

1. **DEFINITION.** The following words when used herein (unless the context shall require a different meaning) shall have the following meaning:

A. "Subdivision" shall mean and refer to all of the lots and property shown upon plat of "Coal Creek" referred to above and upon any subsequent plat prepared for the Developer, recorded in the ROD Office of Spartanburg County and reference to any amendment or modification to this instrument.

B. "Common Properties" shall mean and be referred to as all lands not plated as lots now or in the future and or public rights of way to be maintained as a landscaped area within Coal Creek, together with all street lights, sprinkler systems, street signs, entrance signs, landscaping, and water meters located within such area.

C. "Developer" shall mean and refer to Landmark Developers, Inc.

D. "Lot" or "lot" shall mean and refer to any numbered parcel of land shown upon the above-referenced plat of Coal Creek prepared for the Developer, recorded in the ROD Office of Spartanburg County and referenced in this instrument or any amendment or notification thereto.

E. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot situated within Coal Creek, but notwithstanding any applicable theory of mortgage law, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding or deed in lieu of foreclosure.

2. **SINGLE FAMILY RESIDENTIAL USE.** No lot shall be used except for private, single family residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling, not to exceed 2 stories in height and a private, attached double garage.
3. **SUBDIVISION OF LOTS.** Developer or any subsequent owner of a lot, with the prior written consent of Developer or its nominee, may sell and convey a portion of any lot to the owner of an adjoining lot, provided that any such sale of a portion of a lot does not result in the creation of another lot or a greater number of lots than that shown on said plat and does not violate any other provisions hereof. In any such sale of a portion of a lot, the portion shall merge into and become part of the adjoining lot, and the terms and conditions herein shall apply to the lot and portion of a lot as though they were originally platted as one lot. Nothing herein, however, shall prevent two lot owners from making an equal exchange to alter a lot line with the written consent of the Developer.

4. **MINIMUM HEATED AREA.** No dwelling shall be erected on any lot having less than two (2) bathrooms and no less than One Thousand Six Hundred Fifty (1,650) square feet of heated floor area. All dwellings must have an attached double garage. If the dwelling has a second floor, the first floor must have no less than One Thousand (1,000) square feet of heated floor area and a second floor shall have a minimum of Eight Hundred (800) square feet of heated floor area. The floor area required by this article shall not include basements, porches, Verandas, breezeways, terraces or garages. Nonetheless, Developer reserves the right and privilege, upon showing of special, unique or unusual circumstances to give a waiver to the minimum heated area requirements on a lot, but such waiver must be given in writing to be valid. Developer reserves the right to deny a waiver for any reason deemed appropriate in its sole discretion.

5. **BUILDING SETBACK LINES.**
 - A. No Residence or portion of a Residence, including stoops, verandas, steps and porches shall be located on a lot nearer the front property line or nearer the side street property line of the lot than the setback line(s) shown for such lot on the plat of Coal Creek referred to in the deed to such lot from Developer, **Setback lines stated in restrictions supersede all setback lines on plat**, but in no case nearer than thirty (30) feet from the front or rear property line, and not nearer than ten (10) feet to any side lot property line. SEE PARAGRAPH 5B FOR CORNER LOTS. Nonetheless, Developer reserves the right and privilege, upon showing of special, unique or unusual circumstances to give a waiver to any setback restrictions on a lot, but such waiver must be given in writing to be valid. Developer reserves the right to deny a waiver for any reason deemed appropriate in its sole discretion.

 - B. **CORNER LOT SETBACK LINES:** No Residence or portion of a Residence, including stoops, verandas, steps and porches shall be located nearer than thirty (30) feet from any property line; this includes front, sides, and rear property lines. Furthermore, All Fencing, detached garages and storage buildings must be a minimum of thirty (30) feet from any property lines.

 - C. **GARAGE/STORAGE BUILDING SETBACK LINES & REQUIREMENTS:** All detached garage/storage buildings must have a minimum of 320 square feet with the same roof pitch as of the residence. All buildings must conform to and be in harmony with the residence structure. All buildings must have a brick foundation and poured concrete floor. Portable buildings, metal storage buildings or other similar off-site constructed storage buildings are prohibited. All buildings must be approved in writing by the Developer or its nominee. Disapproval of plans, location, or specifications may be based purely upon aesthetic reasons in the sole discretion of Developer or its nominee. After, the structure has been approved, the Homeowner shall place four flags to mark the corners of the proposed building and Developer or its nominee shall approve the site location BEFORE any construction begins.

- D. No lot shall be further subdivided or otherwise have its boundaries altered without first obtaining the written permission of the Developer/ Architectural Committee hereunder. Further, the use of more than one (1) lot as a single residential building site shall not be prohibited, but shall be subject to prior approval by the Developer/Architectural Committee. No building shall be erected on any lot nearer to the front lot line nor nearer to the side lot lines than the building setback lines shown on the recorded plat referenced above. Front setbacks shall be thirty (30) feet, sideline setbacks shall be ten (10) feet, and rear setbacks shall be thirty (30) feet; EXCEPT for corner lots which shall be thirty (30) feet from any property line. Setback lines stated in restrictions supersede all setback lines on plat. Any such building shall face toward the front line of the lot except buildings to be constructed on corner lots, which shall face in the direction designated by the Developer/Architectural Committee. No building shall be located nearer to any interior side lot line than the distance as determined and directed by applicable building/zoning codes and ordinances or as stated herein or on any recorded plat, whichever distance may be greatest.

6. **APPROVAL OF BUILDING PLANS/SITE LOCATIONS & SPECIAL CONDITIONS.**

- A. No building or structure, whether it is the dwelling house or garage shall be erected, placed or altered on any lot until the building plans, elevations, location, specifications have been approved in writing by the Developer or its nominee. If such shall not be approved or disapproved within 30 days after being submitted, then such approval shall not be required, provided, however, the design and location of the proposed construction shall conform to the specific building requirements stated herein and otherwise be in harmony with the existing structures in the subdivision. Disapproval of plans, elevations, location or specifications may be based purely upon aesthetic reasons in the sole discretion of the Developer or its nominee.
- B. The completion of improvements upon a lot shall include the professional landscaping of the yard, including the grassing or sodding of the yard and the planting of shrubs and/or decorative plants or bushes along the front elevation of the dwelling.
- C. The front elevation of the dwelling house foundation must be a minimum of 12" inches above the finished grade of the front yard.
- D. All garages shall be equipped with a door and automatic door openers.

- E. All homes must have 75% brick, stucco, stone, hardi-board, or heavy vinyl shake exteriors. Design of house will determine the percentage of brick, stucco, stone, hardi-board, or heavy vinyl shake exterior required. The minimum roof pitch shall be no less than 9/12 pitch on the main section of the structure; however, other gables on the house may be required to have more of a roof pitch if it would improve the appearance of the house. Roof must be covered by architectural shingles. The percentage of brick, stucco, stone, hardi-board, or heavy vinyl shake exterior and gable roof pitch will be determined by the Developer or Architectural Committee.
7. **PROHIBITED BUILDING MATERIALS.** Concrete Blocks, cement bricks or concrete walls shall not be used in the construction of any building or garage unless the exterior of same is faced with brick or stone approved by Developer or Architectural Committee. NO stucco foundations are permitted, unless approved in writing by Developer or its nominee.
8. **TRAILERS AND MOBILE HOMES PROHIBITED.** Trailers and mobile homes, including typical double-wide or triple-wide mobile homes, are absolutely prohibited. Furthermore, no residence or building may be moved from another location and placed or allowed to remain on any lot. No Modular or prefabricated homes shall be allowed.
9. **REQUIREMENTS FOR DRIVEWAYS.** All temporary driveways (during construction) must have GRAVEL to prevent mud on the subdivision streets. Owner/Builder will be responsible for removing any mud on subdivision streets placed by them or their subcontractors, suppliers, etc. Owner/Builders to comply with county ordinances for sediment control of lot during construction. All final driveways shall be constructed of concrete and shall be maintained by the owner of a lot in a good state of repair and suitable appearance. Where driveways from a lot intersect with the public street, said driveway will abut the existing "rolled" curb, thereby keeping the "rolled" curb in tact and undamaged. If during construction or otherwise, curb or pavement adjacent to a construction site is broken, removed or otherwise damaged, the owner of the lot upon which such construction or work is being done shall bear the cost of replacing or repairing such damage to the satisfaction of the Developer or Architectural Committee.
10. **DEVELOPER'S DISCLAIMER.** DEVELOPER SHALL NOT BE LIABLE TO ANY OWNER OR ANY OTHER PERSON ON ACCOUNT OF ANY CLAIM, LIABILITY, DAMAGE OR EXPENSE SUFFERED OR INCURRED BY OR THREATENED AGAINST ANY OWNER OR SUCH MATTER OR ANY REVIEW, ACCEPTANCE, INSPECTION, PERMISSIONS, CONSENT OR REQUIRED APPROVAL WHICH MUST BE OBTAINED FROM THE DEVELOPER, WHETHER GRANTED OR DENIED.

11. **GENERAL EASEMENTS.** Developer reserves an easement of five (5') feet inside each side and ten (10') feet on the front and rear of each lot for the installation, maintenance and repair of utilities, sewer lines, and/or storm drainage facilities. Furthermore, certain lots shall be subject to an additional easement for drainage purposes as will be shown upon a duly recorded plat of Coal Creek. All utility service lines, including cable television, telephone, gas, electric or other utility, from existing streets shall be installed underground to any dwelling or other structure upon a lot.
12. **FENCING.** No chain link or vinyl coated chain link fencing will be allowed. Acceptable fencing materials are: wrought iron, vinyl, or salt treated wood. All wood materials must be stained and sealed. No fence shall exceed (6') six feet in height. Fencing shall be permitted on any lot from the rear corner of the residence erected thereon to the rear of the lot. No fencing of any kind shall be installed or allowed to remain on any lot, which shall interfere, damage or obstruct the installation or maintenance of any utility. On corner lots, no fence shall be erected any nearer to thirty (30) feet of any property line. No portable fencing (including dog pens) shall be allowed. All fencing must be approved in writing by Developer or its nominee. After the fencing materials have been approved, Homeowner must place four flags at the proposed fence corners and the Developer or its nominee must approve the site location BEFORE any installation begins.
13. **BUSINESS ACTIVITIES PROHIBITED.** No commercial operations, business operations, manufacture or production shall be permitted upon any lot. The selling, showing or marketing from a lot of any kind of goods, products or apparel is expressly prohibited. The provisions of this item shall not be construed to prohibit the making of handcrafted items for occasional off premises sale.
14. **NUISANCES AND OFFENSIVE ACTIVITIES.** No nuisance or other noxious, offensive, unsightly or unsanitary activity or condition shall be conducted or allowed to exist on any lot or the adjoining street or streets. No burning shall be allowed on any lot unless supervised by the Builder/Owner.
15. **PARKING OF BOATS AND RECREATIONAL VEHICLES.** All camping trailer, boat, boat trailers, or other similar recreational vehicle shall be stored in the rear portion of the lot. No inoperable motor vehicle, wrecked vehicle or motor vehicle not currently licensed shall be parked in the street right-of-way or be kept on any lot in the subdivision unless stored in an enclosed garage. No street parking shall be allowed on a regular basis. Also, no buses, trucks or trailers other than pickup trucks not to exceed three-quarter (3/4) ton in size, shall be parked on a lot or in the street right-of-way, except for loading and unloading. Further, no portion of a lot shall be used for the operation of any non-licensed motorized vehicles such as motorcycles, mini-bikes, go-carts, four wheelers or similar vehicles.

16. **PORTABLE OR METAL BUILDINGS PROHIBITED.** Portable buildings, metal storage buildings or other similar off-site constructed storage buildings are prohibited. All buildings must conform to and be in harmony with the residence structure.
17. **SWING SETS.** Swing sets, sandboxes, gym sets and any such similar devices or structures primarily for children's use and enjoyment must be located on the rear portion of a lot.
18. **POOLS:** No above ground swimming pools shall be permitted. In ground swimming pools are acceptable provided they are located on the rear portion of the lot, staying within all other guidelines and setback requirements herein stated. All pools must be enclosed with a fence that is in compliance with paragraph 12.
19. **NO TEMPORARY RESIDENCES.** No garage or hobby-type/storage building shall be used at any time as a residence, either temporarily or permanently, nor shall any structure of a temporary character be used as a residence.
20. **ANIMALS.** No domestic fowl, cows, hogs, mules, horses, wild animals or any other farm-type animals shall be kept on any lot at any time. However, household pets, such as cats and dogs, may be kept on a lot, provided such pets shall not exceed a total of two (2) in number and provided further that the owner thereof shall be responsible for the control and conduct of such household pets so that they are not an annoyance, hindrance or nuisance to their neighbors.
21. **TRASH RECEPTACLES.** All receptacles for trash or garbage must be kept within a fenced or enclosed area and hidden from public view and the view from adjoining property.
22. **SCREENING OF YARD EQUIPMENT.** Lawn mowers or other lawn maintenance equipment shall be kept in a screened or an enclosed area so as to not be visible from any street or adjoining property.
23. **TELEVISION ANTENNA AND SATELLITE DISHES.** No roof-mounted or chimney-mounted television antenna is permissible. If available, the Direct Broadcasting Satellite (DBS) television system or equivalent technology or system will be allowed, as long as the satellite receiving dish or apparatus does not exceed eighteen (18") inches in diameter and is affixed to the rear of the roof or any eave of the dwelling.

24. **COMPLETION OF IMPROVEMENTS.** All houses and other structures related thereto must be completed within one (1) year after the commencement of construction, except where such completion is impossible due to strikes, fires, national emergency or other natural calamity. Lots shall be maintained in a neat and attractive manner after and until improvements have been completed.
25. **COVENANT OF GOOD APPEARANCE AND REPAIR.** Each lot owner shall maintain his lot and the exterior of all improvements in neat appearance and good repair in order to assure that no condition exists which would diminish the appearance of the property. Every owner of a vacant or unimproved lot shall keep such lot free of debris and unsightly underbrush, weeds or other unsightly vegetation. In the event that an owner shall fail to maintain a lot in a good state of repair and appearance, the Developer and/or Coal Creek Homeowners Association, Inc., or their agents or employees, shall have the right to maintain same and charge the cost thereof to the owner, but no work shall be done without due and proper notice to the owner. THE DEVELOPER, THE ASSOCIATION OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, AGENTS, EMPLOYEES OR MEMBERS SHALL NOT BE LIABLE FOR ANY PERSONAL INJURY OR PROPERTY DAMAGE OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES OCCASIONED BY ANY NON-NEGLIGENT ACT OR OMISSION IN THE INSPECTION, REPAIR, OR MAINTENANCE OF ANY SITE, IMPROVEMENTS OR PORTION THEREOF.
26. **SIGNS.** No signboards or other signs of any kind shall be displayed on any lot except a single "For Sale" and a builder's sign, or a single "For Rent" sign unless approved by the Developer or Architectural Committee. No sign shall be more than thirty inches (30") by thirty inches (30") in size; however, the Developer shall have the right to use additional signs for development of the property. The space designated as "Common Area" shall be exempt from this provision in that the subdivision identification sign will be located thereon.
27. **STREET LIGHTS.** If the Developer installs street lighting, the cost and expense of operation will be transferred to the Homeowners Association at any time after October 1, 2005.
28. **MAINTENANCE OF STREET RIGHT-OF-WAY.** The owner of a lot shall be responsible for the planting and maintaining of the area from the property line to the edge of the pavement or curb of the street or streets upon which said lot abuts.
29. **FUEL TANKS.** All fuel tanks or containers shall be buried underground, or enclosed in a structure, in a manner consistent with normal safety precautions and in accordance with the rules and regulations of appropriate governing bodies or agencies or the South Carolina Department of Health and Environmental Control, whichever the case may be. Any structure to be constructed for this purpose must be of acceptable appearance and approved by the Developer/Architectural Committee in accordance with its building approval procedure as above set forth.

30. **MAIL RECEIPTACLES.** Owner will be required to purchase and use a mailbox designed especially for Coal Creek Subdivision, upon completion of residence.

31. **EFFECT OF COVENANTS AND ENFORCEMENT.**

A. **Who May Enforce.** The benefits and burdens of these covenants run with the land at law and in equity, and the Developer, his respective successors, assigns, and any owner, his heirs, successors, legal representatives, Personal Representatives and assigns shall have the right to proceed against any party in violation of these covenants and to compel a compliance to the terms hereof and to prevent the violation or breach in any event.

B. **Against Whom May the Covenants be Enforced.** The obligation and benefits prescribed by this instrument shall run with the property and shall be enforceable against the owner, his heirs, successors and assigns, or any other person whose activities bear a relation to the property, including guests and tenants when the aforesaid persons or entities engage in activities (including omissions and failures to act) which constitute violations or attempts to violate, contravene or circumvent the terms hereof.

C. **Enforcement Remedies.** In addition to other enforcement rights mentioned herein, in the event that any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any structure or land use is in violation of these covenants, the Developers, its successors and assigns, the Association or any owner may institute appropriate legal proceedings or actions at law or in equity, including, but not limited to, actions: (1) to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; (2) to restrain, correct or abate such violation, or breach of these covenants; (3) to prevent the occupancy of any dwelling or land; (4) to prevent any act, conduct business or use which is in breach of these covenants; or (5) to compel any affirmative act which, pursuant to these covenants, "shall", be performed. Any action in equity hereunder for the enforcement hereof shall not be barred on the grounds that there may also exist an adequate remedy at law. The prevailing party in any action to enforce these restrictions shall also be entitled to reasonable attorney fees against the other party.

32. **MISCELLANEOUS.**

A. **No Waiver.** Failure to enforce any provision or provisions of this instrument for any period of time by the Developer, the Association or any owner shall not be deemed a waiver or estoppel of the right to enforce same at any time thereafter.

B. **Board Authorization.** All actions of the Association shall be authorized actions if approved by the Board of Directors of the Association in Accordance with its By-laws, unless terms of this instrument provide otherwise.

- C. **Gender, Tense, Number and Applicability of Definitions.** When necessary for proper construction, the masculine form of any word used herein shall include the feminine or neuter gender, and the singular, the plural, and vice versa, and words used in the present tense shall include the future tense.
- D. **Savings Clause.** If any provision or provisions of this instrument are found to be ineffective or unenforceable for any reason in the final judgement of any court having jurisdiction of the subject matter hereof, the remaining provisions hereof shall remain fully enforceable and binding upon the owners, their respective heirs, successors or assigns.
- E. **These Protective Covenants and Conditions and any by-laws** approved by the Homeowners Association shall be binding upon all lot owners in this subdivision. The Homeowners Association shall have the right to assess maintenance fees and improvement charges against lots and each owner, by the acceptance of a deed therefor, whether expressly written in the deed, shall be bound to pay such assessments and charges to the association.

HOMEOWNERS ASSOCIATION AND VOTING RIGHTS. A Homeowners Association shall be established by the Developer. Assessments to support the purpose of the Association will be imposed upon the lot owners. The Developer shall collect homeowner's association dues at the time of sale for each lot. The initial annual assessment for each lot relating to street lights maintaining common areas (buffer areas) and managing the affairs of Coal Creek Homeowners Association will be \$200.00 per year. It is full responsibility of property owner to pay Homeowners Association dues of \$200.00 per year, thereafter.

The Association shall have two (2) classes of voting membership as follows:

Class A. Class A members shall be all those Owners defined in Paragraph 1 (E) with the exception of the Developer. Class A members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Paragraph 1. When more than one person holds such interest or interest in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

Class B. Class B members shall be the Developer and shall be entitled to two (2) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either one of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in Class A membership equals or exceeds the total votes outstanding in Class B membership; or

33. **PROPERTY RIGHTS IN THE COMMON PROPERTIES.**

- A. **Restrictions on Common Areas.** The parcels of real property included as part of the Common Properties are to be maintained solely as landscaped and/or beautification areas or for identification signs for Coal Creek. No other use or improvements are to be made to said real property without the express written permission of the Developer, and Developer expressly reserves easement rights upon these parcels for installation of underground utilities, landscaping or maintenance.
- B. **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the lot owners in Coal Creek and in particular shall be used for the payment of costs and expenses, including, but not limited to, the following:
- (1) Expenses for the maintenance, upkeep and improvements of the Common Properties.
 - (2) Payment for services in connection with the maintenance, upkeep and improvements to the Common Properties, including utilities, taxes, water usage and other related reasonable and necessary expenses.
 - (3) Maintenance, upkeep, repair and/or replacement of the sprinkler systems within the Common Properties
 - (4) For the payment of services for any street lighting undertaken and accepted by the Association.
 - (5) For the payment of expenses related to the upkeep, maintenance and replacement of signs within Coal Creek identifying the subdivision, containing street names or other safety signs, if any.
 - (6) For any other purpose, costs or expense reasonably related to the performance of any duty or responsibility of the Association as determined by the Board of Directors of said Association in accordance with the By-Laws and these restrictions.
- C. **Change in Basis and Maximum of Annual Assessments.** The Association may change the maximum and basis of the assessments for any such period provided that any such change shall have the assent of Eighty percent (80%) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

D. **Date of Commencement of Annual Assessments; Due Dates:** The annual assessments provided for herein shall commence on October 1, 2005 of each year. The annual assessments provided for herein shall begin and become due and payable at time of lot closing and on October 1, 2005 of each year thereafter. The Developer agrees to maintain the Common Properties in a good state of repair and operation, with initial assessments and transfer any balance to Homeowners Association after October 1, 2005.

34. **TERM OF ENFORCEMENT AND AMENDMENTS.** These covenants, conditions, easements and restrictions shall be binding upon the Developer, its successors and assigns, and upon all future owners, their respective heirs, successors and assigns and all parties claiming under them, until October 1, 2005, at which time the terms hereof shall be automatically extended for successive periods of ten (10) years thereafter, unless the then owners owning at least two-thirds (2/3) of the Lots in Coal Creek agree in writing to terminate or change same. The terms and conditions of this instrument may be amended or changed only upon written agreement of the then Owners owning at least two-thirds (2/3) of the Lots in Coal Creek. Notwithstanding anything herein to the contrary, the Developer, its successors and assigns, reserves the right to waive, modify or change in writing, any of the items hereof with respect to the application thereof to a lot based upon special, unique or unusual circumstances, but no such waiver, modification or change shall substantially affect the overall plan of development.

IN WITNESS WHEREOF, the undersigned has set its hand and seal this 28 day of September, 2004.

Teressa M. Messer

Teressa M. Messer

LANDMARK DEVELOPERS, INC.

Jim W. Brannen
BY: Vice-President

State of South Carolina)

)

PROBATE

County of Spartanburg)

Personally appeared before me the undersigned witness and stated that (s)he saw the within named Landmark Developers, Inc. by Jim W. Brannen its Member, sign, seal and execute the within Declarations of Protective Covenants, Conditions, Restrictions and Easements and (s)he with the other witness subscribed above witnessed the execution thereof.

Sworn to and subscribed before me

This 28th day of Sept., 2004

Teressa M. Messer

Notary Public State of South Carolina

My Commission Expires 2/24/07

Jim W. Brannen

**BY-LAWS OF
COAL CREEK HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I
NAME AND LOCATION**

The name of this organization shall be "Coal Creek Homeowners' Association, Inc." hereinafter referred to as the "Association". The principle office of the Association shall be located in the County of Spartanburg, State of South Carolina.

**ARTICLE II
DEFINITIONS**

Section 2.1: "Association" shall mean and refer to the Coal Creek Homeowners' Association, Inc., its successors and assigns.

Section 2.2: "Board of Directors" shall mean and refer to the executive body of a homeowners' association or a committee that exercises the power of the executive body by resolution or bylaw.

Section 2.2: "Properties" or "Coal Creek" shall mean and refer to the real property described in the Declaration of Covenants Conditions and Restrictions of Coal Creek Subdivision as amended from time to time, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 2.3: "Community Common Properties" or "Common Area(s)" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 2.4: "Residential Lot" or "Lot" shall mean any unimproved parcel of land located within the properties, with the exception of the Community Common Properties, which is intended for use as a site for a single family detached dwelling.

Section 2.5: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.6: "Declaration" shall mean and refer to the Declaration of Covenants Conditions and Restrictions of Coal Creek Subdivision, as amended from time to time, applicable to the Properties and recorded in the Office of the Register of Deeds for Spartanburg County, South Carolina.

Section 2.7: "Member" shall mean and refer to those persons entitled to membership in the Declaration – which generally consists of the Owner of every Lot in Coal Creek Subdivision.

Section 2.8: "Assessment" shall mean and refer to a sum of money payable to the association, to the developer or other owner of common areas, or to recreational facilities or other properties serving lots or units by the owners of one or more lots or units as authorized in governing documents.

ARTICLE III

PURPOSE

The purpose of the Association shall be to provide a collective government form of administration for the Owners of Lots in a residential community known as "Coal Creek" located in Boiling Springs, South Carolina; to enforce and interpret the provisions of "Coal Creek" Declaration and rules and regulations enacted by the Developer and Association for recreational, social and aesthetic development and maintenance of "Coal Creek"; to provide for the acquisition, construction, management, maintenance and care of the Association Property including creeks, common area(s) and other improvements for the benefit of the Owners of residences, of residence lots in "Coal Creek".

ARTICLE IV

MEETINGS OF ASSOCIATION MEMBERS

Section 4.1 - Annual Meetings: The first annual meeting of the Members shall be held within one (1) year from the date of Incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held approximately the same month of each year thereafter, at a time and location determined by the Board of Directors. All meetings of Members shall be conducted according to the most current edition of Robert's Rules of Order.

Section 4.2 - Special Meetings: Special meetings of the Members may be called at any time by the President of the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes of the Members.

Section 4.3 - Notice of Meetings: The Secretary of the Board of Directors, or person authorized to call a meeting, shall, at least twenty-one days (21) in advance of an annual or regularly scheduled meeting and/or at least ten (10) days in advance of any other type meeting, shall send notice of the meeting to each Member entitled to vote thereat. The notice must contain the time, place and purpose(s) of such meeting, including the general nature of proposed amendments to the Declaration, By-Laws, budget change(s) and/or proposal to remove a member of the Board of Directors. Notice must either be personally delivered to all Members, sent by United States postage, prepaid mail to each Lot or mailing address, or to an address otherwise specified in writing by the Member, or sent by electronic means to an address specified in writing by the Member. Notice must also be conspicuously posted no less than forty-eight (48) hours in advance of the meeting in a common area that is reasonably calculated to be available to the majority of the members.

Section 4.4- Quorum: The presence of the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of Membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 4.5 - Proxies: At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with a member of the Board of Directors not later than the start of any meeting. A Member may choose a member of the Board of Directors as the principle of his/her proxy. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his/her Lot.

Section 4.6 - Voting: Each Member in good standing, including members of the Board of Directors, shall have such voting rights as are described in and consistent with the Declaration, which is incorporated herein and reference thereto. Owners shall be entitled to one (1) vote for each Lot owned, regardless of the number of lots used to create one residence. When title to a Lot is vested in two or more persons jointly, the vote shall be exercised as they among themselves determine but in such case not more than one (1) vote shall be cast per Lot owned.

ARTICLE V

BOARD OF DIRECTORS

Section 5.1 – Initial Directors: The Developer turned over control to the Association and its Members at the initial meeting. An Initial Board of Directors was selected at that meeting. At such time they initiated a Board of Directors that shall continuously be comprised only of Members of the Association.

Section 5.2 – Number of Board Members: The Board of Directors shall consist of three (3) officers who are elected and shall manage the affairs of the Association. The three (3) officer positions are President, Vice-President and Secretary/Treasurer.

Section 5.3– Compensation: No member of the Board of Directors shall receive compensation for any service he/she may render to the Association. However, any member of the Board Directors may be reimbursed for his/her actual expenses incurred in the performance of his/her duties.

Section 5.4 – Term of Office: Each member elected into a position of the Board of Directors shall serve at least a term of one (1) year in the designated position. Any member of the Board of Directors can be re-elected for a current position held or elected into another position at the annual meeting of the Association.

Section 5.5 – Nominations: Nominations for elections of Board of Directors members can be submitted in writing or verbally by any Member in good standing of the Association to the Board of Directors. Nominations may also be made from the floor at the annual meeting.

Section 5.6 – Elections: Members of the Board of Directors shall be elected at the annual meeting of the Members by written or verbal ballot. At such election, the Member or their proxies may cast, in respect to each vacancy, one vote per Lot. The persons receiving the largest number of votes shall be elected into the specific Board of Directors positions.

Section 5.7 –Removal: Any member of the Board of Directors may be removed at any time by a majority vote of the Members of the Association. In the event of death, resignation or removal of a member of the Board of Directors, his/her successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his/her predecessor.

ARTICLE VI

MEETINGS OF THE BOARD OF DIRECTORS

Section 6.1– Regular Meetings: Regular meetings of the Board of Directors shall be held at least quarterly without notice, at such place and hour as determined by the Board of Directors.

Section 6.2 – Special Meetings: Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two members of the Board of Directors, after not less than three (3) days notice to each member of the Board of Directors.

Section 6.3 – Quorum: A majority number of members of the Board of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the members of the Board of Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 6.4–Member Attendance at Board of Directors’ Meetings: Meetings of the Board of Directors, including Sub-Committees, are open to all Members of the Association. This requirement does not apply to meetings between the Board of Directors and its attorney with respect to proposed litigation where the content of the discussion would otherwise be governed by attorney-client privilege. Members have the right to attend all meetings of the Board of Directors and to speak for a reasonable amount of time on a matter placed on the agenda. The Board of Directors may adopt reasonable rules to govern the rights of the Members to speak and the frequency and duration of Member statements.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

The Board of Directors shall be the principle executive officers of the Association. They shall supervise and control the management of the Association and those employed by the Association. These three (3) officers may exercise for the Association all powers, duties and authority vested in or delegated to this Association. They shall be given the power to sign all leases, contracts and/or agreements necessary for the Association.

Section 7.1 – Powers: The Board of Directors shall have power to:

- a) adopt and publish rules and regulations governing maintenance and the use of the Common Areas;
- b) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws;
- c) declare the position of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- d) employ agents, independent contractors, or such other employees as they deem necessary, and prescribe their duties;
- e) employ attorneys and accountants to advise, serve and represent the Association when deemed necessary;
- f) grant easements for the installation and maintenance of sewer or water lines and other utilities or drainage facilities upon, over, under and across Common Areas with the assent of the Members when such easements are requisite for the convenient use and enjoyment of the Property;
- g) appoint and remove at pleasure all agents and employees of the Association, prescribe their duties, fix their compensation and require them such security or fidelity bond as it may deem appropriate;
- h) do anything necessary or desirable including, but not limited to, establishing any rules or regulations which the Association deems necessary to carry out the purpose of the Association as set forth herein or as permitted by law;

- i) enforce the provisions of the Declaration and any additional supplementary declaration(s) and any rules and regulations made hereunder or there under and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules; and/or
- j) levy assessments as more particularly set forth in the Declaration.

Section 7.2– Duties: It shall be the duty of the Board of Directors to:

- a) maintain and preserve complete and accurate books, accounts, and records in the state of South Carolina as may reasonably be required to determine if the association is compliance with regulations. The books, accounts, and records must be maintained in accordance with generally accepted accounting principles, be apart and separate from another business in which the organization is involved, and retained for at least three years;
- b) at a minimum, each of the following items, as applicable, must be maintained and held in a place easily accessible to the Members:
 - (i) a copy of plan, specification, permit, or warranty related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace;
 - (ii) a copy of the association's declaration, bylaws, articles of incorporation, rules, and any amendments to them;
 - (iii) the minutes of all meetings of the board of directors and of the members;
 - (iv) a current roster of all members, their mailing addresses, and lot or unit identifications. The association also shall maintain the electronic mailing address or alternate mailing address designated by members to receive notice.
 - (v) all of the association's insurance policies or a copy of them;
 - (vi) a current copy of all contracts to which the association is a party, including management agreement, lease, or other contract under which the association has an obligation or responsibility;
 - (vii) a copy of a bid received by the association in the past year for work to be performed;
 - (viii) a copy of the association's annual budget for the past three years; and
 - (ix) the financial and accounting records of the association, including records of receipts and expenditures, a current accounting for each member, association tax returns, and financial reports.
- c) evaluate and analyze the amount of the assessments;
- d) send written notice of each assessment to every Owner subject thereto before its due date;
- e) procure and maintain adequate liability insurance covering the Association and the Board of Directors and adequate hazard insurance on the property owned by the Association;
- f) cause members of the Board of Directors or employees having fiscal responsibilities to be bonded as it may deem appropriate; and/or
- g) cause the Common Areas to be maintained.

Section 7.3 – Liability of the Board of Directors: The members of the Board of Directors shall not be liable to the Members of the Association for any mistake, judgment, negligence or otherwise except for:

- a) a breach of the member of the Board of Director's duty of loyalty to the Association or Members;
- b) their own willful misconduct or bad faith; and/or
- c) for any transaction from which a member of the Board of Directors derived an improper personal benefit.

The Members shall indemnify and hold harmless each of the members of the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal

liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Member(s).

ARTICLE VIII

BOARD OF DIRECTORS OFFICERS AND THEIR DUTIES

Section 8.1–Election of Officers: The Board of Directors is elected as outlined in Article V, Section 5.6 of these Bylaws.

Section 8.2 – Special Appointment(s): The Board of Directors may elect or appoint such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board of Directors may, from time to time, determine.

Section 8.3–Resignation and Removal: Any member of the Board of Directors may be removed from office with or without cause as outlined in Article V, Section 5.7 of these Bylaws.

Section 8.4– Vacancies: A vacancy of any office may be filled by appointment by the Board of the Directors. Any Member appointed to such vacancy shall serve for the remainder of the term of the officer he/she replaces.

Section 8.5 – Holding Multiple Offices Simultaneously: The offices of Secretary/Treasurer may be held by the same person. No person shall simultaneously hold more than one of the other offices, except in special offices created pursuant to Section 8.2 of this Article.

Section 8.6 – Duties of Board of Directors Officers: The duties of each officer of the Board of Directors are as follows:

- a) The President shall:
 - (i) Preside at all Board of Directors meetings;
 - (ii) Preside at all Association Membership meetings; and
 - (iii) See that orders and resolutions of the Board of Directors are carried out.
- b) The Vice-President shall:
 - (i) Act in the place and stead of the President in the event of his/her absence, inability or refusal to act;
 - (ii) Exercise and discharge such other duties as may be required of him/her by the Board of Directors.
- c) The Secretary/Treasurer shall:
 - (i) Record the votes and keep the minutes of all meetings and proceedings of the Members;
 - (ii) Serve notice of the meetings of Members;
 - (iii) Keep appropriate current records showing the Members of the Association including their contact information;
 - (iv) Receive and maintain copies of the financial reports provided by the management company or any other individual charged with that duty;
 - (v) Provide financial reports at each Board of Directors meeting and as requested by any member of the Board of Directors or of the Association Membership;
 - (vi) Any other duties required by the Board of Directors.

ARTICLE IX

ASSESSMENTS

Section 9.1 – Association Membership Assessment(s): Each Owner of any Lot in “Coal Creek” by acceptance of a deed thereof, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay the Association:

- a) Annual Assessments and/or Charges; and
- b) Special Assessments for Capital Improvements or other Association needs.

Section 9.2– Use of Assessment(s): The assessment levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents in “Coal Creek” and for the improvement and maintenance of the Common Area(s).

Section 9.3 –Purpose of Assessment(s): The purpose of the assessments is in accordance with the Declaration as outlined below:

- a) Expenses for the maintenance, upkeep and improvements of the Common Area(s);
- b) Payment for services in connection with maintenance, upkeep and improvements to the Common Area(s), including utilities, taxes, water usage and other related reasonable and necessary expenses;
- c) Maintenance, upkeep, repair and/or replacement of the sprinkler systems within the Common Area(s);
- d) Payment of services for street lighting undertaken and accepted by the Association;
- e) Payment of expenses related to the maintenance, upkeep and replacement of signs within “Coal Creek” identifying the subdivision, containing street name or other safety signs, if any; and
- f) Any other purpose, costs or expenses reasonably related to the performance of any duty of responsibility of the Association as determined by the Board of Directors.

Section 9.4 – Collection of Assessment(s): It is the full responsibility of each Association Member/Owner to pay the applicable annual assessment by the designated due date. No Owner may waive or otherwise escape liability for the assessments provided therein by non-use of the Common Area or abandonment of his/her Lot.

Section 9.4 – Change in Basis and Maximum of Annual Assessments: In accordance with the Declaration, the Association may change the basis and maximum of the assessments for any such period provided that any such change shall have the assent of eighty percent (80%) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

ARTICLE X

BOOKS AND RECORDS

Section 10.1–Accessibility of Association Records: The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member of the Board of Directors or Member of the Association.

Section 10.2 – Dividends and Finance: This is a non-profit association and no dividends shall ever be declared. The books and accounts of the Association shall be audited annually by the Board of Directors.

ARTICLE XI
SUB-COMMITTEES OF THE BOARD OF DIRECTORS

The Board of Directors may elect a Sub-Committee at any time upon request of any Member of the Association or the Board of Directors as deemed appropriate for carrying out specific needs deemed appropriate.

The following Sub-Committees are currently established:

- a) Architectural Review Committee: This sub-committee is responsible for approving any requested land improvements to existing and new construction homes and landscaping. The sub-committee must adhere to the Declaration for specific details in making decisions to approve/disapprove submitted plans.

ARTICLE XII
AMENDMENTS TO BY-LAWS

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by a two-thirds (2/3) vote of the Board of Directors and a two-thirds (2/3) vote all Association Members entitled to vote and in good standing, at any regular or special meeting at which a quorum is present, provided that at least ten (10) days written notice is given to the Board of Directors and Association Members of the intention to alter, amend or repeal or to adopt new By-Laws at such meeting.

ARTICLE XIII
MISCELLANEOUS

Section 13.1 – Compliance With Other Governing Documents: These By-Laws are intended to comply with the requirements of the Declaration. In the event any of the By-Laws conflict with the provisions of the Declaration, the provisions of the Declaration shall apply, unless variances are permitted, in which case the provisions of the By-Laws shall apply.

Section 13.2 – Compliance with State: For any other matters not specifically addressed or outlined in these By-Laws, the “Coal Creek Homeowners’ Association, Inc.” will maintain compliance with the current and effective version of the South Carolina Homeowner’s Association Act (S.819).

Section 13.3–Fiscal Year of Association: The fiscal year of the Association shall begin on the first day of January and end on the last day of December of every year.

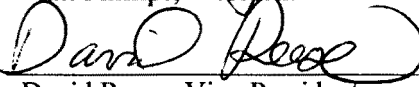
These By-Laws are hereby certified to be the By-Laws of Coal Creek Homeowners’ Association, Inc.



Matt Phillips, President

11 MAY 14

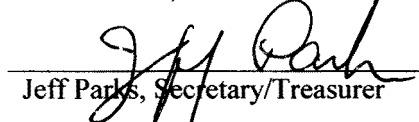
Date



David Reese, Vice-President

5-11-14

Date



Jeff Parks, Secretary/Treasurer

5-11-14

Date