

Berkeley County
Cynthia B. Forte
Register of Deeds
Moncks Corner 294616120

00008957 Vol: 7885 Pg: 302



53 2009 00008957

Instrument Number: 2009- 00008957

As

Recorded On: April 29, 2009

Restrictive Covenants

Parties: FELDER CREEK PHASE I PROPERTY OWNERS AS

To

FELDER CREEK PHASE I

Billable Pages: 7

Recorded By: KRAWCHECK & DAVIDSON

Num Of Pages: 12

Comment:

**** Examined and Charged as Follows: ****

Restrictive Covenants	17.00
Recording Charge:	17.00

**** THIS PAGE IS PART OF THE INSTRUMENT ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Berkeley County, SC

File Information:

Record and Return To:

Document Number: 2009- 00008957
 Receipt Number: 225852
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KRAWCHECK & DAVIDSON
 9 STATE STREET
 CHARLESTON SC 29402



Cynthia B. Forte

Cynthia B Forte - Register of Deeds

STATE OF SOUTH CAROLINA) FIRST AMENDMENT TO THE DECLARATION OF
) COVENANTS CONDITIONS AND RESTRICTIONS
 COUNTY OF CHARLESTON)
 Berkeley) FOR FELDER CREEK, PHASE I

WHEREAS, the Declaration of Covenants Conditions and Restrictions for Felder Creek, Phase I was recorded at the Office of the Register of Mesne Conveyance for Berkeley County on July 11, 2005 at Book 4831, Page 0111(the "Covenants"); and

WHEREAS, Section 11.5 provides that the Covenants may be amended by an affirmative vote or written consent or any combination thereof of the Owners owning at least one-half (1/2) of the Lots; and

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that Owners, in accordance with section 11.5 of the Covenants, have approved or consented to the Amendment to the Covenants as follows:

1. Section 7, Subsection 7.3 shall be amended so that after amendment it will read as follows:

7.3 Architectural Standards for Improvements to Lots. All Improvements in Felder Creek, Phase I shall comply with all federal, state, and county building requirements and/or codes. An Architectural Review Committee (the "ARC") shall be appointed by the Board of Directors of the Association to regulate improvements. The ARC shall consist of three (3) members and each member shall serve a one (1) year term.

No Owner shall repair an existing dwelling, make additional improvements to an existing dwelling which result in a change in the exterior appearance of such dwelling or add new improvements to a Lot without the prior written approval of the ARC. Such additions, repairs or improvements include, but are not limited to, fences, utility buildings and play equipment over eight (8') feet tall.

Approval under this Subsection requires a majority vote of the members of the ARC and must be given or denied within thirty (30) days of receipt of written request by the Owner.

2. Section 7, Subsection 7.5.2 shall be amended so that after amendment it shall read as follows:

Boats, jet skis, open or closed utility trailers, campers, recreational vehicles, motor homes, travel trailers, mobile homes, and tents shall not be used by any Owner or Occupant for personal occupancy no matter how temporary. All vehicles listed herein shall be stored overnight in the Owner's or Occupant's garage or backyard behind a privacy fence which is at least six (6') feet tall.

RETURN TO:
 Krawcheck & Davidson
 9 State Street
 Charleston, SC 29401

- 3. Section 7, Subsection 7.5.5 shall be added so that after addition it shall read as follows:

All motor vehicles including but not limited to cars, trucks, SUVs or motorcycles must be parked overnight in the Owner's or Occupant's driveway, garage, or in their backyard behind a privacy fence which is at least six (6') feet tall.

- 4. Section 7, Subsection 7.9.1 shall be amended so that after amendment it shall read as follows:

All Owners or Occupants keeping pets will be required to remove their pet's waste from all Common Property and Lots. Any violation of this provision will result in the Owner being fined Twenty-Five (\$25.00) dollars per incident by the Association.

- 5. The Covenants are amended by the inclusion of Exhibit "A", attached hereto and made a part hereof, which represents the Bylaws of Felder Creek, Phase I Property Owners' Association, Inc.
- 6. All other provisions of the Covenants will remain in full force and effect.

IN WITNESS WHEREOF, Felder Creek, Phase I Property Owners' Association, Inc. has caused this instrument to be executed this 2nd day of April, 2009.

WITNESSES:

Felder Creek, Phase I Property Owners' Association, Inc.

Chris Koenig
Witness 1

By: *Bruce Kellin*
Its: President

John Kereens
Witness 2

By: *Cicely Moore*
Its: Secretary

Diana M. Dunn
Witness 1

John C. Washington
Witness 2

Exhibit "A"

BY-LAWS FELDER CREEK
HOMEOWNERS ASSOCIATION

ARTICLE 1

Name and Location. The name of the corporation is FELDER CREEK I HOMEOWNERS ASSOCIATION hereinafter referred to as the "Association". The principal office of the corporation shall be located at 627 Rutledge Ave, Charleston, South Carolina, but meetings of members and directors may be held at such places within the State of South Carolina as may be designated by the Board Directors.

ARTICLE 2
DEFINITIONS

Section a). "Association" shall mean and refer to FELDER CREEK HOMEOWNERS ASSOCIATION, its successors and assigns.

Section b). "Properties" shall mean and refer to that certain real property described in the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section c). "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section d). "Lot/Living Unit" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section e). "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 a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section f). "Declarant" shall mean and refer to Donnie Malphrus, and his successors and assigns.

Section g). "Declarant Control Period" shall mean and refer to the period of time prior to turning the control of the Association over to the residents. The Declarant or Declarants may, at it or their options terminate the Declarant Control Period earlier by written and recorded document.

Section h). "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Berkeley County, South Carolina.

Section i). "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE 3 MEETINGS

Section a). Annual Meetings. The first annual meeting of the members shall be held be within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the member shall be held on a date to be determined at the discretion of the Board provided that the meeting date does not fall on a legal holiday.

Section b). Special Meetings. Special Meetings of the member may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote fifty-one (51%) percent of all of the votes of the membership.

Section c). Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Notice may also be given by facsimile transmission at the number provided by the member. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section d). Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, thirty (30%) percent of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If the required quorum is not present, another meeting may be called, subject to the game notice requirement, and the required quorum at the subsequent meeting shall be one-half ($\frac{1}{2}$) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the day set for the preceding meeting.

ARTICLE 4 BOARD OP DIRECTORS: SELECTION: TERM OF OFFICE

Section a). Number. The affairs of this Association shall be managed by a Board composed of not less than three (3) persons, who need not be members of the Association.

Section b). Term of Office. The initial Board of Directors shall be named by the Declarant in the event a Director resigns or is removed during the Declarant Control Period, then the Declarant shall have the right to appoint a successor. At all times during the Declarant Control Period, the Declarant shall have the right to appoint a majority of the Board of Directors. At the first annual meeting following the expiration of the Declarant Control Period, the members shall elect at least one (1) director for a term of three (3) years, at least one (1) director for a term of two (a) years and at least one (1) director for a term of one (1) year; and at each annual meeting thereafter the members shell elect one or more directors for a term of three (3) years so that a rotation of Board members will occur every year.

Section c). Removal. After the expiration of the Declarant Control Period, any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section d). Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section e). Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE 5 NOMINATION AND ELECTION OF DIRECTORS

Section a). Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the first annual meeting following the expiration of the Declarant Control Period. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members, The Board of Directors may serve as the Nominating Committee.

Section b). Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, 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. Cumulative voting is not permitted.

ARTICLE 6 MEETINGS OF DIRECTORS

Section a). Regular Meetings. Regular meetings of the Board of Directors shall be held at least annually, at such place and hour as may be fixed from time to time by resolution of the Board.

Section b). Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days' notice to each director.

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

ARTICLE 7
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section a). Powers. The Board of Directors shall have power to:

i) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

ii) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(iii) 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 By-Laws, the Articles of Incorporation or the Declaration;

(iv) declare the office 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; and employ managers, independent contractors, or such other employees as they deem necessary, and to prescribe their duties;

(v) appoint an Architectural Review Committee as provided for in the Declaration and other committees deemed to be appropriate in the discretion of the Board;

(vi) adopt architectural and landscaping guidelines for Lots.

Section b). Duties. It shall be the duty of the Board of Directors to:

(i) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by fifty-one (51%) percent of the members who are entitled to vote;

(ii) supervise all officers, agents and employees of this Association and to see that their duties are properly performed;

(iii) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) enforce the lien against any property for which assessments are not paid within sixty (60) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

(iv) issue, or to cause art appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(v) procure and maintain adequate liability and hazard insurance on property owned by the Association. The Association shall have fire and extended coverage insurance for no less than one hundred percent (100%) of replacement cost of Insurable common property.

(vi) cause all officers or employees having fiscal responsibilities to be bonded. The Association shall have fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees or volunteers responsible for handling funds collected and held for the benefit of the lot owners. The fidelity bond or insurance must name **Felders Creek Home Owners Association** as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(vii) The Association shall have a comprehensive policy of public liability insurance covering all of the common property. Such insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of a lot owner because of negligent acts of the Association, or other unit owners. Coverage shall be for at least \$1,000,000 per occurrence for personal injury and/or property damage.

ARTICLE 8

OFFICERS AND THEIR DUTIES

Section a). Enumeration of Offices. The officers of this Association shall be a President and Vice President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section b). Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section c). Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section d). Special Appointments. The Board may elect 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 may from time to time determine.

Section e). Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, 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 f). Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replace.

Section g). Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section d of this Article.

Section h). Duties. The duties of the officers are as follows:

i) President. The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

ii) Vice President. The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

iii) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

iv) Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall

prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE 9 **COMMITTEES**

The Association shall appoint an Architectural Review Committee, as provided In the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose. The Board of Directors may also serve as each Committee.

ARTICLE 10 **BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost.

ARTICLE 11 **ASSESSMENTS**

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) day. after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen (18%) per cent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

ARTICLE 12 **AMENDMENTS**

Section a). These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority or a quorum of members present in person or by proxy.

Section b). In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE 13
MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of **January** and end on the **31st day of December** of the following year, except that the first fiscal Year shall begin on the date of incorporation.

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