:

- (a) As used in this section, the term "Eligible Holder" shall mean a holder, insurer or guarantor of a first mortgage on a lot, which has requested notice in accordance with the provisions of Section 11.01 (b)
- (b) A holder, insurer or guarantor of a first mortgage, upon written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the lot number), will be entitled to timely written notice of:
- (i) Any proposed amendment of the Declaration affecting a change in (A) the boundaries of any lot or the exclusive easement rights appertaining thereto; (B) the interests in the Common Property or the liability for common expenses appertaining thereto; (C) the number of votes in the Association appertaining to any lot; or (D) the purposes to which any lot or Common Property are restricted;
  - (ii) any proposed termination of the administration of the Common Property pursuant to this Declaration;
  - (iii) any condemnation loss or any casualty loss which affect a material portion of the Property or which affects any Lot on which there is a first mortgage held, insured or guaranteed by such eligible holder;
  - (iv) any delinquency in the payment of assessments or charges owed by an Owner of a lot subject to a first mortgage held by such eligible holder which remains uncured for a period of sixty (60) days;
  - (v) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

- (vi) any proposed action which would require the consent of a specified percentage of eligible holders, as specified herein, and
  - (vii) an annual financial statement, or audit if available, of the Association for the immediately preceding final year, free of charge.
- (c) To the extent permissible under the law of the State of South Carolina, the following provisions shall apply:
- (i) Any restoration or repair of the Common Property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval of the eligible holders of first mortgages on lots to which at least fifty-one (51%) percent of the votes of lots subject to mortgages held by such eligible holders are allocated, is obtained.
  - (ii) Any election to terminate the administration of the Common Property pursuant to this Declaration after substantial destruction or a substantial taking in condemnation of the Property must require the approval of the eligible holders of first mortgages on lots to which at least fifty-one (51%) percent of the votes of lots are subject to mortgages held by such eligible holders are allocated.
- (d) The following provisions do not apply to amendments in the constituent documents or termination of the Association pursuant to section 11.01(c) hereof made as a result of destruction, damage, or condemnation, or to the addition of land pursuant to any plan of expansion or phased development previously approved by the Department of Housing and Urban Development ("H.U.D.") or the Veterans Administration ("V.A.") to the extent such approval is required by H.U.D. or the V.A.:
- (i) The consent of owners representing at least sixty-seven (67%) percent of the Class "A" votes and of the Declarant, as long as it holds any land subject to this Declaration, and the approval of the eligible holders of first mortgages on Lots to which at least sixty-seven (67%) percent of the votes of Lots subject to a mortgage appertain, shall be required to terminate the administration of the Property subject to this Declaration.
  - (ii) The consent of Owners representing at least sixty-seven (67%) percent of the Class "A" votes and of the Declarant, as long as it holds any land subject to this Declaration, and the approval of eligible holders of first mortgages on lots to which at least fifty-one (51%) percent of the votes of lots subject to a mortgage appertain, shall be required to materially amend any provision of this Declaration, the By-Laws of the Articles of Incorporation to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:
    - (A) Voting;
    - (B) Assessments, assessment liens or subordination of such liens;
    - (C) Reserves for maintenance, repair and replacement of the common Property;
    - (D) Insurance or fidelity bond;
    - (E) Rights to use of the Common Property;
    - (F) Responsibility for maintenance and repair of the several portions of the property;
    - (G) Expansion or contraction of the property or the addition, annexation or withdrawal of land to or from the property;

- (H) Boundaries of any lot;
  - (I) Convertibility of lots into Common Property or of Common Property into lots;
  - (J) Leasing of lots
  - (K) Imposition of any right of first refusal or similar restriction on the right of a lot owner to sell, transfer, or otherwise convey his or her lot;
  - (L) Establishment of self-management by the Association where professional management, if any, has been employed;
  - (M) The approval of eligible holders of first mortgages on lots in which at least fifty-one (51%) percent of the votes of lots subject to a mortgage appertain, shall be required to amend any provisions included in this Declaration, the By-Laws or the Articles of Incorporation for any of the actions contained in this Section.
- (e) The provisions of this Section shall not be construed to reduce the percentage vote that must be obtained from mortgagees of lot Owners where a larger percentage vote is otherwise required by applicable law or in any other provision in the Declaration, the By-Laws or the Articles of Incorporation for any of the actions contained in this Section.

11.02 Special FFLMC Provision: So long as required by the Federal Farm Loan Mortgage Corporation, the following provisions apply in addition to and act in lieu of the foregoing. Unless at least two-thirds (2/3) of the first Mortgagees or at least two thirds (2/3) of the total Members of the Association entitled to vote thereon consent, the Association shall not:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the Association owns, directly or indirectly (the granting of easement for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);
- (b) Change the method of determining the obligations, assessments, dues, or other charges, which may be levied against an owner of a residence;
- (c) By act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design of the exterior appearance and maintenance of lots and residence and of the standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this subsection;
- (d) Fail to maintain insurance, as required by this Declaration; or
- (e) Use hazard insurance proceeds for any common property losses for other than the repair, replacement, or reconstruction of such property.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

11.03 No Priority: No provisions of this Declaration or the ByLaws gives or shall be construed as giving any Owner or other party priority over any rights of the first mortgagee of any residence in the cases of distribution to such owner of insurance proceeds or condemnation awards for losses to or a taking of the common property.

- 11.04 Notice to Association: Upon request, each Owner shall be obligated to furnish to the Association the case and address of the holder of any mortgage encumbering such Owner's residence.
- 11.05 Amendment by Board: Should the Department of Housing and Urban Development ("H.U.D."), the Veterans Administration ("V.A."), the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this article or make any such requirements less stringent, the Board, without approval of the Owners may cause an amendment in this article to be recorded to reflect such changes.
- 11.06 V.A. and H.U.D. Approval: As long as there is a Class B membership, the following actions shall require the prior approval of the V.A. so long as the V.A. is guaranteeing any mortgage in the property and the prior approval of H.U.D. so long as H.U.D. is insuring any mortgage in the property: annexation of additional land to the property, except for annexation by Declarant in accordance with Article X pursuant to a plan of annexation previously approved by the V.A. or H.U.D. ; dedication of common property to any public entity; and material amendment to the Declaration, Bylaws or Articles of Incorporation.
- 11.07 Applicability of Article XI: Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or South Carolina law for any of the acts set out in this article.
- 11.08 Failure of Mortgagee to Respond: Any mortgagee who requires a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the mortgagee within thirty (30) days of the date of the Association's request.

## ARTICLE XII

### INSURANCE PROVISIONS

- 12.01 Insurance:
- (a) At all times during the terms of this Declaration, the Association, its successors and assigns, shall be required to keep any and all recreational facilities and any other improvements located on the Common Property fully insured by a reputable insurance company authorized to transact business in the State of South Carolina with (i) fire, vandalism, malicious mischief and extended coverage in an amount adequate to cover the cost of replacement of such improvements in the event of loss of any and/or all of such improvements, fixtures and contents thereof, and (ii) comprehensive general liability insurance covering all of the Common Property, including, without limitation, the operation, maintenance of use thereof and improvements and facilities thereon, for at least One Million Dollars (\$1,000,000.00) for bodily injury, including death and property damage, arising out of a single occurrence. Each such policy of insurance shall require that the certificate holders and insured be given thirty (30) days prior written notice of any cancellation of such policy.
- (b) Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty.

Any damage or destruction shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least a seventy-five (75%) percent of the total Association vote entitled to vote thereon, and, as long as the Declarant has the right to appoint and remove directors, the Declarant, otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or

reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed one hundred twenty (120) days.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the association's members, levy a special assessment. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed such excess shall be deposited for the benefit of the association.

In the event that it should be determined by the association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the development in a neat and attractive condition until the Association establishes another use for said property.

- (c) The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the persons who are responsible hereunder for maintenance of the damaged or destroyed property.
- (d) In addition to the coverage described hereinabove, the Association shall obtain such additional amounts and types of insurance as may be required from time to time by either the Veterans Administration or Federal Housing Administration, their successor and assigns, for similar type residential subdivision communities.
- (e) All insurance coverage required by the Association shall be written in the name of the Association as trustee for the benefit of the Association, the Owners and each such Owner's mortgagee. The Association Board shall be required to make every reasonable effort to secure insurance policies that will provide the following:
  - (i) a waiver of subrogation by the insurer as to any claims against the Association's Board, its manager, the Owners and their respective tenants, servants, agents and guests;
  - (ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
  - (iii) that no policy may be reduced in amount, canceled, subjected to nonrenewal, invalidated or suspended on account of the act or omission of any one (1) or more individual Owners;
  - (iv) that no policy may be reduced in amount, canceled, subjected to nonrenewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Board to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be affected by the Board, its manager, any Owner or Mortgagee;
  - (v) that any "other insurance" clause in any policy excludes individual Owner's policies from consideration, and
  - (vii) in no event shall the insurance coverage obtained and insured by the Association's Board hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance if and to the extent necessary to satisfy the requirement of applicable law.

- (f) The Association shall obtain and maintain a blanket fidelity bond for all officers, directors, and employees of the Association and all other persons who handle, or are responsible for, funds of or administered by the Association. If the Association engages a management agent who has responsibility for handling or administering funds of the Association, the management agent shall be required to maintain fidelity bond coverage of its officers, employees and agents handling or administering the funds of the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the management agent at any time during the period of such bond, however, in no event may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all lots plus reserve funds. The bonds shall contain waivers by the issuer of the bonds of all defenses based upon the exclusion of persons serving without compensation for the definition of "employee" or similar terms or expressions. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior notice to the Association.



**EXHIBIT A**

All those certain pieces, parcels or lots of land situate, lying and being in the County of Spartanburg in the State of South Carolina being shown on a plat of Carlton Creek, dated December 17, 2007 and prepared for South Tyger Properties, LLC by Souther Land Surveying, recorded in the Office of the Register of Deeds for Spartanburg County, South Carolina in Plat Book 162 at Page 591; reference to said plat being hereby craved for a more particular metes and bound description thereof.

TMS: P/O 5-30-00-114.00 and P/O 5-30-00-114.04

This being the same property conveyed unto South Tyger Properties, LLC herein by deed of David C. Richey and Jo J. Richey dated 12/08/06, recorded, in Book 87-K, Page 182, in the office of the ROD for Spartanburg County.

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR CARLTON CREEK SUBDIVISION

THIS FIRST AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR CARLTON CREEK SUBDIVISION is made as of the 29 day of September, 2010 by SOUTH TYGER PROPERTIES, LLC, a South Carolina limited liability company ("Declarant").

## WITNESSETH THAT:

WHEREAS, Declarant acquired fee simple title to certain property in Spartanburg County, South Carolina upon which it is developing a single-family residential subdivision known as Carlton Creek; and

WHEREAS, Developer established certain covenants, conditions and restrictions with respect to said property pursuant to the Declaration of Covenants, Conditions, and Restrictions for Carlton Creek Subdivision dated January 25, 2008 recorded in Spartanburg County, South Carolina in Deed Book 90-X, Page 837 (the "Declaration"); and

WHEREAS, Declarant is the only owner of property subject to the Declaration; and

WHEREAS, Declarant desires to amend the Declaration as set forth herewithin;

NOW, THEREFORE, the Declarant hereby amends the Declaration as set forth herein.

1. The following shall be added as Section 4.09 of the Declaration:

4.09 Suspension of Assessments for Lots Owned by D.R.Horton, Inc. or Affiliates. Notwithstanding anything to the contrary contained in the Declaration, no assessments (whether for common area costs, deficits or any other purpose) shall be assessed or due with respect to Lots owned by D.R.Horton, Inc. or any affiliate (collectively "DRH") for any period prior to the conveyance of such Lots by DRH to a third party occupant. In lieu thereof, at the closing of the acquisition of such Lots by a third party, the acquiring third party shall pay to the HOA the sum of \$500.00. Upon the conveyance of a Lot by DRH to a third party occupant, all assessments required under this Declaration for periods from and after the closing of such sale shall be reinstated and assessed as required herein.

2. The following shall be added as Section 9.02(c) of the Declaration:

9.02 (c) In addition to the foregoing, as long as DRH shall own a Lot, no amendment to the Declaration shall be effective unless signed by DRH.



3. Except as expressly amended hereby, the DECCR shall remain unchanged and in full force and effect.

(The remainder of this page is intentionally blank.)

IN WITNESS WHEREOF, Declarant has caused this First Amendment to the Declaration to be executed as of the day and year first above written.

WITNESSES:

Marion M. Richey  
Jessica M. Traynham

DEVELOPER:

South Tyger Properties, LLC a South Carolina limited liability company

By: [Signature]  
Title: Member

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

I, Jessica M. Traynham, a notary public for South Carolina, do hereby certify that David C. Richey, a Member of South Tyger Properties, LLC, a South Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and (where an official seal is required by law) official seal this 29th day of September, 2010.

Jessica M. Traynham [SEAL]  
Signature of Notary Public  
My commission expires: 1/18/16



CONSENT AND SUBORDINATION

The undersigned, the mortgagee under that certain Mortgage of Real Estate dated March 23, 2007 recorded in REM Book 3858, Page 717, Register's Office for Spartanburg County, South Carolina (the "Mortgage") hereby consents to the First Amendment to Declaration of Covenants, Conditions and Restrictions for Carlton Creek (the "First Amendment") to which this Consent and Subordination is attached and agrees to subordinate the Mortgage to said First Amendment.

Mortgagee:

Branch Banking and Trust Company

By:

Title:

September 9, 2010

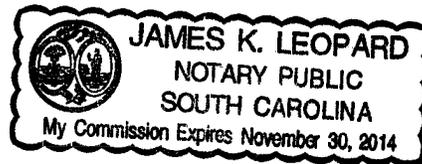
STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

On this 9 day of September, 2010, before me, a Notary Public within and for the State aforesaid, do hereby certify that on this day appeared before me Kimberly A. Fly, Sr. V.P. who acknowledged himself/herself to be the Sr. V.P. of Branch Banking and Trust Company, who being by me duly sworn, did acknowledge the due execution of the foregoing instrument in writing by himself on behalf of said parties, as the act and deed of said parties, by authority duly given.

WITNESS my hand and official seal or stamp this 9 day of September, 2010.

[Signature]
Notary Public
My Commission Expires: Nov 30, 2014



DEE-2019001057  
Recorded 15 on 01/09/2019 09:53:28 AM  
Recording Fee: \$21.00  
Office of REGISTER OF DEEDS, SPARTANBURG, S.C.  
DOROTHY EARLE REGISTER OF DEEDS  
BK:DEE 122-J PG:369-383

RECORDING COVER PAGE FOR GOVERNING DOCUMENTS  
AND RULES OR REGULATIONS

Pursuant to S.C. Code§ 27-30-130, the Board of Directors for  
Carlton Creek Homeowner's Association Inc.  
submits the following document(s) for recording.

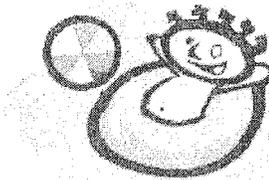
Carlton Creek Homeowner's  
Association Inc.

By:



President

**Pursuant to S.C. Code§ 27-30-130(D) the recording of any rules, regulations, bylaws, and any amendments to rules or regulations is not subject to the requirements of witnesses and acknowledgments required under S.C. Code§ 30-5-30.**



## POOL RULES FOR CARLTON CREEK

- Pool privileges are reserved for homeowners and their guests only.
- Pool hours are 8:00 am until 9:00 pm. No swimming after dark is allowed per DHEC Regulations.
- No one under 16 years of age is permitted in the pool without adult supervision. This includes homeowners and guests. This is a safety issue.
- There should be no solo swimming.
- There should be no running or rough play.
- No person under the influence of drugs or alcohol should use the pool.
- There should be no spitting or blowing noses in the pool.
- Persons with communicable diseases should not use the pool. People with skin, eye, ear or nasal infections should refrain from using the pool.
- No animals or pets are allowed in the pool area.
- No glass is allowed in the pool or on the pool deck. DHEC can close the pool for having glass in the pool area.
- Proper swimwear is required. No thongs, t-backs, jeans or cut-offs are allowed.
- No baby diapers are allowed. Use swim diapers for infants and toddlers. If the pool is closed due to fecal contamination and it is determined that you or your guests are responsible, a \$400 fee will be incurred to cover the cost of increased maintenance and chemicals. Please note that the pool is under camera surveillance.
- No loud or profane language or music is permitted. This especially includes any music with lewd or graphic lyrics.
- Trash cans have been provided. Please do not litter and clean up after guests and family.
- Residents who have not paid their dues or are in violation of the covenants are not permitted to use the pool. This will be strictly enforced.
- Guests should be limited to 4 per family. Homeowner must accompany guests at all times.

### Pool Reminders

The pool is one of our most visible and valuable assets. It is up to the community to maintain it. Please help by:

- Placing any trash, drink cans, broken toys, etc. in the trash cans before leaving.
- Taking toys, towels, floats, etc. home when you leave.
- Leaving the pool and common area in better shape than you found it.

**Carlton Creek  
Covenant Violation Notice and Fines  
September 1, 2016**

**Trash Cans – Cannot be visible from the street-except on pickup day**

- 1<sup>st</sup> Notice-- request to move within 30 days
- 2<sup>nd</sup> Notice – written notice sent certified mail
- 3<sup>rd</sup> Notice – written notice via certified mail – Fine \$10 per day

**Illegal Parking or Broken Down Vehicles**

- 1<sup>st</sup> Notice – request to move within 30 days
- 2<sup>nd</sup> Notice-- written notice via certified mail detailing violation
- 3<sup>rd</sup> Notice – written notice via certified mail – Fine \$10 per day

Parking on street, on grass, or at pool area is not permitted. All vehicles must have current license tag. Habitual Offenders will be fined after proper notice is given.

**Boats, Trailers, Motor Homes, Campers, Mowers, Pontoons**

- 1<sup>st</sup> Notice – request to move within 30 days
- 2<sup>nd</sup> Notice – written notice via certified mail detailing violation
- 3<sup>rd</sup> Notice – written notice via certified mail – Fine \$10 per day

Cannot be stored in driveway or street. Can be stored in rear yard only if not visible from the neighboring residences and the street. Homeowner may notify the Management Company to let them know that they will have vehicle on property for the purpose of loading, unloading, or cleaning- (72 Hour time limit applies) 3 times within a 6 month period is allowable.

**Maintenance/Repairs & Fence Guidelines**

- 1<sup>st</sup> Notice-- Written request will be sent to Homeowner detailing the nature and detail of the violation with a request to address the problem within 30 days of notice.
- 2<sup>nd</sup> Notice-- Written notice sent certified mail detailing violation and giving Homeowner 10 days to remedy or correct the violation.
- 3<sup>rd</sup> Notice – Written notice sent certified mail – Homeowner can be fined \$100 for each month not in compliance, plus the cost incurred by HOA to hire an outside contractor to make repair or complete maintenance, at the expense of homeowner (at HOA's discretion) HOA reserves the right to hire an outside contractor to bring Property into compliance with Fencing Guidelines and/or Restrictive Covenants.

Maintenance and Repair may pertain to, and fines will apply to, but is not limited to: Fences, roofs, structure neglect, peeling paint, rotten wood or shutters, damage or deterioration of any portion of the dwelling, fencing, mailbox, swimming pool, play equipment or unattached structure.

#### Fence Guidelines – See Fencing Guidelines

6 foot maximum height fences allowed

Sherwin Williams Belvedere Tan (SW-3002) or Buckthorn (SW-3003) stain only for wooden fences.

Must be erected by licensed and bonded contractor

Lots must be surveyed

Prior approval must be in writing from Architectural Committee prior to constructing fence.

Fencing must be stained within 90 days of completion. Failure to stain fence within 90 days of completion may result in a fine.

#### Grounds Maintenance – Grass, Weeds, Mulch, Shrubs and Trees

Failure to maintain exterior grounds in a neat and attractive condition - Association to give Homeowner a notice to remedy within 10 days. If Homeowner fails to bring property into compliance within 15 days of the date certified letter is mailed, Homeowner may be fined \$10 per day for non-compliance. Association also has the right to enter upon Homeowner's property and perform necessary maintenance after notifying homeowner in writing, via certified mail. Homeowner will be assessed the actual cost incurred by the Association, with a minimum cost of \$50 per violation.

Trees and shrubs cannot interfere with neighbors property lines. Excessive cluttering of yard or patios can include toys, pots, etc. yard decorations are not permitted.

#### Signs

Normal "For Sale" sign only – maximum size 24" x 24" will be permitted, only one "For Sale" sign is permitted. Real estate signs may not be installed in the common areas and/or the front entrance to the subdivision. Only one "For Sale" sign may be placed in your yard.

#### Animals

Dogs or other domestic animal must be kept on leash, or within fence. Dogs should be limited to a reasonable number. No animals, livestock or poultry of any kind are permitted on any lot with the exception of dogs, cats, or other usual and common household pets.

1<sup>st</sup> notice- Notice to homeowner detailing nature of violation, including date and time of violation.

2<sup>nd</sup> notice – Notice sent via certified mail

3<sup>rd</sup> notice – Notice sent via certified mail - \$50 per occurrence, and Animal Control will be called to pick up animal. Homeowner responsible for any fines imposed by County Animal Control

### Swimming Pool

Use of pool or pool area (inside fence) after hours - \$100 fine -- notice sent via certified mail

Animals inside Pool Area (inside fence) - \$100 fine per animal and per occurrence. If animal defecates and the pool needs to be closed, a fine amounting to \$200 plus the cost charged by pool company to chlorinate and/or cleanup will be charged to the homeowner.

Babies, children, or adults who are not "potty" trained must wear swim diapers. If a Homeowner and/or guest defecates and the pool needs to be closed, a fine amounting to \$200, plus the cost charged by pool company to chlorinate and/or cleanup will be charged to the homeowner.

Leaving Trash and Garbage inside pool area or on common area: \$25 fine per occurrence

Failure to comply with Carlton Creek Pool Rules: \$25 fine per occurrence

Notice to be sent to homeowner via certified mail. Fine will be imposed and pool privileges will be revoked.

### Failure to Submit Architectural Change Request Form or Failure to Build as Approved

If approval is not granted prior to commencement of any exterior changes to the home, fence and/or landscaping, the Board has the right to demand that any further work be ceased until the request has been submitted and reviewed. The Board has the right to demand removal of any enhancement and/or structure that is not in compliance.

If homeowner has submitted an Architectural Change Request Form, and the request is approved, the alteration and or addition/modification must be completed exactly as drawn and approved by the Architectural Committee. If the project is completed and is not built as drawn and approved, the Board has the right to demand removal or alteration of any enhancement and/or structure.

Fines may be placed on a property found in violation of the ARC standards. Unpaid fines will result in liens being placed on a property. If an enhancement has been installed before a request was submitted and the request is denied, the homeowner shall have thirty (30) days from date Association sends certified letter to remove the enhancement/and or structure. On the thirty first (31st) day, if the enhancement has not been removed, a \$10.00 a day fine will be assessed to the owner of the property, at which time the homeowner must remove the denied modification or enhancement, and pay the accrued fines and any other expenses as deemed necessary by the Board of Directors of the Association. If fines are not paid, and/or the enhancement or structure is not removed, liens will be placed against the property.

The failure of the Association, The Board of Directors, The Architectural Committee and/or The Management Company to enforce any Restriction or impose any fine, is not considered a waiver of the right to do so.

CARLTON CREEK  
Architectural Control Committee (ACC)  
Design Standards - Fence



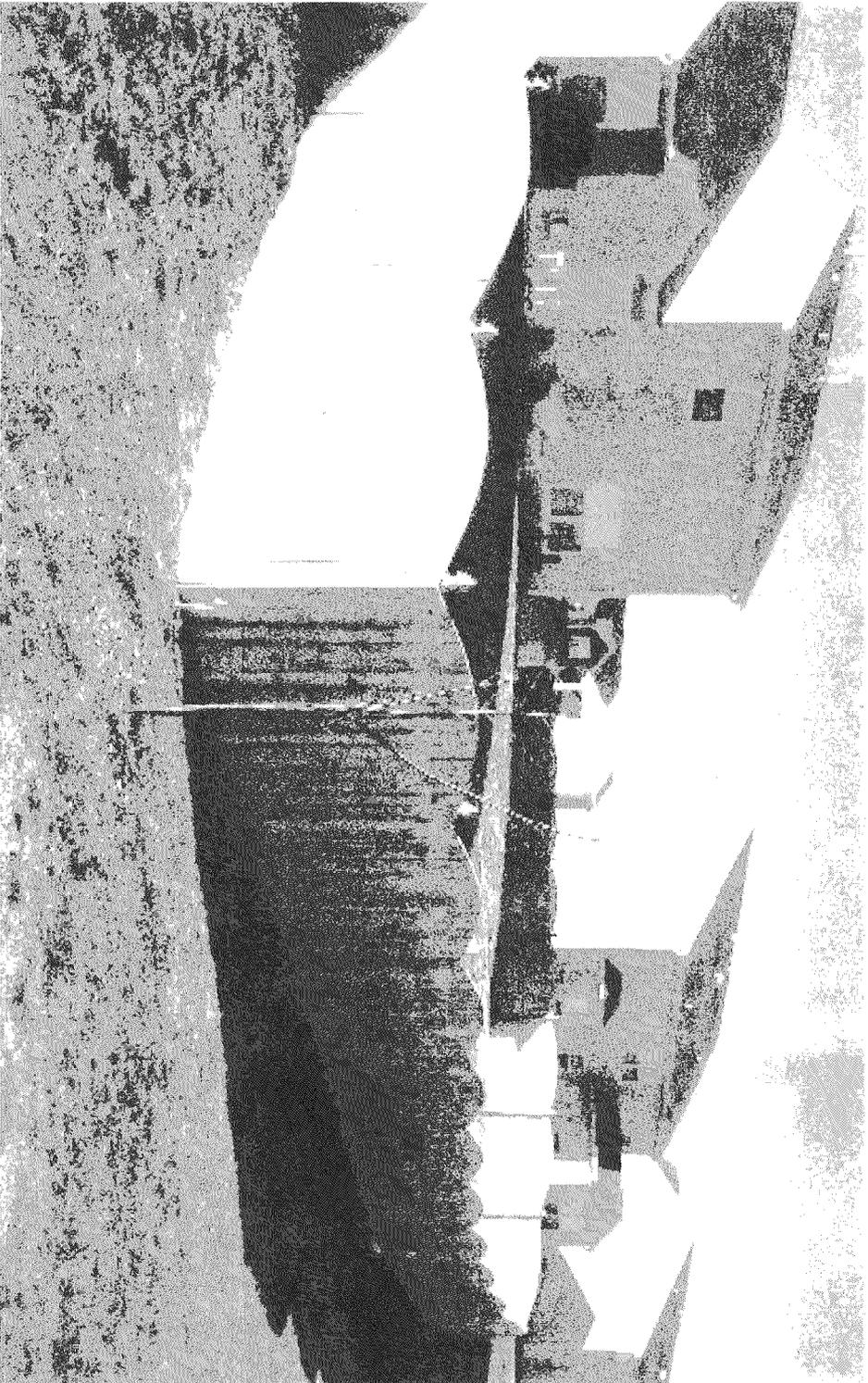
## Wooden Fence - Design Standards

- ALL Fences MUST be approved by ACC prior to construction. (Use the approval form on the Light Property Management Web Site)
- Design Standards required may vary based on lot location - As an example, corner lots, or any lot with a proposed fence that is highly visible to the community.
- Specific landscaping may be required.
- All Fences MUST be maintained, including weed eating on outside of fence and grass cutting to property lines.

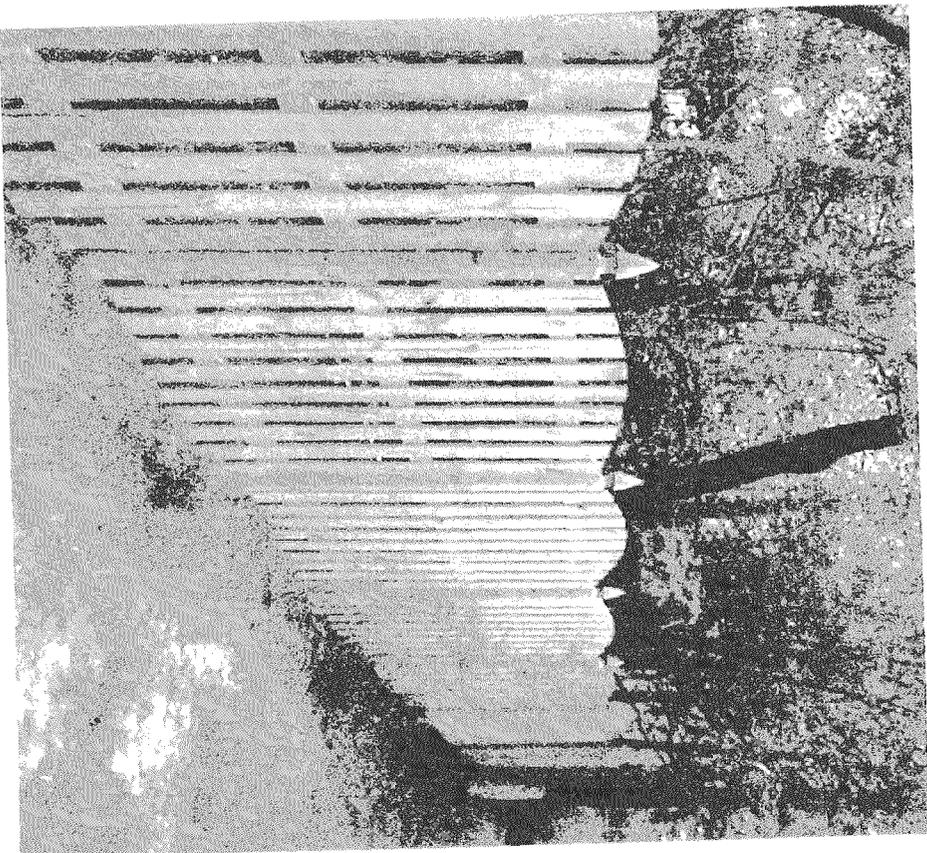
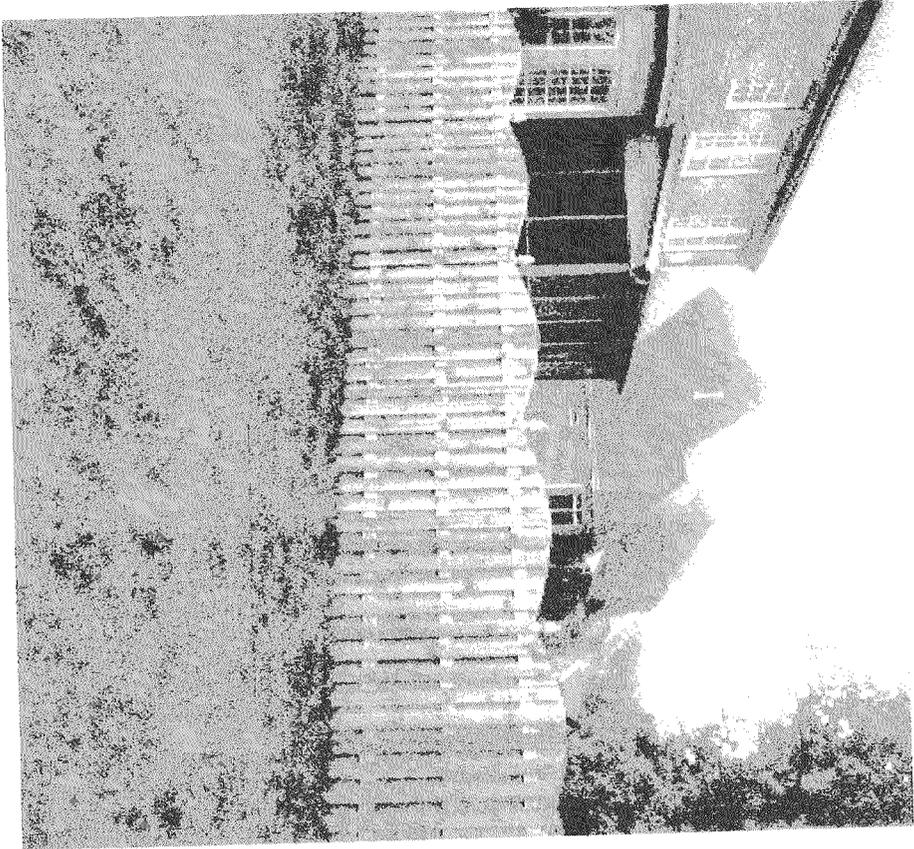
## Wooden Fence – Design Standards

- Fence Design – Arched Stockade or Arched Shadow Box
- A wooden fence must be stained within 3 months of installation and stain maintained as needed. Must be stained inside and outside.
  - Stain - Sherwin Williams – Belvedere Tan
    - *SW-3002 or matching brand*
- A highly visible (from street) fence may require design standards to include:
  - Post caps or gothic posts
  - Additional landscaping

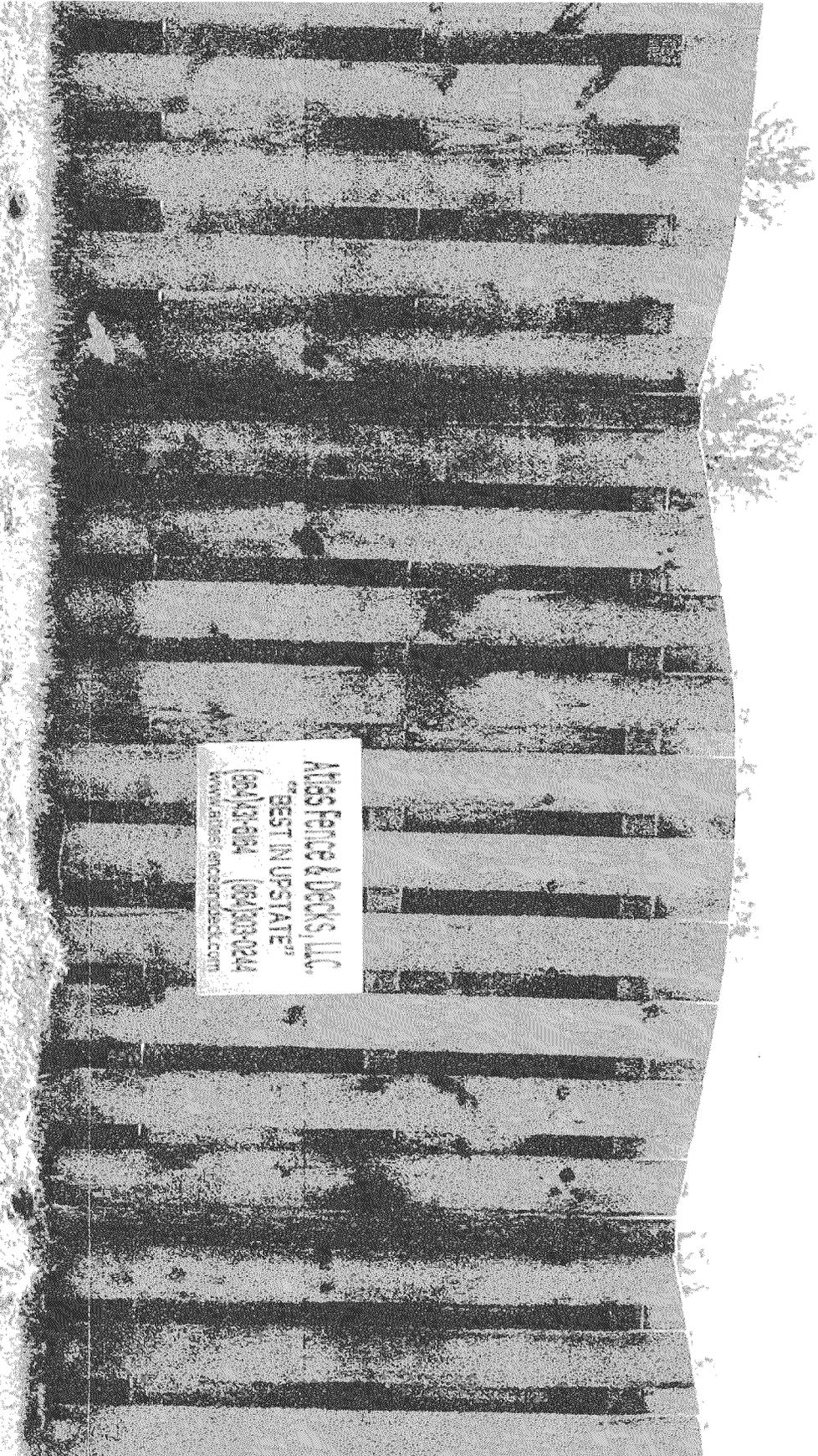
# Design Standards - Arched Stockade



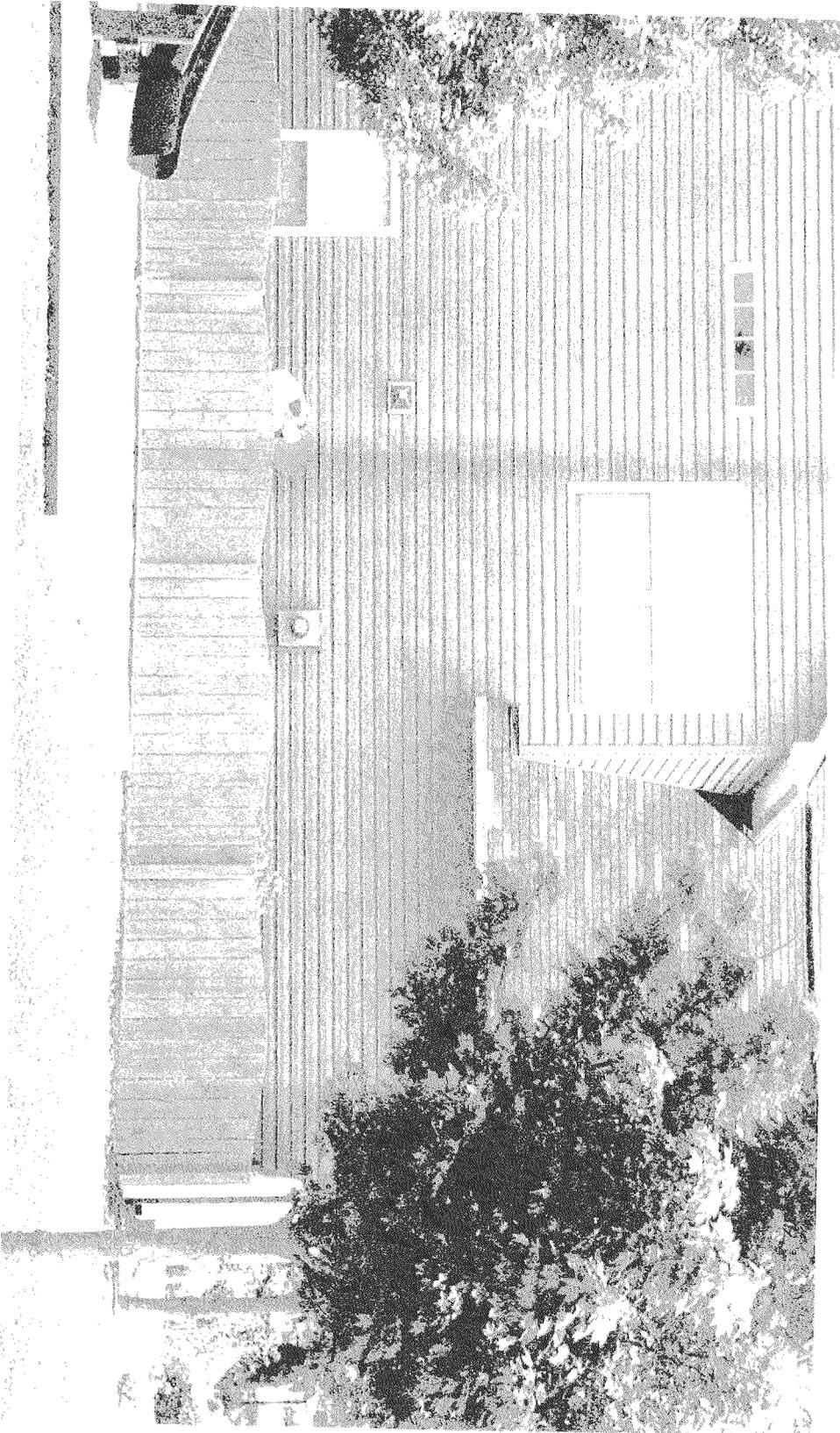
# Design Standards - Arched Shadow Box



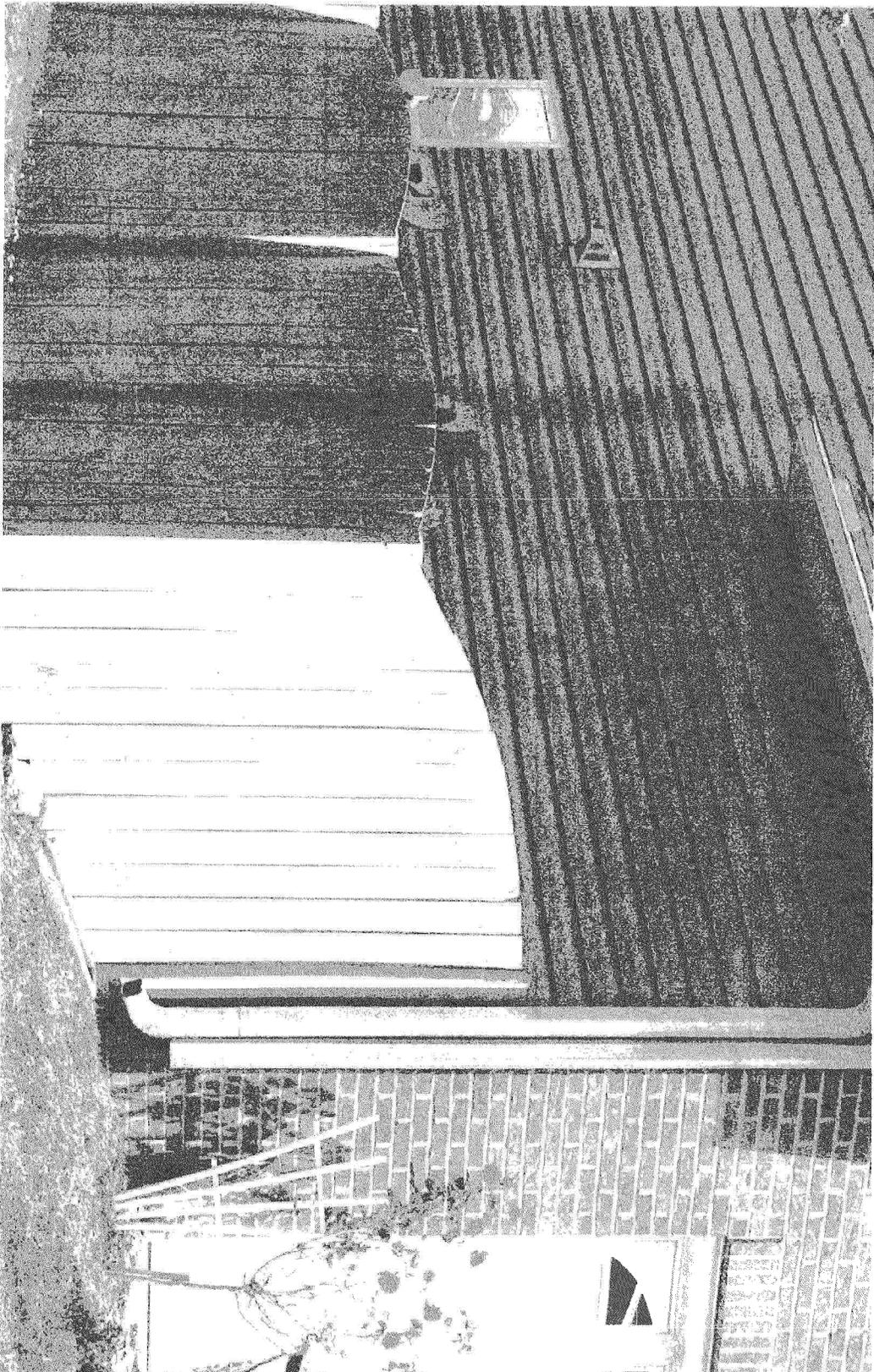
# Design Standard - Arched Shadow Box



# Design Standard - Belvedere Tan Stain



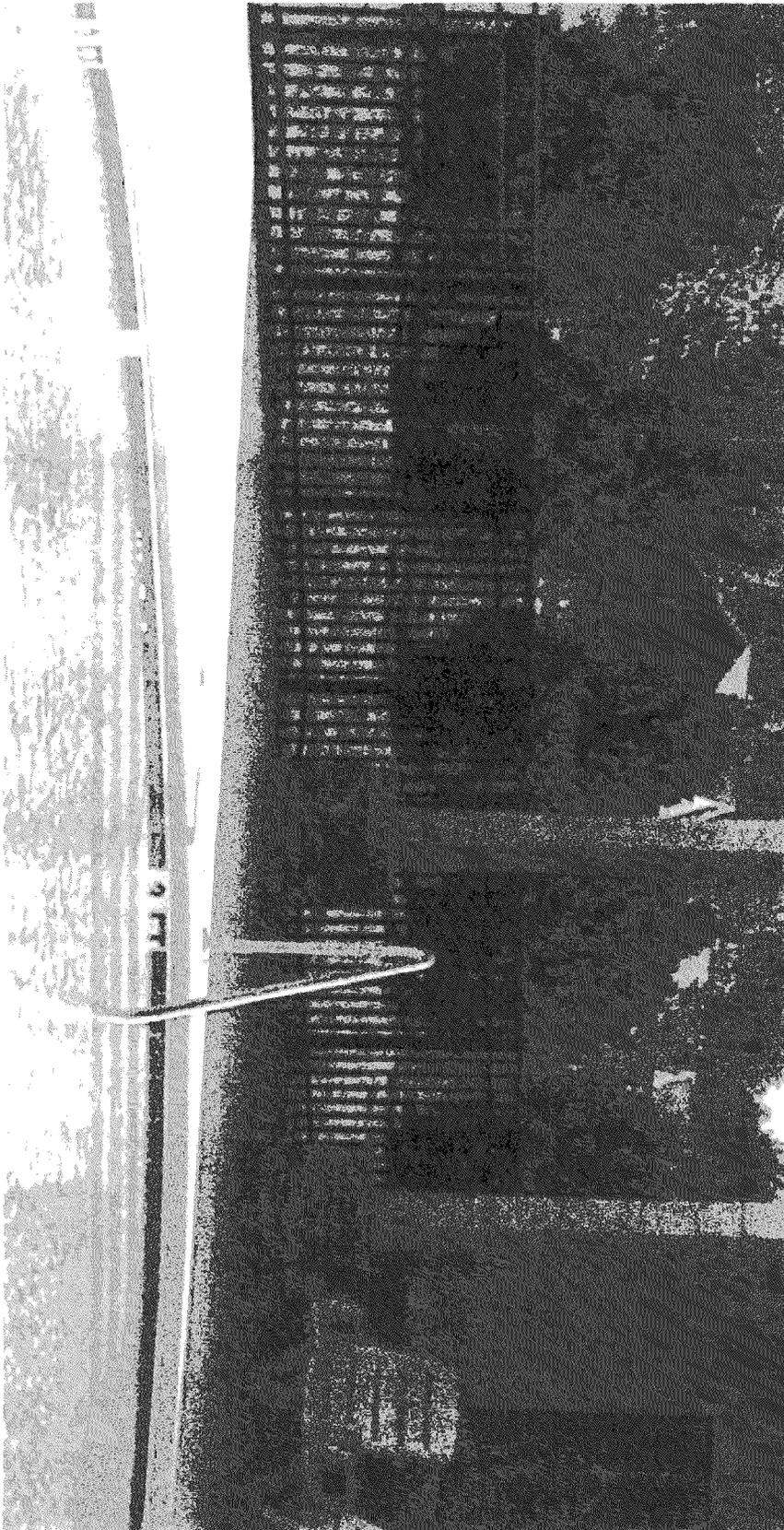
# Design Standard - Belvedere Tan Stain



# Design Standard – Aluminum Fence



# Design Standard - Black Aluminum Fence



DEE-2024027006  
Recorded 18 on 07/10/2024 01:44:35 PM  
Recording Fee: \$25.00  
Office of REGISTER OF DEEDS, SPARTANBURG, S.C.  
ASHLEY B. WILLIAMS REGISTER OF DEEDS  
BK:DEE 147-E PG:417-434

STATE OF SOUTH CAROLINA

**CARLTON CREEK HOMEOWNERS  
ASSOCIATION, INC.**

COUNTY OF SPARTANBURG

RECORDING OF DOCUMENTS PURSUANT TO  
THE SOUTH CAROLINA HOMEOWNERS  
ASSOCIATION ACT (S.C. CODE ANN. §§ 27-30-  
110 TO -170):

1. BYLAWS OF CARLTON CREEK  
HOMEOWNERS ASSOCIATION, INC.

**CROSS REFERENCE:** *DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CARLTON  
CREEK SUBDIVISION, recorded in Book 90X at Page 837.*

WHEREAS, 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 Carlton Creek Subdivision was recorded on 3/20/2008 in the Office of the Register of Deeds for Spartanburg County in Deed Book 90X at Page 837 (as amended and supplemented, the “**Declaration**”); and

WHEREAS, pursuant to the Declaration, Carlton Creek Homeowners Association, Inc. is the Homeowners Association for Carlton Creek subdivision; and

NOW THEREFORE, Carlton Creek Homeowners Association, Inc. does hereby record the following pursuant to the South Carolina Homeowners Association Act:

1. “Bylaws of Carlton Creek Homeowners Association, Inc., attached as **Exhibit A**”

*[SIGNATURE PAGE TO FOLLOW]*

MCCABE TROTTER & BEVERLY, PC  
4500 FORT JACKSON BLVD. SUITE 335  
COLUMBIA, SC 29209  
FILE NUMBER: 21343.4

IN WITNESS WHEREOF, Carlton Creek Homeowners Association, Inc. has by its duly authorized officer set its hand and seal this 9th day of July, 2024.

SIGNED SEALED AND DELIVERED  
in the presence of:

**CARLTON CREEK HOMEOWNERS  
ASSOCIATION, INC.**

Cheryl Jappin  
(witness #1)

By: Cynthia Bass Searfoss (L.S.)

Michael Bohling  
(witness #2)

Print Name: Cynthia Bass Searfoss

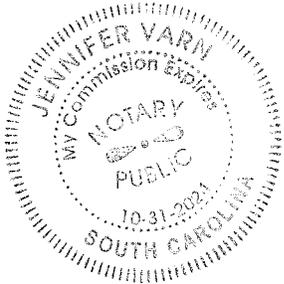
Its: President

STATE OF SOUTH CAROLINA )  
COUNTY OF Spartanburg)

ACKNOWLEDGEMENT

I, Jennifer Varn, Notary Public for the State of South Carolina, do hereby certify that Carlton Creek Homeowners Association, Inc., by Cynthia Bass Searfoss, its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 9 day of July, 2024.



Jennifer Varn  
Notary Public for South Carolina  
My Commission Expires: 10/31/24

EXHIBIT A

**BYLAWS OF  
CARLTON CREEK HOMEOWNERS ASSOCIATION, INC.,  
a South Carolina Nonprofit Mutual Benefit Corporation**

**ARTICLE 1  
NAME, PRINCIPAL OFFICE, DEFINITIONS AND DECLARATION**

Section 1.1 Name. The name of the corporation is **Carlton Creek Homeowners Association, Inc.** (the “Association”). No person, committee or group of Members, other than those elected by the membership, or appointed by the Board of Directors, shall use in their name the name “Carlton Creek Homeowners Association” or any variant thereof, or any other names, words or phrases that would tend to give the general public or the membership the impression that the Member, committee or group of Members is speaking for or on behalf of the Association.

Section 1.2 Principal Office. The Association shall designate and maintain a principal office in accordance with the requirements of the South Carolina Nonprofit Corporation Act of 1994 (S.C. Code Ann. §§ 33-31-101, *et seq.*) (the “Act”), but meetings of Members and directors may be held at such places as may be designated by the Board of Directors from time to time or as otherwise provided in these Bylaws.

Section 1.3 Definitions. Capitalized terms used herein and not otherwise defined herein shall have the same meaning as set forth in the Declaration of Covenants, Conditions and Restrictions for Carlton Creek Subdivision (as amended, modified, and/or supplemented, the “Declaration”), unless the context indicates otherwise.

Section 1.4 Declaration. The Declaration is hereby incorporated herein by this reference and made part hereof.

**ARTICLE 2  
PURPOSES AND POWERS**

Section 2.1 Purposes. The Association shall have the purpose of engaging in any lawful activity; however, without limiting the generality of the foregoing, some of the primary functions and purposes of the Association include: (1) to perform those rights, powers, obligations, purposes, and functions of the Association set forth in the Declaration; and (2) to generally promote the health, safety, and welfare of the Owners and residents of the Community.

Section 2.2 Powers. The Association shall have the power to do all things necessary or convenient, not inconsistent with law, to carry out its affairs and to further the activities and affairs of the Association, including, without limitation:

- (a) All powers, rights, and privileges which a corporation incorporated under the Act may now or hereafter have or exercise; and
- (b) All powers, rights, and privileges provided to the Association in the Declaration, the Articles of Incorporation, or these Bylaws.

### **ARTICLE 3** **MEMBERSHIP**

Section 3.1 Membership. Membership in the Association shall be as set forth in Declaration, and the provisions of the Declaration pertaining to membership, including the votes associated with membership, are specifically incorporated herein by this reference. The Association shall have one class of membership, Class A, as more fully set forth in the Declaration.

### **ARTICLE 4** **MEETINGS OF MEMBERS; VOTING; NOTICE OF MEETINGS OF MEMBERS**

Section 4.1 Annual Meeting. A meeting of Members shall be held annually, and the annual meeting of the Members shall be held at a time, date, and place established by the Board of Directors, but no annual meeting of the Members shall be scheduled on a legal holiday. At each annual meeting:

- (1) The President and Treasurer shall report on the activities and financial condition of the Association;
- (2) Subject to the provisions of the Act requiring prior notice before certain matters may be brought before the Members at the annual meeting (including, without limitation, S.C. Code Sections 33-31-705(b) and 33-31-705(c)(2)), the Members may consider and act on any matters or business that may properly come before the annual meeting.

Notice of the annual meeting shall be given in accordance with Section 4.3 hereof

Section 4.2 Special Meetings.

- a) Special meetings of the Association's Members may be called by the President or by the Board of Directors. If called by the President, the special meeting of the Members shall be held at a time, date, and place established by the President. If called by the Board of Directors, the special meeting of the Members shall be held at a time, date, and place established by the Board of Directors.

- b) Additionally, the Association shall hold a special meeting of the Members if the holders of at least five percent (5%) of the total eligible votes of the Association sign, date, and deliver to any officer of the Association a written demand for a special meeting describing the purpose or purposes for which it is to be held. If a proper demand is made, the Board of Directors shall have the right to set the time, date, and place of the special meeting, and the Association shall cause notice of the special meeting to be given within thirty (30) days of the date that the written demand was delivered to an officer of the Association. If the Board of Directors does not cause notice of the special meeting to be given within thirty (30) days after the demand is delivered to an officer of the Association, a person signing the demand may thereafter set the time, date, and place of the meeting and give notice thereof in accordance with Section 4.3 hereof.
- c) Notice of special meetings of Members shall be given in accordance with Section 4.3 hereof. Only those matters that are within the purpose or purposes described in the meeting notice may be conducted at a special meeting of Members.

Section 4.3 Notice of Meetings of Members; Waiver of Notice.

- a) Notice of Meetings of Members – In General. Written notice specifying the time, date, and place of a meeting of Members and, if required by the Act, the Articles of Incorporation, the Declaration, or these Bylaws, specifying the purpose or purposes for which such meeting was called, shall be given to all Members of record by: (1) depositing the same in the United States Mail, with first class postage affixed/prepaid, at least fifteen (15) days, but not more than sixty (60) days before the meeting date, addressed the Member's address last appearing on the books of the Association; (2) by hand delivery to the Member or to the Member's address last appearing on the books of the Association at least ten (10) days, but not more than sixty (60) days before the meeting date; and/or (3) by electronic mail delivered to the Member's email address last appearing on the books of the Association at least (10) days, but not more than sixty (60) days before the meeting date. An email shall be deemed to be delivered on the date that it is sent, if correctly addressed and if the sender does not receive an automated response indicating that the email was undeliverable (See Section 5.2).
- b) Annual Meeting of Members. Unless the Act, these Bylaws, the Declaration, or the Articles of Incorporation require otherwise, notice of the annual meeting of Members need not include a description of the purpose(s) for which the meeting is called. However, Members, directors, and officers are alerted that the Act does require the notice of the annual meeting to include a description of certain matters to be acted upon (including, without limitation, those matters identified in S.C. Code Section 33-31-705(c)(2)), and the Act should be consulted accordingly.
- c) Special Meeting of Members. The notice of a special meeting of Members must state the purpose or purposes of the meeting. Only those matters that are within the purpose or purposes described in the meeting notice may be conducted at a special meeting of Members.

- d) Waiver of Notice. A Member may waive notice of a meeting before or after such meeting. The waiver must be in writing, be signed by the Member, and be delivered to the Association for inclusion in the minutes of the meeting. Further, a Member's attendance at a meeting waives objection to lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting. Additionally, a Member's attendance at a meeting waives objection to consideration of a particular matter at the meeting on the basis of improper notice of that particular matter (i.e., that such matter was required to be described in or identified as a purpose of the meeting in the meeting notice, but such matter is not within the purpose described in the meeting notice), unless the Member objects to considering the matter when it is presented.

Section 4.4 Record Date for Meetings. Members at the close of business on the business day preceding the day on which the meeting notice is first transmitted to any Member are entitled to notice of the meeting. For purposes of this Section, notice shall be deemed to be "*transmitted*" (even different than the effective date of notice under Section 5.2) on the date when: (1) deposited in the United States Mail in accordance with Section 4.3(a)(1); (2) hand delivered in accordance with Section 4.3(a)(2); and/or (3) delivered by email in accordance with Section 4.3(a)(3). Members on the date of the meeting who are otherwise eligible to vote at the meeting shall be entitled to vote at the meeting.

Section 4.5 Adjournment of Meeting of Members; Notice of Adjourned Meetings. Any meeting of Members, whether or not a quorum is present, may be adjourned to a different date, time, and/or place. In the event that a quorum is not present, the meeting of Members may be adjourned to a different date, time and/or place by the affirmative vote of a majority of the votes represented at the meeting. If a quorum is present, action to adjourn to a different, date, time, and/or place shall be approved in accordance with Section 4.8. Notice need not be given of the new date, time and/or place, if the new date, time, and/or place is announced at the meeting before adjournment, provided that the meeting is adjourned to a date not more than one hundred twenty (120) days after the record date for determining Members entitled to notice of the original meeting. If the meeting is adjourned to a date more than one hundred twenty (120) days after the record date for determining Members entitled to notice of the original meeting, notice of the adjourned meeting must be given in accordance with Section 4.3.

Section 4.6 Members' List for Voting. After the record date for notice of a meeting is fixed, the Board of Directors shall prepare an alphabetical list of the names of all Members, which shall be updated and kept current through the time of the membership meeting. Such list shall list the Members by classification of membership and must show the address and number of votes each Member is entitled to vote at the meeting. The list of Members must be made available for inspection in accordance with the Act.

Section 4.7 Quorum for Membership Meetings. Except as otherwise provided by these Bylaws, the Articles of Incorporation, the Declaration, or the Act, the presence at a meeting, whether in person or by proxy, of Members representing ten percent (10%) of the total eligible

votes in the Association entitled to be cast at the meeting shall constitute a quorum for the transaction of business.

Section 4.8 Voting Requirements. Unless these Bylaws, the Articles of Incorporation, the Declaration, or the Act require a greater vote, if a quorum is present, the following vote is required to constitute approval by or an act of the Members: (1) the affirmative vote of the majority of votes cast; and (2) such affirmative votes must also constitute a majority of the required quorum. Members entitled to vote on a matter shall have as many votes as specified in the Declaration.

With respect to Class A Members, if a Lot is owned by more than one record owner, the vote for such Lot shall be cast as such record owners determine among themselves, and the following shall apply:

- (1) If only one votes, the vote binds all.
- (2) If more than one votes:
  - a. If the votes cast are the same in all respects, then they collectively constitute the one (1) vote for the Lot on that matter.
  - b. If the votes cast differ in any respect, the vote for the Lot on the matter shall be deemed to be void and shall be treated as an abstention on the matter.
- (3) No vote attributable to a Lot may be split or fractionally cast.

Section 4.9 Proxies. At all meetings of Members, Members may vote in person or by proxy. All appointments of proxies shall be by written appointment form, signed either personally or by an attorney-in-fact. An appointment of a proxy is effective when received by the Secretary (or other officer or agent authorized to tabulate votes). An appointment is valid for eleven (11) months unless a different period is expressly provided in the appointment form. However, no proxy shall be valid for more than three (3) years from the date of execution. An appointment of a proxy is revocable by the Member. An appointment of a proxy is revoked by the person appointing the proxy: (i) attending any meeting and voting in person, or (ii) signing and delivering to the Secretary (or other officer or agent authorized to tabulate votes) either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form. The death or incapacity of the Member appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary (or other officer or agent authorized to tabulate votes) before the proxy exercises authority under the appointment.

Section 4.10 Action by Written Consent. Unless otherwise limited or prohibited by the Declaration, these Bylaws, the Articles of Incorporation, or the Act, any action required or permitted to be approved by the Members may be approved without a meeting if the action is approved by Members holding at least eighty percent (80%) of the total eligible votes in the Association entitled to be cast on the matter. The action must be evidenced by one or more written consents describing the action taken, signed by those Members representing at least eighty percent

(80%) of the total eligible votes in the Association entitled to be cast on the matter, and delivered to the Association for inclusion in the minutes or filing with the corporate records. The record date for determining Members entitled to take action without a meeting under this Section is the date the first Member signs the written consent to such action. Written notice of Member approval pursuant to this Section must be given to all Members who have not signed the written consent. If written notice is required, Member approval pursuant to this section is effective ten (10) days after the written notice is given. Such written notice shall be effective in accordance with Section 5.2 hereof.

Section 4.11 Action by Written or Electronic Ballot. Unless limited or prohibited by the Declaration, these Bylaws, the Articles of Incorporation, or the Act, any action that may be taken at any annual, regular or special meeting of Members may be taken without a meeting if the Association delivers a written or electronic ballot to every Member entitled to vote on the matter. A written or electronic ballot shall: (1) set forth each proposed action; and (2) provide an opportunity to vote for or against each proposed action. Approval by written or electronic ballot pursuant to this Section is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written or electronic ballot shall: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve each matter other than election of directors; and (3) specify the time by which a ballot must be received by the Association in order to be counted. A written or electronic ballot may not be revoked.

Section 4.12 Conduct of Meetings. Robert's Rules of Order (latest edition) or such other rules as the Board of Directors may adopt shall govern the conduct of corporate proceedings when not in conflict with the Declaration, the Articles of Incorporation, these Bylaws or with the laws of the State of South Carolina.

Section 4.13 Failure to Hold Meetings. The failure to hold an annual meeting at a time stated in or fixed in accordance with these Bylaws does not affect the validity of a corporate action.

Section 4.14 Meetings Held by Means of Remote Communication; Participation in Meetings by Means of Remote Communication. The Board of Directors, in its sole discretion, may permit any Member(s), proxy(ies), or any other person(s) entitled to participate in a meeting of the Members to participate in any meeting of the Members by means of remote communication, or may hold all or any part of a meeting of the Members solely by means of remote communication. The Board of Directors is authorized to adopt policies, procedures, and/or guidelines regarding participation in and/or the conducting of a meeting of the Members by means of remote communication, but at a minimum, shall ensure that reasonable measures have been implemented to: (1) verify the identity each Member or proxy participating by means of remote communication; and (2) provide Members and proxies, if any, a reasonable opportunity to participate in the meeting and to vote on matters submitted to a vote at the meeting, including an opportunity to communicate substantially concurrently with the proceedings, and to hear and/or read the proceedings

substantially concurrently with the proceedings. Means of remote communication include, without limitation, teleconferencing and video conferencing. Any Member or proxy attending/participating in a meeting of the Members by means of remote communication shall be deemed to be present in person at the meeting. When a meeting of the Association is held solely by means of remote communication, the means of remote communication shall be deemed to be and shall constitute the place of the meeting.

## **ARTICLE 5**

### **NOTICE**

Section 5.1 Methods of Notice. Notice of meetings of Members shall be given in the manner as specifically provided in ARTICLE 4. Otherwise, unless the Act, these Bylaws, or the Articles of Incorporation provide specific notice requirements for particular circumstances, any other notice required or permitted to be given by these Bylaws, the Articles of Incorporation, or the Act may be given as follows:

- (1) Notice may be communicated in person; by telephone, telegraph, teletype, facsimile transmission (FAX), or other form of wire or wireless communication, including email; or by mail or private carrier. Additionally, notice may be communicated in any other manner permissible under the Act.
- (2) Notice may be oral or written; however, oral notice is permissible only if reasonable under the circumstances and only if written notice is not otherwise required by these Bylaws, the Articles of Incorporation, or the Act.

Unless the Declaration provides otherwise, any notice required to be given by the Association under the Declaration may be given in any manner permitted by this Section.

Section 5.2 Effective Date of Notice. Any notice required or permitted to be given by these Bylaws, the Articles of Incorporation, or the Act shall be effective as follows:

- a) Oral notice, if permissible, is effective when communicated, if communicated in a comprehensible manner.
- b) Written notice, if in a comprehensible form, is effective at the earliest of the following:
  - i. when received (an email shall be deemed to be received/delivered on the date that it is sent, if correctly addressed and if the sender does not receive an automated response indicating that the email was undeliverable);
  - ii. five days after its deposit in the United States mail, if mailed correctly addressed and with first class postage affixed;

- iii. on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee;
- iv. fifteen days after its deposit in the United States mail, if mailed correctly addressed and with other than first class, registered, or certified postage affixed.

Unless the Declaration provides otherwise, any notice required to be given by the Association under the Declaration shall be effective as provided in this Section.

Section 5.3 Address for Notice. It shall be the responsibility of each Member to designate an address for purposes of notice, which designation shall be in writing and filed with the Secretary. If no such written designation is provided to the Secretary, the address of the Member's Lot shall be deemed to be the Member's address for notice. Written notice is correctly addressed to a Member if addressed to the Member's address last appearing on the books of the Association.

## **ARTICLE 6**

### **BOARD OF DIRECTORS**

Section 6.1 Number and Qualifications. The Board of Directors shall have the ultimate authority over the conduct and management of the business and affairs of the Association. The Board of Directors shall be composed of not fewer than three (3) directors, who need not be Members of the Association. The number of Directors may be increased or decreased by vote of the Members satisfying the approval requirements set forth in Section 4.8; provided, however, no reduction in the number of Directors shall have the effect of shortening the term of any incumbent director; and further provided that the number of directors shall not be less than three (3). All directors who are also Members must be in good standing with the Association, in order to seek election to, or continue to hold a position on the Board of Directors.

Section 6.2 Nominations. For elections of directors by the Members, the Board of Directors shall appoint a nominating committee to nominate candidates for election to the Board of Directors. The nominating committee shall consist of a chairman, who shall be a director, and at least two (2) Members of the Association. The nominating committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting to serve a term of one (1) year and until their successors are appointed. The Nominating Committee may make as many nominations for election to the Board as it shall in its discretion determine.

Nominations for election to the Board of Directors may also be made from the floor at any meeting at which an election is to be held. Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members and to solicit votes.

Section 6.3 Election and Term of Office.

- a) Election Generally; Term of Office. At each annual meeting, the Members shall elect directors for a term of one year. As used herein, a one-year term shall mean

a term commencing upon election and expiring at the next annual meeting of Members. The Members or their proxies may cast, in respect to each director position to be elected, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. There shall be no cumulative voting. Directors may be elected to serve any number of consecutive terms. Despite the expiration of a director's term, the director continues to serve until the director's successor is elected and qualifies, or until there is a decrease in the number of directors.

- b) Election by Acclamation. If the number of director positions to be elected on the Board is equal to or exceeds the number of nominees, the President or chair, after ensuring that no Members wish to make further nominations from the floor, may declare that the nominees are elected by unanimous consent (acclamation).
- c) Election by Written Ballot. In the event that election of directors at the annual meeting cannot occur due to lack of quorum or otherwise, directors may be elected by written or electronic ballot pursuant to Section 4.11.

Section 6.4 Removal or Resignation. Directors may be removed from the Board of Directors, with or without cause, by the affirmative vote of at least fifty-one percent (51%) of the total eligible votes in the Association at a meeting of the Members called for the purpose of removing the director, provided that the meeting notice shall state that the purpose, or one of the purposes, of the meeting is removal of the Director. At such meeting, the Members may elect a successor for any director so removed to fill the vacancy for the remainder of the term of such director. If the Members do not elect a successor at the meeting in which the director is removed, the vacancy may thereafter be filled by the Board of Directors pursuant to Section 6.5, except that the Board of Directors may not fill the vacancy with any person that was removed as a director by the Members at such meeting of the Members. Removal of a director by the Members may not be done by the Members by written consent or written or electronic ballot in lieu of meeting of the Members.

Any Director who is not in good standing with the Association, or who misses three (3) consecutive Board meetings (unless such absence shall have been excused by the President of the Association or other person(s) authorized to do so), may be immediately removed from the Board of Directors by the remaining directors and replaced in accordance with these Bylaws.

A director may resign at any time by delivering written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice, unless the notice specifies a later effective date.

Section 6.5 Vacancies. Except as otherwise provided in Section 6.4, vacancies on the Board of Directors may be filled by the affirmative vote of a majority of all of the remaining director(s), even if the remaining director(s) constitute fewer than a quorum, so long as there is at least one remaining director. Each person so selected shall serve for the unexpired portion of the term of the vacant director position being filled.

A vacancy on the Board of Directors shall not affect the validity of any decision made or action taken by the Board of Directors, so long as there are at least three (3) directors on the Board at the time of the decision or action. However, nothing herein shall be construed as precluding the remaining directors from filling a vacancy on the Board, even if there are less than three (3) remaining directors.

Section 6.6 Meetings of Directors.

- a) Organizational Meeting. The first meeting of the Board following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as the Board shall fix.
- b) Regular meetings. Regular meetings of the Board of Directors shall be held quarterly, or more frequently, and at dates, times and places determined by a majority of the Board of Directors. Without the approval of all of the directors, no meeting shall fall upon a legal holiday. No notice shall be required for regular meetings.
- c) Special meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association or any two (2) directors, after not less than two (2) days' notice is given to each director in any manner permitted by Section 5.1, unless waived in writing signed by the Director or by attendance of the meeting without objection or participation.
- d) Executive session. The Board may hold executive sessions in a regular or special meeting from which others are excluded, by affirmative vote of two-thirds of the directors present at a meeting. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter shall be considered in the executive session. No formal or binding action may be taken in executive session and no minutes shall be taken. An executive session may be held only to:
  - i. Consult with the Association's lawyers concerning legal matters;
  - ii. Discuss existing or potential litigation or mediation, arbitration or administrative proceedings;
  - iii. Discuss labor or personnel matters;
  - iv. Discuss contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the Association at a disadvantage; or
  - v. Prevent public knowledge of the matter to be discussed if the Board determines that public knowledge would violate the privacy of any person.

Section 6.7 Participation by Telecommunications. Any director may participate in, and be regarded as present at, any meeting of the Board of Directors by means of conference telephone or any other means of communication by which all parties participating in the meeting can hear each other at the same time.

Section 6.8 Quorum. A majority of the directors in office immediately before the meeting shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

Section 6.9 Action. Every act or decision authorized by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as an act of the Board of Directors. Directors shall not vote by proxy.

Section 6.10 Action without Meetings. To the fullest extent permitted by the Act, the Board of Directors may take action without a meeting by written consent as to such matters and in accordance with such requirements and procedures authorized by the Act. Unless otherwise permitted in the Act, such written consent must be signed by all directors and be included in the minutes filed with the corporate records reflecting the action taken.

Section 6.11 Compensation. Directors shall not receive compensation for service on the Board of Directors.

Section 6.12 Obligation of Confidentiality. Each director shall have a continuing obligation to keep confidential any private or privileged information made available to the director pursuant to his or her role on the Board.

Section 6.13 Powers and Duties of Board.

- a) General Authority. The Board shall be responsible for conducting the affairs of the Association and shall be authorized to exercise all rights and powers of the Association and to do all acts and things on behalf of the Association except those as to which the Declaration, the Act or the Articles of Incorporation specifically require to be done or approved by the Members generally. The Board shall have all powers necessary for the administration of the Association, including but not limited to, the following specifically enumerated powers:
- i. Appoint committees by resolution and to delegate the powers and duties appurtenant thereto;
  - ii. Adopt, amend and publish Rules and Regulations governing the Property and establish enforcement procedures and penalties for the infraction thereof, including monetary fines which shall constitute specific assessments;

- iii. Suspend the voting rights of a Member during any period in which the Member shall be in default in the payment of any assessment, charge, fine or other cost levied by the Association or for any other violation of the Governing Documents;
  - iv. Suspend the right to use the recreational facilities or amenities on the Common Areas and the services provided by the Association, as authorized by the Declaration;
  - v. Declare the office of a director to be vacant in the event of the death, disability, resignation, disqualification, or removal of a director;
  - vi. Employ a manager or other contractor, agent or employee of the Association and prescribe their duties; and
  - vii. Levy and collect assessments, fines (specific assessments), and other charges, including Costs of Collection, from the Owners in accordance with the Declaration;
- b) Duties. The Board shall be responsible for all duties prescribed by the Declaration, the Act, or other South Carolina or Federal law as well as the following, without limitation:
- i. Prepare and adopt, in accordance with the Declaration, an annual budget;
  - ii. Provide for the operation, care, upkeep and maintenance of the Common Areas;
  - iii. Enforce the provisions of the Governing Documents, subject to the discretion of the Board provided in Section 6.14; and
  - iv. Obtain and carry property and liability insurance as provided in the Declaration, and pay the cost thereof and adjust claims, as appropriate.

Section 6.14 Discretion. The Board of Directors may determine whether to take enforcement action by exercising the Association's power to impose sanctions or commence an action for violation of the Governing Documents, including whether to compromise any claim for unpaid assessments or other claims made by or against it. The Board shall not have a duty to take enforcement action if it determines, in good faith, that under the facts and circumstances presented:

- a) The Association's legal position does not justify taking any or further enforcement action;
- b) The term or provision of the Governing Documents to be enforced is, or is likely to be, construed as inconsistent with the law;

- c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- d) It is not in the Association's best interest to pursue an enforcement action.

The Board's decision not to pursue enforcement under one set of circumstances shall not prevent the Board from taking enforcement under another set of circumstances, but the Board shall not be arbitrary or capricious in taking enforcement action.

## **ARTICLE 7**

### **OFFICERS**

Section 7.1 Designation. The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer and such other officers as the Board of Directors may from time to time by resolution create. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 7.2 Appointment and Term. The Board shall appoint the Association's officers at the first Board meeting following each annual meeting of the Members, to serve until their successors are appointed.

Section 7.3 Removal or Resignation of Officers. Any officer may be removed from office, with or without cause, by a majority vote of the Board of Directors. Any officer may resign at any time giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.4 Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer being replaced.

Section 7.5 Powers and Duties of Officers. The Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose upon them. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 7.6 Special Appointments. The Board of Directors may appoint such other officers, agents, or entities to perform duties on behalf of the Association. The Board of Directors shall determine, in its sole discretion, the authority and duties of such appointees and shall have the authority to remove them in its sole and absolute discretion.

Section 7.7 Compensation of Officers. No officer shall receive any compensation from the Association for his or her service as an officer.

## **ARTICLE 8**

### **ADMINISTRATION**

Section 8.1 Agreements, Contracts, Deeds, Leases, Checks, etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as the Board may designate by resolution.

Section 8.2 Bonds. At the discretion of the Board of Directors, fidelity bonds may be required on all directors, officers and any other persons, employees or entities handling or responsible for the funds of the Association. The amounts of such bonds shall be determined by the Board, but if it is determined that bonds are to be obtained, they shall be at least equal to the amounts to be handled at any point by that person or entity. Unless verification that the bonds have been provided by such person or entity is obtained by or provided for the Board of Directors, the premiums for these bonds shall be paid by the Association as a common expense.

Section 8.3 Management Agent. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making or decision-making authority or ultimate responsibility for those duties set forth in Section 6.13(b).

## **ARTICLE 9**

### **ACCOUNTING AND FINANCIAL MATTERS**

Section 9.1 Fiscal Year. The fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

Section 9.2 Deposits. All funds of the Association shall be treated as the separate property of the Association and shall be deposited in a bank or other federally insured depository institution as shall be designated from time to time by the Board of Directors. Withdrawal of funds shall only be by checks signed by such persons as are authorized by the Board of Directors.

Section 9.3 Reserve. In the event the Board of Directors uses funds collected and held in the Association's reserve account(s), the Board of Directors shall have the option, in its sole discretion and without notice to the Members, to replenish (in whole or in part) or not to replenish said reserve account(s).

Section 9.4 Borrowing Funds. The Association shall have the power to borrow money for any legal purpose; provided that Members representing at least fifty-one percent (51%) of the total eligible votes of the Association shall have approved such action.

## **ARTICLE 10** **COMMITTEES**

Section 10.1 Committees. The Board of Directors shall appoint a nominating committee as provided in these Bylaws. The Board of Directors may appoint members to the Architectural Review Committee to the extent permitted by the Declaration. The Board of Directors may appoint such other committees as it deems appropriate to perform such tasks and to serve for such periods as the Board of Directors may designate by resolution. Any such committee, and the committee members, shall serve at the pleasure of the Board of Directors and shall be chaired by a member of the Board of Directors.

## **ARTICLE 11** **BOOKS AND RECORDS**

Section 11.1 Corporate Records. When consistent with good business practices, any records of the Association required by the Act may be maintained in any format so long as the records can be reproduced in written form in a reasonable time.

Section 11.2 Inspection Rights. The Members shall have only such rights to inspect records of the Association to the extent, and according to the procedures and limitations, prescribed by the Act. The Association may charge reasonable fees for the time and cost incurred in providing the records for inspection or copies of the books and records. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association.

## **ARTICLE 12** **INDEMNIFICATION**

Section 12.1 Indemnification. The Association shall indemnify, defend and hold harmless the Association's directors and officers to the fullest extent permitted by, and in accordance with the Act. This plan of indemnification shall constitute a binding agreement of the Association for the benefit of the directors and officers as consideration for their services to the Association. Such right of indemnification shall not be exclusive of any other right which such directors, officers, or representatives may have or hereafter acquire. The Association shall pay for or reimburse the reasonable expenses incurred by the director or officer who is a party to a proceeding in advance of a final disposition of the proceeding if the director or officer complies with the terms of the Act.

## **ARTICLE 13** **MISCELLANEOUS**

Section 13.1 Corporate Seal. The Association may have a seal in circular form having within its circumference the name of the Association.

Section 13.2 Amendments.

- a) By the Members. These Bylaws may also be amended by the affirmative vote of at least 51% of the total eligible votes in the Association.
- b) By the Board of Directors. In addition to the foregoing, the Board of Directors shall, at any time and from time to time, have the right (but not the obligation) to cause the Bylaws to be amended to correct any clerical or scrivener's errors or to conform to the requirements of the Federal Housing Administration or the Veterans Administration or the Federal National Mortgage Corporation, FHLMC and such other secondary market agencies as the same may be amended from time to time.

Section 13.3 Conflicts.

- a) With Articles or Declaration. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.
- b) With the Act. In case of any conflict with the mandatory provisions of the Act, the mandatory provisions of the Act shall control.

Section 13.4 Interpretation. The Board shall interpret the terms of these Bylaws and its interpretation shall be final.

The undersigned Board of Directors of the Association has caused these initial Bylaws of the Association be adopted this 9<sup>th</sup> day of July, 2024.

CARLTON CREEK HOMEOWNERS ASSOCIATION, INC.

BY: ITS BOARD OF DIRECTORS

Cynthia Bass Searfoss  
 Print Name: Cynthia Bass Searfoss  
 Title: President

Jennifer Van  
 Print Name: Jennifer Van  
 Title: Vice President

Nicholas Boling  
 Print Name: Nicholas Boling  
 Title: Treasurer

Cheyenne Lappin  
 Print Name: Cheyenne Lappin  
 Title: Secretary

DEE-2025045544  
 Recorded 13 on 10/06/2025 12:19:07 PM  
 Recording Fee: \$25.00  
 Office of REGISTER OF DEEDS, SPARTANBURG, S.C.  
 ASHLEY B. WILLIAMS REGISTER OF DEEDS  
 BK:DEE 154-F PG:514-526

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

**CARLTON 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. POOL RULES FOR CARLTON CREEK;
2. FINE POLICY;
3. FENCE DESIGN STANDARDS.

21343.5

**CROSS REFERENCE:** *DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CARLTON CREEK  
 SUBDIVISION recorded Deed Book 90 at Page 837.*

WHEREAS, 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 CARLTON CREEK SUBDIVISION was recorded on March 20, 2008 in the Office of the Register of Deeds for Spartanburg County in Deed Book 90 at Page 837 (as amended and supplemented, the “**Declaration**”); and

WHEREAS, pursuant to the Declaration, Carlton Creek Homeowners Association, Inc. (the “Association”) is the Homeowners Association for Carlton Creek Subdivision; and

NOW THEREFORE, Carlton Creek Homeowners Association, Inc. does hereby record the following pursuant to the South Carolina Homeowners Association Act:

1. Pool Rules for Carlton Creek, attached as **Exhibit A**;
2. Fine Policy, attached as **Exhibit B**;
3. Fence Design Standards, attached as **Exhibit C**.

*[SIGNATURE PAGE TO FOLLOW]*

IN WITNESS WHEREOF, Carlton Creek Homeowners Association, Inc. has by its duly authorized officers set its hand and seal this 4th day of October, 2025.

SIGNED SEALED AND DELIVERED  
in the presence of:

CARLTON CREEK HOMEOWNERS  
ASSOCIATION, INC.

Jennifer Varn  
(witness #1)

By: Cynthia Bass Searfoss (L.S.)

Nicholas B. [Signature]  
(witness #2)

Print Name: Cynthia Bass Searfoss

Its: President

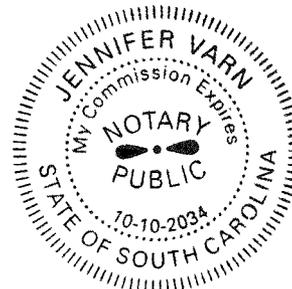
STATE OF SOUTH CAROLINA )  
COUNTY OF Spartanburg )

ACKNOWLEDGEMENT

I, Jennifer Varn, Notary Public for the State of South Carolina, do hereby certify that Carlton Creek Homeowners Association, Inc., by Cynthia Bass Searfoss, its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 4th day of October, 2025.

Jennifer Varn Spartanburg  
Notary Public for South Carolina  
My Commission Expires: 10/10/34



IN WITNESS WHEREOF, Carlton Creek Homeowners Association, Inc. has by its duly authorized officers set its hand and seal this 4<sup>th</sup> day of October, 2025.

SIGNED SEALED AND DELIVERED  
in the presence of:

CARLTON CREEK HOMEOWNERS  
ASSOCIATION, INC.

Jennifer Van  
(Witness #1)

By: Nicholas Boling (L.S.)

Cynthia Baso Seafers  
(Witness #2)

Print Name: Nicholas Boling

Its: Treasurer

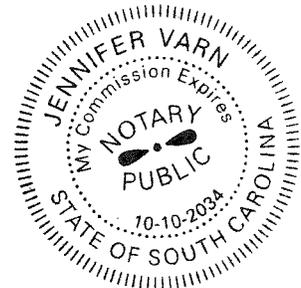
STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF Spartanburg )

ACKNOWLEDGEMENT

I, Jennifer Van, Notary Public for the State of South Carolina, do hereby certify that Carlton Creek Homeowners Association, Inc., by Nicholas Boling Treasurer, its ~~President~~, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 4<sup>th</sup> day of October, 2025.

Jennifer Van  
Notary Public for South Carolina  
My Commission Expires: 10/10/34



## **EXHIBIT A**

### **POOL RULES FOR CARLTON CREEK**

#### **HOURS OF OPERATION: 8:00 A.M. to 9:00 P.M. NO SWIMMING AFTER DARK.**

- THE MAXIMUM CAPACITY OF THE POOL IS 120 PEOPLE.
- Only homeowners or residents with an account in good standing, and their guests, will be allowed to use the pool.
- Only acceptable swimwear is to be worn in pool. Thongs, T-shirts, jeans, and shorts are not permitted.
- For safety reasons, no children under the age of 12 should be in the pool or pool area without adult supervision.
- While in the pool, all non-swimmers must be accompanied by a person with the ability to swim.
- No solo swimming.
- No person under the influence of drugs or alcohol should use the pool.
- Persons with communicable diseases should not use the pool. People with skin, eye, ear or nasal infections should refrain from using the pool. There should be no spitting or blowing of noses in the pool.
- No pets are allowed within the pool area, except for service or emotional support animals.
- There should be no running or rough play in the pool area or pool.
- All incontinent persons must wear a swim diaper, disposable diapers with plastic pants, or pull-ups with plastic pants. If an accident occurs, the pool will have to be closed immediately for treatment that lasts 24 hours. Failure to comply will result in a fine of \$400 for the responsible homeowner.
- No glass containers of any kind are permitted inside the pool or the pool area.
- No loud or profane language or music is permitted.
- Trash cans have been provided. Please do not litter. It is the responsibility of homeowners and residents to ensure that their own trash and the trash of their guests are properly disposed of.
- A homeowner or resident must accompany guests at all times.

### **POOL REMINDERS**

The pool is one of our most visible and valuable assets. It is up to the community to maintain it.

Please help by:

- Placing any trash, drink cans, broken toys, etc. in a trash can before leaving.
- Taking toys, towels, floats, etc. home when you leave.
- Leaving the pool and Common Area in better shape than you found it.

## **EXHIBITB**

### **Carlton Creek Covenant Violation Notice and Fines August 5, 2025**

#### **Nuisances**

- 1<sup>st</sup> Notice: Written notice sent detailing the violation with a request to cure the problem within three (3) days and the fine to be assessed for failing to cure within the time listed.
- 2<sup>nd</sup> Notice: Written notice sent via certified mail assessing a Fine of \$100 per day plus costs of certified mail. HOA reserves the right to bring Property into compliance at the Homeowner's expense.

Owners and occupants must prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on their property. No Lot within the Development shall be used, in whole or in part, for the outside storage of anything that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any noise or other condition that may disturb the peace, quiet, safety, comfort, or serenity of the occupants of the surrounding Lots, including but not limited to a prohibition of speakers, horns, whistles, sirens, bells, amplifiers, or other sound device except those devices used exclusively for security purposes or required by law. No noxious or offensive activity shall occur anywhere within the Development, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person within the Development.

#### **Trash Cans – Only Visible at Steet on Pickup Day**

- 1<sup>st</sup> Notice: Written notice sent detailing the violation with a request to cure the problem within three (3) days and the fine to be assessed for failing to cure within the time listed.
- 2<sup>nd</sup> Notice: Written notice sent via certified mail assessing a Fine of \$10 per day plus costs of certified mail. HOA reserves the right to bring Property into compliance at the Homeowner's expense.

#### **Illegal Parking or Inoperable Vehicle**

- 1<sup>st</sup> Notice: Written notice sent detailing the violation with a request to cure the problem within three (3) days and the fine to be assessed for failing to cure within the time listed.
- 2<sup>nd</sup> Notice: Written notice sent via certified mail assessing a Fine of \$10 per day plus costs of certified mail. HOA reserves the right to bring Property into compliance at the Homeowner's expense.

Parking on street, on grass, or at a pool is not permitted. All vehicles must have a current license tag. Habitual Offenders will be fined after proper notice is given.

#### **Boats, Trailers, Motor Homes, Campers, Mowers, Pontoons**

- 1<sup>st</sup> Notice: Written notice sent detailing the violation with a request to cure the problem within three (3) days and the fine to be assessed for failing to cure within the time listed.
- 2<sup>nd</sup> Notice: Written notice sent via certified mail assessing a Fine of \$50 per day plus costs of certified mail. HOA reserves the right to bring Property into compliance at the Homeowner's expense.

May not be stored on a driveway or street. May be stored in rear yard only if not visible from the neighboring residences and the street. Homeowner may notify the Management Company that one of these vehicles will be parked on the property for the purpose of loading, unloading, or cleaning. A 72-Hour time limit applies. May only occur three (3) times within a six (6) month period.

### **Exterior Maintenance & Fence Violations**

- 1<sup>st</sup> Notice: Written notice sent detailing the violation with a request to cure the problem within thirty (30) days and the fine to be assessed for failing to cure within the time listed.
- 2<sup>nd</sup> Notice: Written notice sent via certified mail assessing a Fine of \$100 per month plus costs of certified mail. HOA reserves the right to bring Property into compliance at the Homeowner's expense.

Maintenance and Repair may include, and fines may apply but not be limited to fences, roofs, structure neglect, peeling paint, rotten wood or shutters, damage or deterioration of any part of the dwelling, fencing, mailbox, swimming pool, play equipment, or detached structure.

### **Fencing Guidelines – See Fencing Guidelines**

Six (6) foot maximum height allowed.  
 Sherwin Williams Belvedere Tan (SW-3002) or Buckthorn (SW-3003) stain only for wooden fences.  
 Fences must be erected by licensed and bounded contractor.  
 Lots must be surveyed.  
 Prior Approval must be in writing from Architectural Committee prior to constructing fence.  
 Fencing must be stained within 90 days of completion. Failure to stain fence within 90 days of completion may result in a fine.

### **Property and Ground Maintenance**

Failure to maintain exterior grounds in a neat and attractive condition will result in a notice to remedy within three (3) days. Failure to bring property into compliance within three (3) days of the certified letter being mailed may result in a fine of \$10 per day plus costs of certified mail being imposed for non-compliance. Association also has the right to enter upon a Homeowner's property and perform necessary maintenance after written notice via certified mail. Homeowners will be assessed the cost incurred by the Association, with a minimum cost of \$75 per violation.

Trees and shrubs may not interfere with neighbors' property lines, Excessive cluttering of yards, driveways or patios includes toys, pots, etc. Yard decorations are not permitted. Excessive cluttering of yards, driveways and patios will result in a notice to remedy within three (3) days. Failure to bring comply within three (3) days of the certified letter being mailed may result in a fine of \$10 per day plus costs of certified mail being imposed for non-compliance.

HOA reserves the right to bring Property into compliance at the Homeowner's expense.

### **Signs**

Normal "For Sale" sign only –maximum size 24" x 24" will be permitted. Only one "For Sale" sign will be permitted. Real estate signs may not be installed in the common areas and/or the front entrance to the subdivision. Only one "For Sale" sign may be placed in an Owner's yard. Failure to comply within three (3) days of the certified letter being mailed may result in a fine of \$10 per day plus costs of certified mail being imposed for non-compliance. HOA reserves the right to bring Property into compliance at the Homeowner's expense.

### **Animals**

Dogs or other domestic animals must be kept on a leash or within a fence. Dogs should be limited to a reasonable number. No animals, livestock, or poultry of any kind are permitted on any Lot except for dogs, cats, or other usual and common household pets.

1<sup>st</sup> Notice: Written notice sent detailing the violation, including date and time of violation, a request to cure the violation within five (5) days and the fine to be assessed for failing to cure within the time listed.

2<sup>nd</sup> Notice: Written notice sent via certified mail assessing a Fine of \$50 per occurrence plus the costs of certified mail. Animal Control will be called to pick up animal. Homeowner is responsible for any fines imposed by County Animal Control.

### **Swimming Pool**

Use of pool or pool area (inside fence) after hours will result in a notice of violation, sent via certified main, and a fine of \$100 plus the costs of certified mail.

Animals inside pool area (inside fence) will result in a notice of violation, sent via certified main, and a fine of \$100 plus the costs of certified mail. If the animal defecates and the pool must be closed, the fine will be increased to \$400 plus the costs charged by the pool company to chlorinate and/or clean up defecation will be charged to the Homeowner.

Babies, children, and incontinent adults must wear swim diapers. If a Homeowner and/or guest defecates, and the pool must be closed, a fine in the amount of \$400 will be imposed, plus the costs charged by the pool company to chlorinate and/or clean up the defecation will be charged to the Homeowner.

Leaving trash and garbage inside the pool area or common area will result in a \$25 fine being imposed on the responsible Homeowner, plus the costs of certified mailing fees.

Failures to comply with Carlton Creek Pool Rules will result in a fine of \$25 per occurrence. Notice will be sent to Homeowner via certified mail, the cost of which will be added to the fine. In addition to a fine being imposed, the Association may suspend or revoke pool privileges.

**Failure to Submit Architectural Change Request Form or  
Failure to Build as Approved**

If approval is not granted prior to commencement of any exterior changes to the home, fence, and/or landscaping, the Board has the right to demand that any further work be ceased until the request has been submitted and reviewed. The Board has the right to demand removal of any improvement and or structure that is not in compliance.

If the Homeowner has submitted an Architectural Change Request Form, and the request is approved, the alteration and or addition/modification must be completed exactly as drawn and approved by the Architectural Committee. If the project is completed and is not built as drawn and approved, the Board may demand removal or alteration of any improvements and/or structures.

Fines may be imposed on Homeowners found with property in violation of the ARC standards. Unpaid fines will result in liens being placed on the property. If an improvement has been installed before a request was submitted and the subsequent request is denied, the Homeowner shall have thirty (30) days from the date of the certified letter sent by the Association to remove the improvement and/or structure. On the thirty-first (31<sup>st</sup>) day after the certified letter is sent by the Association, if the improvement and/or structure has not been removed, a fine of \$100 per day will be assessed against the Homeowner of the property until the Homeowner has removed the denied modification, improvement and/or structure and has paid all accrued fines and other costs deemed necessary by the Board. Failure to remove improvements and/or structures, as well as failure to pay accrued fines, will result in liens being placed upon the property.

**Violation after Final Notice: If the violation is not remedied within the final timeframe given or after the final notice is provided for each fine schedule, or if the violation reoccurs within 12 months of the original violation, the Association will not send any further written notices before imposing a fine in an amount determined by the Board. Any additional violations may result in an immediate fine and/or daily fines.**

**The failure of the Association, the Board, the Architectural Committee and/or the Management Company to enforce any covenant or restriction, or impose any fine, shall not be considered a waiver of any right to do so in the future.**

EXHIBIT C

CARLTON CREEK  
Architectural Control Committee (ACC)  
Design Standards - Fence



ACC Rev 0 -- September 2015

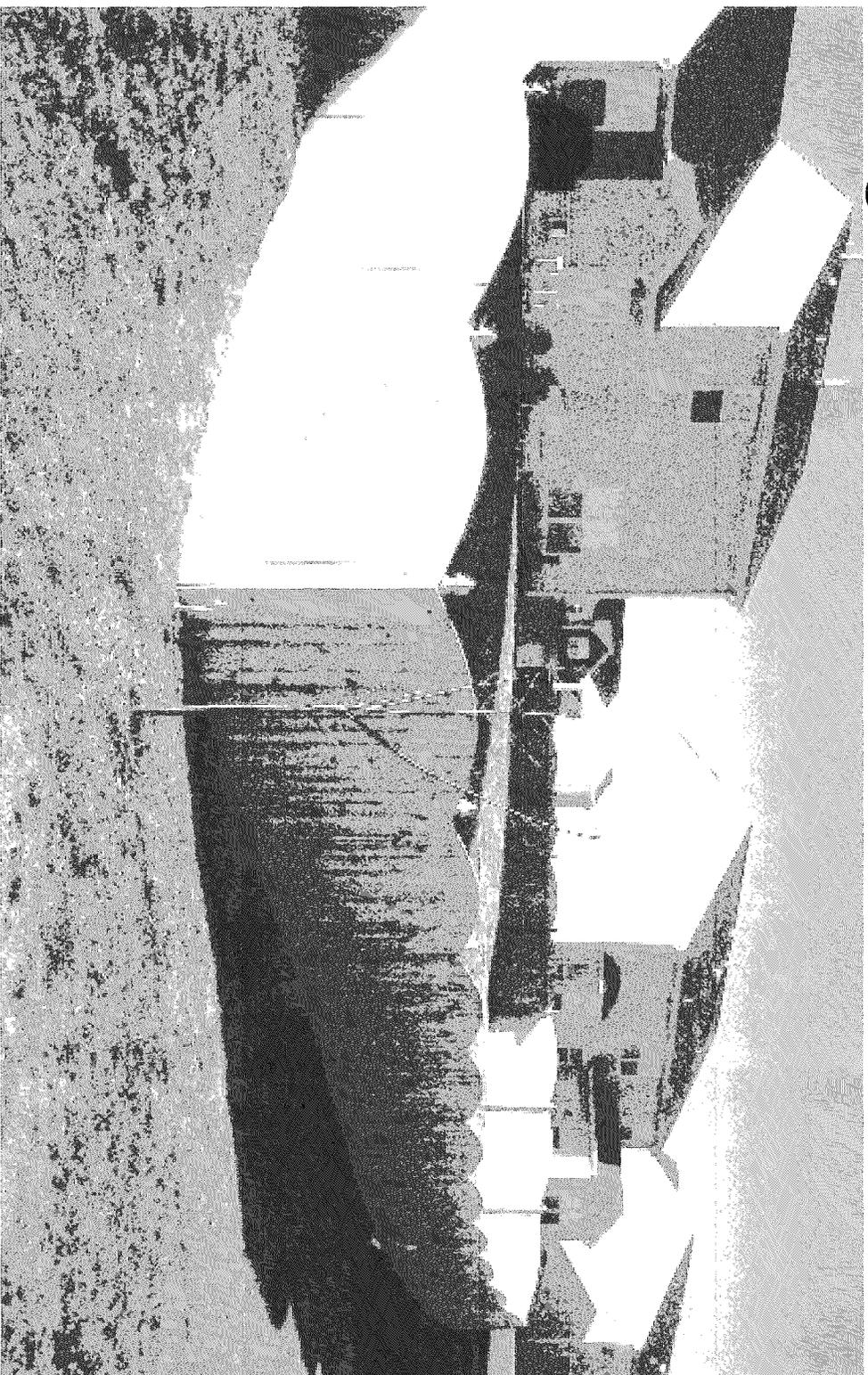
## Wooden Fence – Design Standards

- ALL Fences MUST be approved by ACC prior to construction. (Use the approval form on the Light Property Management Web Site)
- Design Standards required may vary based on lot location – As an example, corner lots, or any lot with a proposed fence that is highly visible to the community.
- Specific landscaping may be required.
- All Fences MUST be maintained, including weed eating on outside of fence and grass cutting to property lines.

## Wooden Fence – Design Standards

- **Fence Design** – Arched Stockade or Arched Shadow Box
- A wooden fence must be stained within 3 months of installation and stain maintained as needed. Must be stained inside and outside.
  - **Stain** - Sherwin Williams – Belvedere Tan or Buckthorn
    - *SW-3002 or matching brand*
    - *SW-3003 or matching brand*
- A highly visible (from street) fence may require design standards to include:
  - Post caps or gothic posts
  - Additional landscaping

# Design Standards - Arched Stockade



# Design Standards - Arched Shadow Box

