



Zoning Board of Appeals

Meeting Minutes – March 23, 2026

CALL TO ORDER

1:40

A meeting of the Zoning Board of Appeals was held in-person on March 23, 2026 at 5:30 p.m.

ATTENDEES

Members in attendance: Kenneth Hoffman, Chairman, Marc Sviland, Vice-Chairman, Kevin Blank, Patrick McMichael, and Parker Moore.

Staff in attendance: Curt Freese, City of Beaufort Community Development Director, and Nick Navia, City of Beaufort Community Development Planner I.

REVIEW OF MINUTES – NOVEMBER 19, 2025

3:03

Motion: Mr. Blank made a motion to approve the November 19, 2025 minutes as submitted. Mr. McMichael seconded. The motion passed unanimously.

All Zoning Board of Appeals meeting minutes are recorded and can be found on the City's website at <http://www.cityofbeaufort.org/AgendaCenter>.

APPLICATIONS

3:28

- A. **10 Battery Point Lane, identified as R120 029 00A 0389 0000**, Variance
Applicant: Michael Holle

The applicant is requesting a variance from Section 2.4.1.C (Accessory Building Placement) in order to build a garage to be placed in the rear yard (facing 89 Bostick Circle) 2 feet from the side property line versus the required setback of 5 feet. The property is further identified as R120 029 00A 0389 0000. The property is zoned T3-Neighborhood District (T3-N).

Nick Navia presented the staff report.

Public Comment

None.

Public comment closed.

Motion: Mr. McMichael made a motion to deny the variance application. Mr. Blank seconded the motion. The motion passed unanimously.

Mr. Blank made a motion to adjourn the meeting. Mr. McMichael seconded the motion. The meeting ended at 5:55 pm.

DRAFT



STAFF REPORT: Appeal 110 Factory Creek

DATE: April 27, 2026

GENERAL INFORMATION	
Applicant:	Jim Mead
Site Location/Address:	110 Factory Creek Landing; R123 015 000 0782 0000.
Applicant's Request:	The applicant, James Mead, is requesting an Appeal from Section 3.6.2.C.2.j for 110 Factory Creek Landing in order to operate a Short-Term Rental. The property is further identified as
Current Zoning:	PUD

Background: This is a Public Hearing for an Appeal of an order from an Administrative official regarding the denial and revocation of a Short Term Rental License. The specific section being appealed is Section 3.6.2.C.2j., regarding the following:

Section 3.6.2.C.2j

j. Outside Approvals Required: For properties located in a neighborhood with a property owners' association, written confirmation from the association president that short-term rentals are permitted in the neighborhood is required. In multifamily structures, written approval from the property management association is required. For boats in an approved marina, written permission from the marina manager is required.

On October 29, 2025, the Business License Administrator, Justin Rose, suspended the Short Term Rental and Business License for a Short Term Rental permit at 110 Factory Creek Landing. Mr. Rose received communication from the POA president, that Short Term Rentals were not allowed under the Factory Creek bylaws. The bylaws were further submitted which state only Single Family uses are allowed per the bylaws. Currently, the business license department handles the permitting and licensure of Short Term Rentals.

After communication and consultation with the City Attorney, the business license and Short Term Rental permit were revoked by Mr. Rose. Mr. Mead filed an appeal within the ten day appeal period. After reviewing the ordinance and appeal, it was determined by the City Attorney that the Zoning Board of Appeals would be the necessary venue for the appeal, not as a business license appeal to City Council, etc.

The reason for this decision is currently the Short Term Rental ordinance, which includes the approval of the POA president as per Section 3.6.2.Cj, is within the development code. To that end, the Applicant Mr. Mead has asked for multiple continuations of the appeal.

The City Attorney has opined the following based on his review of this matter:

S.C. Code § 6-29-1145(B) says that if a planning agency has actual notice of a restrictive covenant that is contrary to, conflicts with, or prohibits the permitted activity the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

We have actual notice of the covenants, which were recorded and are attached here. The covenants clearly prohibit STRs and there's no evidence that the covenants have been released or amended. Here's the language:

II.A.1. Lots I-13 (the "Residential Lots") as shown on the Plat may be used for single family residential purposes only and for no other purpose, and no more than one family (including its servants and transient guests) shall occupy a residential lot. Single family means one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not so related who maintain a common household together. No residential structure shall be used as a place of business other than as a personal office for the resident and may not be used as a public place of business.

The City Attorney has shared this opinion to Mr. Mead, the Codes Administrator and the Business License Administrator that the POA needs to amend its bylaws to clearly allow Short Term Rentals. Thus far, Staff has not received any such amendment. Mr. Mead has submitted a number of documents in connection with his appeal found in this packet, including an opinion from outside legal counsel, information about whether boards were elected or not, etc. Staff has sent the documentation to the City Attorney, and the City's position on the decision has not changed, leading to this public hearing.

Appeal

As per Sections 9.15.1 and Section 10.3.1 C:

Appeals: As per South Carolina Code of Laws Section 6-29-800, the ZBOA shall hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an Administrative Official in the enforcement of this Code.

As per Section 9.15.1, any party may appear in person, by agent, or by attorney. Following the hearing, the ZBOA shall take one of the following actions, consistent with the provisions of this Code:

1. Affirm the action of the Administrator;

2. Modify the action of the Administrator, and to that end, the ZBOA shall have all the powers of the officer, board, or commission from which the appeal is taken, and may issue a permit or direct that a permit be issued; or

3. Reverse the action of the Administrator, and to that end, the ZBOA shall have all the powers of the officer, board or commission from which the appeal is taken, and may issue a permit or direct that a permit be issued.

Findings of Fact: The ZBOA, in its execution of the duties specified in this section, may subpoena witnesses, and in case of contempt, may certify such fact to the circuit court that has jurisdiction.

Staff Recommendation:

Staff strongly recommends caution to the ZBOA. Much of the information that has been submitted is in relation to what is the legal POA, what was the legal board, were board members legally elected, whether the bylaws were legally adopted or not, and more. Many of these issues wade into private covenants and laws the City has no power or jurisdiction over. There have been multiple “boards” of the POA in just a few months, and it is not clear which is the properly elected POA Board, nor does Staff believe the ZBOA should make such a determination in relation to this decision of the appeal. The matter at hand is whether the suspension of the STR was appropriate based on Section 3.6.2.C.2j. Again, the City received a “no” from someone who claimed to be the POA president, and stated the no was based on the recorded bylaws. Further S.C. Code § 6-29-1145(B) states that if a planning agency has actual notice of a restrictive covenant that is contrary to, conflicts with, or prohibits the permitted activity the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order. This communication and bylaws were sent to the City Attorney who upon reviewing the bylaws and communication informed the business license administrator to revoke the STR permit. Thus far, the bylaws have not been amended to satisfy the code requirement and state statute, which Staff and the City Attorney believes is the only way to cleanly cure this matter. To that end, Staff recommends denial of the appeal.

FINDINGS AND RECOMMENDATIONS

Staff Recommendation:

Affirm the action of the Administrator to revoke the Short Term Rental permit.

RECORDED COVENANTS

FACTORY CREEK POA

(REFER TO II A 1 on page 3,

GENERAL COVENANTS AND

RESTRICTIONS RESIDENTIAL

LOT)

18
27 RB
Gilbert
(easement)

AMENDED AND RESTATED DECLARATION OF
COVENANTS, RESTRICTIONS AND EASEMENTS FOR
THE COTTAGES AT FACTORY CREEK
DATED OCTOBER 10, 2008

BEAUFORT COUNTY SC - ROD
BK 02774 PGS 1421-1438
FILE NUM 2008063872
10/14/2008 12:50:40 PM
REC'D BY P BAXLEY RCPT# 563966
RECORDING FEES 24.00

080050

INTRODUCTION

It is the intent of Battery Creek Marina Village, LLC (the "Declarant") to sell a limited number of lots in The Cottages at Factory Creek in an effort to create an exclusive mixed use community of homes and businesses that utilize, respect, and maintain the natural setting of The Lady's Island Marina and Lady's Island. All purchasers of lots in The Cottages at Factory Creek acknowledge the applicability of these Covenants and Restrictions, and recognize that as a mixed use community, residential uses will be in close proximity, or, in some instances, adjacent to commercial uses, and that these Covenants and Restrictions are intended to provide a framework for the harmonious co-existence of the differing uses for the total property.

Therefore the Declarant has assembled guidelines to control the quality of the housing and property for the enjoyment and benefit of all Owners. A standard of quality can be measured through the use of this document to ensure there are no misunderstandings that could result in substandard conditions on The Cottages at Factory Creek.

These guidelines are intended to assist all Owners in understanding the intent of The Cottages at Factory Creek community. Permission to build will not be unreasonably withheld.

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS (the "Declaration") is made as of this 10th day of October, 2008, by BATTERY CREEK MARINA VILLAGE, LLC, (the "Declarant") to amend and restate the declaration dated May 1, 2002, which is recorded in Book 1576 at Page 2035 in the ROD Office for Beaufort County, South Carolina.

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property (the "Property") in Beaufort County, South Carolina, which is more particularly described on the plat (the "Plat") referenced on Exhibit "A" attached hereto; and

WHEREAS, Declarant intends to sell a limited number of subdivided lots from within the Property to be known collectively as "The Cottages at Factory Creek," and to consist of a total of thirteen residential lots and six commercial lots with access to common areas; and

WHEREAS, there is a South Carolina nonprofit corporation known as The Cottages at Factory Creek Property Owners Association, Inc.; and

WHEREAS the Declarant and every person or entity who is a record Owner of a fee simple or undivided fee simple interest in any Lot is subject to (a) all the terms and conditions of this Declaration and (b) to all Assessments levied by the Association and (c) such persons will be a mandatory Member of the Association. Provided, that any such person or entity who holds such title or interest merely as a security for the performance of an obligation by the Declarant shall not be a Member of the Association. There is one exception being is that Lot "F" has been conveyed from the Declarant to the Beaufort County Open Land Trust, Inc. Therefore so long as Lot "F" is owned by the Beaufort County Open Land Trust, Inc., Lot "F" will not be required to pay Assessments, nor will it be used in calculating required Assessments, but Lot "F" shall always be bound by all other terms of this Declaration and applicable Supplemental Declarations; and

WHEREAS, Declarant is desirous of imposing restrictions and conditions on uses of the Property to enhance the value of the Property and provide for both residential and commercial uses in close proximity to each other; and

WHEREAS, Declarant is desirous of providing for the maintenance of the common areas and for administration of this Declaration, including assessments to each lot owner as may be appropriate to accomplish the objectives of this Declaration; and

NOW, THEREFORE, Declarant hereby declares that the Property together with such additional real property as may be annexed thereto, shall be held, sold and conveyed subject to this Declaration, which is for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property.

These restrictions (as hereinafter defined) shall run with the Property and shall be binding on all parties having or acquiring any right title or interest in the Property or any part thereof, and

shall, subject to the limitations herein provided, inure to the benefit of each Owner, his heirs, grantees, distributees, successors and assigns and to the benefit of the Declarant. Whenever used in this Declaration, the word "Declarant" means "Battery Creek Marina Village, LLC", and its successors in interest and assigns to whom the rights and obligations pursuant to this Declaration have been assigned.

I. DEFINITIONS.

- A. "**Assessment**" is the mandatory financial amount payable by an Owner to enable the Association to own, maintain and/or improve Common Property.
- B. "**Association**" or "**POA**" shall mean and refer to The Cottages at Factory Creek Property Owners Association, Inc., a South Carolina nonprofit corporation, its successors or assigns.
- C. "**Board**" is that body within the structure of the Association also known as the Board of Directors as defined in the Bylaws.
- D. "**Bylaws**" refers to the document which prescribes the method by which the Association will administer and manage its self.
- E. "**Common Property**" or "**Common Area**" will mean and to refer to those items of real property and personal property with any improvements thereon which are deeded to the Association and designated in the deed or bill of sale as "Common Property" or "Common Area" which are described as such in the Declaration, or which are subsequently acquired by the Association.
- F. "**Declarant**" will mean **Battery Creek Marina Village, LLC**, its successors and assigns, which is the developer of the Property.
- G. "**Declaration**" shall mean this Declaration of Covenants, Easements, and Restrictions together with any amendments or supplements hereto.
- H. "**Lot**" will mean and refer to any improved or unimproved parcel of real property shown with a numeric or alphabetic designation upon any recorded final subdivision plat or any part of the Property with the exception of Common Property as heretofore defined and the roadways. There are 19 Lot's.
- I. "**Member**" will mean and referred to an Owner who is vested with a fee simple interest in a Lot and who will automatically become a mandatory Member of the Association upon acquiring their interest of ownership in a Lot.
- J. "**Owner**" will mean and refer to the person of public record, whether one or more persons, firms, associations, corporations, or other legal entities, who is vested with the fee simple title to any Lot, situated upon the Property, but the term Owner shall not mean or refer to any tenant of the Owner.
- K. "**Property**" shall mean and refer to the existing Property described in the introduction and referred to on page 3 of 21 hereof, and additions thereto, as are subject to this Declaration or any supplemental Declaration under the provisions set forth herein.
- L. "**Rules**" or "**Rules of Conduct**" will mean and refer to rules and regulations applicable to the Members of the Association for use of the Common Property and the Lots as adopted by the Board from time to time.
- M. "**Supplemental Declaration**" will mean any declaration of covenants, conditions, and restrictions which may be recorded by the Declarant which extends or amends the provisions of this Declaration to additional parcels of real property pursuant to this document.

II. GENERAL COVENANTS AND RESTRICTIONS.

A. Permitted Uses.

1. The Residential Lots. Lots 1-13 (the "Residential Lots") as shown on the Plat may be used for single family residential purposes only and for no other purpose, and no more than one family (including its servants and transient guests) shall occupy a residential lot. Single family means one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not so related who maintain a common household together. No residential structure shall be used as a place of business other than as a personal office for the resident and may not be used as a public place of business. No residential lot may be subdivided to create additional lots or used for more than one single-family residence.
2. The Commercial Lots. Parcels A-E (the "Commercial Lots") as shown on the Plat may be used for commercial purposes as set forth in the Planned Unit Development Ordinance (the PUD Ordinance) adopted April 10, 2001 (as may hereinafter be amended), and no other purposes. No lot may be subdivided into additional lots or otherwise without approval of the Declarant.
3. The Open Space Lot. Lot "F" has been conveyed from the Declarant to the Beaufort County Open Land Trust, Inc. So long as Lot "F" is owned by the Beaufort County Open Land Trust Inc., Lot "F" will not be required to pay Assessments. Lot "F" will not be used for any other purpose other than open space.

B. Permitted Structures. No building or other structure shall be erected, altered, placed or permitted to remain on a residential lot except one dwelling designed for occupancy by a single family that has been approved by Declarant and any permitting authority that has jurisdiction. No building shall be erected, altered, placed or permitted to remain on a commercial lot except a commercial/residential building that has been approved by Declarant and any permitting authority having jurisdiction.

C. Maximum Height. No structure shall be erected, altered or placed or permitted to remain on a lot in excess of the height limits as set forth in the PUD Ordinance.

D. Service Facilities. Each main dwelling or accessory building shall include a screened service yard enclosing from view all containers for garbage, trash and other refuse, and all other maintenance and service facilities on the lot. No incinerators for garbage, trash or other refuse shall be placed, used or permitted to remain on any lot, and the maintenance of accumulated waste plant materials is prohibited. There shall be no signs allowed on the lots, including "For Sale" signs (except those allowed to be displayed by Declarant as set forth hereinafter), nor shall there be the parking or storage of unregistered or inoperative automobiles or other vehicles.

E. Utility Easements. Utility and maintenance easements have been granted to various service providers by Declarant or its predecessors. There shall be no structure or activity allowed in these areas which interferes with the easements so granted.

F. Utility Facilities. No air conditioning compressors, window air conditioning units, solar heating devices or other heating and cooling equipment fuel tanks, electrical transformers and meters, gas valves, telephone junction boxes or other utility equipment, devices or facilities shall be erected, altered, placed or permitted to remain on any lot except on the interior of the main dwelling or accessory building, or behind a screen or shrubbery sufficiently tall and full to hide all such devices and facilities from view, with such screening subject to the approval of Declarant in its sole discretion.

- G. Pipes, Wires and Antennas. All water and sewer pipes, electrical service, cable television and telephone wires and other wires and pipes shall be placed underground, and no pole, tower, antenna or other device for the transmission or reception of television signals, radio signals or any other form of electromagnetic radiation, or for any other purpose, shall be erected, placed, maintained or permitted to remain on any lot except as specified by the Declarant.
- H. Sewer. No sewage, garbage or trash shall be emptied or discharged into any creek, marsh, river, sound, beach or shoreline thereof. All lots, both residential and commercial, must have an on-site storm water infiltration system to accommodate roof run-off. No lot shall use a septic tank and drainfield, but shall use the public sewer system.
- I. Residential Parking. No construction or alteration of any structure shall take place on any lot without the provision of a sufficient number of parking spaces to meet the parking needs for automobiles owned by the residents of the lot, their guests and employees, in accordance with plans and specifications approved by the Declarant, and as set forth in the PUD Ordinance. There shall be a minimum requirement for two spaces behind garage doors.
- J. Landscaping. No construction or alteration of any structure shall take place on any lot without the prior written approval of the Declarant of plans and specifications for the landscaping to accompany such construction or alteration. In addition, no other landscaping shall take place on any lot without the prior written approval of the Declarant of the plans and specifications therefore. All approved landscaping must be completed within 30 days after occupancy of a Dwelling or substantial completion thereof, unless otherwise specified by the Declarant.
- K. Trees and Existing Vegetation. Because of the importance of trees and other existing vegetation in regard to the privacy of lot Owners, the perpetuation of bird and animal habit at the control of erosion, and the welfare of the community as a whole. No tree or existing vegetation may be mutilated, removed or destroyed by the owner prior to construction or subsequent to occupancy without prior written consent of the Declarant.
- L. Exterior Lighting. No exterior lighting shall be installed, maintained or permitted to remain on any lot, the light source of which is infringing on The Cottages at Factory Creek common areas or neighboring properties.
- M. Signs. No sign shall be installed, altered, maintained or permitted to remain on any residential lot, except:
 - 1. During approved construction of the main dwelling only, not more than one professionally lettered job identification sign having a maximum face area of four square feet; and
 - 2. Solely with respect to those lots owned by the Declarant, not more than one professionally lettered "Sold" sign having a maximum face area of four square feet.
 - 3. Commercial Lots may erect only those signs that have received both the approval of the Declarant and of the City of Beaufort's Corridor Review Board.
- N. Mailboxes. Mailboxes must be consistent with the standards of The Cottages at Factory Creek community, and shall be approved by Declarant.
- O. Setbacks. A residential buffer zone and setback line of four feet inside each side property line must be maintained with natural vegetation. Buildings and structures must be built within the "building envelope" as approved by Declarant (building envelopes for each lot are shown on the attached Exhibit A). Critical Line setbacks and "Special Area" setbacks

are set forth in the PUD Ordinance and on the Plat. No construction, automobile storage or structure of any sort will be allowed in these buffer zones and setback lines.

- P. Maintenance. Each Owner shall keep and maintain each lot and the exterior of all structures, as well as all landscaping located on each lot, in good condition and repair, including but not limited to (1) the repairing and painting (or other appropriate external care) of all structures, (2) the seeding watering and mowing of all lawns, and (3) the pruning trimming and care of all trees, hedges, shrubs and planted areas so that the same are aesthetically in harmony with the standards of The Cottages at Factory Creek community and are not obstructive of vehicle or pedestrian traffic.
- Q. Outside Storage. Except during approved construction, no outside storage of personal property shall be permitted unless screened from view by Declarant approved enclosures, fences, shrubbery or other devices. During approved construction, no construction material or device shall be stored on any lot except for the purposes of such construction or for longer than the length of time reasonable necessary for such construction. All construction debris, excess materials, stumps and other matter discarded during construction shall be removed from the lot as often as to keep the lot and all structures neat clean and attractive in appearance.
- R. Recreational Vehicles. No recreational trailer, trailer house (either with or without wheels), boat, raft, canoe, boat trailer or other recreational vehicle, conveyance or similar device of any description shall be kept, maintained or allowed to remain on any lot at any time unless parked, kept, or maintained in an area totally screened from view from the street, the waterfront and neighboring property, as approved by Declarant.
- S. Temporary Buildings. No housetrailer, mobile home, manufactured home, modular home, tent or other structure of a temporary or transient character shall be kept, placed, maintained or permitted to remain on any lot except as a shelter used by a building contractor during the course of construction of the main dwelling or accessory building. The design and location upon a lot of any such shelter shall be subject to the prior written consent of the Declarant. No such shelter shall at any time be used as a residence or be permitted to remain on the lot after completion of construction.
- T. Unsightly Activities. No pursuit of hobbies or other activities (including without limitation the repair, maintenance, assembly and disassembly of motor vehicles, boats and other mechanical devices) which might tend to cause disorderly, unsightly or unkempt conditions shall be pursued or undertaken on any lot.
- U. Solid Waste. No person shall dump rubbish, garbage or any other form of solid waste on any lot or on Common Property. No person shall burn rubbish, garbage or any other form of solid waste on any lot or on Common Property. If rubbish, garbage or any other form of solid waste is to be disposed of by being collected and removed from the lot on a regular and recurring basis, the Owner shall provide access to the persons making such pickup only in accordance with the rules and regulations herein.
- V. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done or placed thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to other Owners in the enjoyment of their lots. It is acknowledged that The Cottages at Factory Creek is a mixed use community that will have commercial uses in close proximity to residential uses, and the commercial activities near to or adjacent to residential uses will not be considered to

be nuisances per se. In the event of any dispute as to whether an activity is a nuisance, the decision of the Declarant shall be final.

- W. Pets and Wildlife. No animals, including birds, insects and reptiles, shall be placed or kept on any lot except as household pets. No such pet shall be allowed to make an unreasonable amount of noise or otherwise become a nuisance. No structure for the care, housing or confinement of any pet shall be maintained so as to be visible from any street or neighboring property, and placement of and permission to construct must be obtained from Declarant. Upon the request of any Owner, the Declarant shall determine in its sole discretion whether for the purposes of this Section a particular animal shall be considered to be a household pet or a nuisance and whether the number of animals on any lot is reasonable. No wildlife shall be trapped, captured, confined or killed on any lot except in connection with a wildlife population control program having the prior written approval of the Declarant.
- X. Firearms, Fireworks and Fires. No firearm or other weapon (including but not limited to air guns and bow and arrow) and no fireworks shall be discharged on any lot, nor shall there be any open fires on any lot other than grills for cooking food.
- Y. Factory Creek Drive and Factory Creek Court (Roads and Open Spaces). All Owners share in the ownership of the roads and open space through reciprocal easements. These roads and open space are Common Areas. It shall be the obligation of the Association to ensure that these Common Areas are maintained properly. The actual cost of maintaining the roads, commercial parking and Common Areas will be shared by all property owners, with Commercial Lot Owners bearing two-thirds (2/3), and Residential Lot Owners bearing one-third (1/3) of the total costs. Lot "F" will not be required to pay Assessments, nor will it be used in calculating required Assessments.

III. DESIGN CONSIDERATIONS. To meet the development objectives of The Cottages at Factory Creek, owners and designers must adhere to a strict and comprehensive design process. The property owner must thoughtfully integrate each site and house design to be compatible with this special setting.

- A. Architectural Design Guidelines. Creative architectural solutions are encouraged to complement the uniqueness of each site, to express the design concept of the individual property owner and to contribute to The Cottages at Factory Creek as a whole. The Declarant of The Cottages at Factory Creek believes that the ability to achieve harmony between the built and natural environment lies in the consistent application of well formulated architectural guidelines. It is the express purpose of these guidelines to serve as a starting point for the lot owner. It is not the intent of these guidelines to limit the design process, stifle creativity, or curtail imaginative solutions to design problems. The traditional local residential architecture exhibits certain characteristics that respond to climate, building shape, function and site. The richness, simplicity and rationality of this regional vernacular, should serve as a reference source for the design of The Cottages at Factory Creek homes. The designs attached hereto as Exhibit B are examples of acceptable architecture.
- B. Landscape Design Guidelines and Recommended Plants. All landscape design decisions should be closely integrated with the architectural design concept. This close relationship should continue through each design phase. Landscaping should emphasize native plants and ground covers. Use of indigenous plants (such as yaupon holly, cherry laurel, wax

myrtle, live oak dogwood and magnolia) will generally insure that landscaping will blend naturally with the site.

- C. Views and Vistas. Existing trees and vegetation may be trimmed a minimum amount to allow views from the home. Clear cutting of mature trees for a view is generally not allowed. Cutting of trees without the written authorization of Declarant shall subject the owner and/or his or her agents or contractors to the penalties set forth hereinafter.
- D. Features, Fences and Lighting. Such features as rocks, statues, and chain link or wire fencing which are not harmonious with the natural setting will not be permitted. Grounds lighting fixtures should be carefully selected for compatibility and screened from view. Such lighting should be subdued so as not to be objectionable to adjacent property owners.

IV. DESIGN REVIEW AND APPROVAL. The Declarant may in its sole discretion adopt promulgate, amend, revoke and enforce rules, regulations and guidelines for the purposes of assuring the conformity and harmony of external design and general quality with the standards of The Cottages at Factory Creek project.

- A. Submission of Plans and Specifications. No structure shall be commenced, erected, placed, moved onto or permitted to remain on any lot or on any body of water, shore or marshland contiguous or adjacent to such lot nor shall any existing structure upon any lot any body of water, shore or marshland contiguous or adjacent to such lot be altered in any way which materially changes the exterior appearance of the structure or lot, unless the preliminary and the final plans and specifications therefor shall have first been submitted to and approved in writing by the Declarant in advance. The review process is a two-phase one as outlined below. Whenever a submission is required, four copies shall be required.
- B. Preliminary Design Review: First Submission.
 - 1. All preliminary submissions must contain the following:
 - i. Site Plan. The site plan drawn at a scale of 1" -20' must show the roof plan of the house and contain dimensions demonstrating conformity with all required easements and setbacks. Driveways and walks must be located along with the proposed service yard, HVAC units, storm water infiltration systems, electric meters, underground garbage can receptacles, and any other proposed structure. All existing trees over 8" in diameter must be located, and all trees to be removed must be indicated.
 - ii. Schematic Landscape Plan. A site plan at a scale of 1" -20' showing the location of the house, driveway and walks, Declarant approved storm water infiltration system, and amenities with proposed landscaping concepts as intended to help integrate the building with its environment and to provide for positive drainage and screening.
 - iii. Floor Plan. Floor plans at 1/4" scale must be presented depicting the layout of spaces for all levels of the proposed building.
 - iv. Elevations. Drawings presented at 1/4" scale representing the view of all exterior sides of the proposed structure.
 - v. Preliminary Stake-out. The house and driveway must be staked out on the lot with stakes at least two (2) feet tall marking the comers. A string shall connect all stakes outlining the shape of the house. All trees to be removed shall be tied with

- red surveyor's ribbon. Utility ditches, roads, pools and amenities will also be staked. The required storm water infiltration system that redirects roof storm water into the system through a gutter installation must also be staked.
2. The Declarant will either grant preliminary approval or state reasons for withholding approval and will offer suggestions for improvement. If the Preliminary drawings are substantially changed, either by request of the Declarant or desire of the owner, they must be re-submitted and receive Preliminary approval before proceeding for Construction Documents Review.
- C. Construction Documents Review: Final Submission.
1. The Construction Documents are prepared after changes are made, if any, from the review of the preliminary submission. The final stake-out, reflecting any changes, must be completed before submitting for the final submission. The Declarant will preview all submissions and will not give final review unless the following are completed and submitted:
 - i. Final Stake-out. The preliminary stake-out must be updated reflecting changes, if any, in the location of the house or driveway, amenities and any additional trees to be removed. No trees may be removed at any time without prior approval of the Declarant. All underground utilities will be staked and adjusted to save tree roots on this visit.
 - ii. Color Samples. Proposed colors of all exterior materials including siding trim, brick, roofing stucco and lattice must be submitted on actual samples of materials proposed for use. These sample submissions are most important to the Declarant in evaluating the final appearance of the house.
 - iii. Dimensioned Site Plan. The submitted plan shall be similar to preliminary including any changes. All proposed utility services including but not limited to, water lines, sewage lines, telephone lines, cable lines, irrigation lines, electrical lines, etc. will be located on the plan.
 - iv. Floor Plans. Floor plans must be drawn at 1/4" scale.
 - v. Elevations. Drawn at 1/4" scale, elevations shall accurately represent the view of all sides of the house and other structures. Floor elevations must be delineated and existing and proposed grade levels must be shown. All exterior materials must be labeled.
 - vi. Construction Schedule. The proposed construction schedule and the name and qualifications of the proposed builder or contractor must be submitted.
 2. THE SCOPE OF REVIEW BY THE DECLARANT SHALL BE LIMITED TO THE EXTERIOR APPEARANCE AND COMPATIBILITY OF ANY IMPROVEMENTS TO THE OVERALL DEVELOPMENT PLAN FOR THE PROPERTY AND SHALL NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW OR EVALUATE THE STRUCTURAL SOUNDNESS OR INTEGRITY, COMPLIANCE WITH BUILDING, ZONING OR OTHER APPLICABLE REGULATIONS OF THE GOVERNMENTAL AUTHORITIES OR ANY OTHER DESIGN OR CONSTRUCTION ASPECTS OF ANY IMPROVEMENT THE DECLARANT DOES HEREBY DISCLAIM ANY RESPONSIBILITY OR LIABILITY, FOR ANY DESIGN OR STRUCTURAL DEFECTS IN OR TO ANY IMPROVEMENTS.

- D. Approval of Plans and Specifications. The Declarant will act on any plans and specifications submitted as herein provided within thirty (30) days after receipt. Approval by the Declarant if granted, together with any conditions imposed by the Declarant, shall be placed in writing on the plans and specifications and shall be returned to the applicant (Note: It is possible that the Declarant may need additional time due to unusual circumstances. In this case, Owner and Architect will be notified. The Declarant will not withhold approval unreasonably.) Approval of any plans and specifications relating to any lot or structure shall be final, and approval may not be revoked or rescinded thereafter, provided that the plans and specifications have been adhered to and complied with as approved, as well as any conditions attached to the approval.
- E. Disapproval of Plans and Specifications. In any case in which the Declarant disapproves any plans and specifications submitted hereunder, or approves the same only as modified or upon specified conditions, the disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based.
- F. Approval of Builder and Contractor. Any builder or contractor prior to performing any work on any lot must be approved by the Declarant as to financial stability, building experience, and ability to build structures of the class and type of those which are proposed to be built or installed on the lot, as well as to a reasonable understanding of and willingness to comply with the guidelines. No person, firm or entity shall be approved as a builder or contractor unless he obtains his income primarily from construction of the type which the proposed builder or contractor is to perform upon the lot. No Owner shall be permitted to act as his own builder or contractor for the exterior of any structure except where he obtains his income primarily from the construction of the type of structure to be constructed upon the lot and otherwise meets the qualifications for approval by the Declarant. Approval of any contractor does not create any duty or responsibility between the lot owner, contractor or Declarant, and Declarant shall not be liable to anyone on account of its approval or disapproval of any contractor.
- G. Obligation to Act. Upon receipt of the approval, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing alterations and excavations pursuant to the plans. In any event, the Owner shall complete all site development work and the construction, reconstruction, refinishing or alteration of the foundation and all exterior surfaces (including the roof, exterior walls, windows and doors) of any structure within one (1) year after commencing construction, except that the one-year period shall be extended for so long as completion is impossible due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his agents.
- H. Inspection Rights. Any employee or agent of the Declarant 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 Declarant nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.
- I. Violations. If any structure shall be erected, placed, maintained or altered upon any lot or any body of water, shore or marshland contiguous or adjacent to such lot otherwise than

in accordance with the plans and specifications approved by the Declarant, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Declaration and without the approval required herein. If in the opinion of the Declarant such violation shall have occurred, the Declarant 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. The Owner shall take reasonable steps toward the required remedial action within thirty (30) days after the mailing of the notice of violation. In the event enforcement action requires the filing of a lawsuit to correct the violations, the Declarant may recover its' attorney fees and costs of the action.

- V. CONSTRUCTION PHASE. In order to protect the natural beauty of The Cottages at Factory Creek as much as possible during construction, the following regulations apply to all contractors and their employees as well as service personnel while at The Cottages at Factory Creek.
- A. Contractors must obtain written permission from the Declarant before starting construction at The Cottages at Factory Creek. Contractors must deposit \$1,500 at the time such permission is issued, which is a refundable deposit. This deposit or portions of it may be used by the Declarant to repair damage to roads or shoulders, damage caused by the contractor, or to clean up a contractor's untidy site if the contractor fails to do so in a timely manner. The permission allows 12 months to complete construction and may be renewed if necessary.
 - B. Contractors to be used must be approved by the Declarant prior to being awarded the contract. If the project is to be bid, the list of contractors that will be invited to bid should be approved in advance.
 - C. Construction work shall not start before 7:00 AM and must halt no later than 6:00 PM. Special requests varying from this policy will be considered with 24 hours notice for such special arrangements.
 - D. Contractors are required to keep their job sites as neat and clean as possible at, all times. Trash and discarded materials will be picked up on the site daily. All trash stockpiled for removal shall be kept in proper containers until removed. There will be no stockpiling of materials or trash on adjacent roads or property. If trash is not removed, the Declarant reserves the right, but not an obligation, to remove such and bill to the responsible contractor or subcontractor for its costs.
 - E. Contractors will use only the utilities provided on the immediate site on which they are working.
 - F. All roads at The Cottages at Factory Creek are of sand, oyster shell or other non-traditional surfacing, and any damage to roads, drainage inlets, street signs, mailboxes, utilities, etc. will be billed to the responsible contractor or subcontractor.
 - G. The established speed limit within The Cottages at Factory Creek is 10 miles per hour for construction vehicles, including light trucks and autos.
 - H. There will be no washing of any truck on the roads or common property. Any concrete truck washed out must be on the construction site, and promptly removed by the contractor. Washout shall not be allowed to drain into tidal creeks or marshland.
 - I. Operators of vehicles are required to see that they do not spill any damaging materials while within The Cottages at Factory Creek, and if spillage of a load occurs, operators are

responsible for cleaning up, Cleanups done by The Cottages at Factory Creek personnel will be billed to the responsible party. Please report any spills as soon as possible.

- J. All personnel working on the property are to insure that they will keep all areas in which they work or travel free of discarded materials such as lunch bags, wrappers and beverage containers. Objects should not be thrown out of cars and trucks.
- K. Loud radios or noise will not be allowed within the property.
- L. No vehicles (trucks, cars, vans, etc.) may be left on the property overnight. Construction equipment may be left on the site while needed, but may not be kept on the roads or adjacent property.
- M. No hunting or fishing will be permitted by construction personnel nor will any dogs or other pets owned by construction personnel be allowed at The Cottages at Factory Creek.
- N. Only bona fide workers are allowed at The Cottages at Factory Creek. Spouses may drive workers to the construction sites and pick them up, but must not remain on the property unless they are actual employees of the contractor or subcontractor. No children will be permitted unless they are bona fide workers.
- O. Contractors shall install portable toilet facilities, discreetly positioned out of view from the road and adjacent property.
- P. Construction personnel shall be appropriately attired (including shoes and shirts) when off the construction site. Personal vehicles used by workmen shall be parked out of view to the greatest extent possible.
- Q. Tree Protection During Construction. The Contractor shall protect important trees and existing vegetation by fencing when directed by the Declarant. The following procedures will be used to help assure healthy trees at The Cottages at Factory Creek. This procedure applies to all construction work which exists within the drip-line of any tree not marked to be removed.
 - 1. The Architect's or Landscape Architect's plans will carefully designate which trees are to be removed.
 - 2. All trees over 8" in diameter will be saved unless removal is approved by Declarant. No tree will be removed or damaged that is not shown to be removed.
 - 3. Should the stakeout or future work reveal that a tree will be damaged or is impractical to save, the Declarant will be notified to render a decision.

VI. OCCUPANCY AND FUTURE IMPROVEMENTS.

- A. The culmination of this planning and construction effort will be when the owner takes occupancy of the new home.
- B. There will no doubt be numerous future improvements to the site that will be intended to add beauty and enrichment to the home. It is anticipated that additional plant materials will continue to be used to contribute to the total master plan concept. The natural beauty of The Cottages at Factory Creek should continue to be emphasized both by the property owners and the developers as an ongoing program.
- C. Future improvements including additions, outbuildings, landscape elements and any alterations to the exterior, will require design review by the Declarant. Such plans should be discussed with the Declarant at the earliest convenience. After reviewing the project, the Declarant will either suggest changes or grant final approval.

VII. MAINTENANCE; ASSESSMENTS; PROPERTY OWNERS' ASSOCIATION; ENFORCEMENT; GENERAL PROVISIONS.

- A. After more than seventy-five percent interest therein to the Property shall have been conveyed by the Declarant, its successors and/or assigns, to other Owners, the Association shall be empowered to call a meeting of Members. The Declarant reserves the right to call a meeting of Members at any time while the Declarant owns any one lot. The method by which the Association will administer and manage its self is or will be set forth in the Bylaws of The Cottages at Factory Creek Property Owners Association, Inc.; provided that amendments to these covenants and restrictions by the Association as hereinafter provided for shall require a three-fourths (3/4) vote of approval.
- B. There shall be annual Assessments. All assessments for Residential Lots shall be at a uniform rate and all assessments for Commercial Lots shall be a uniform rate. The Assessments shall be used for the improvement, maintenance, administration and operation of the common area including, but not limited to, the payment of taxes and insurance thereon, the repair, replacement, improvement, landscaping, pest control, surface and road drainage, pathways, roads and parking (to include culverts), equipment, materials, management and supervision thereof (to include emergency repairs and maintenance or such matters caused by a natural disaster), i.e. to promote the recreation, health, safety, esthetic values and welfare of the Members and of the Common Area. Assessments shall be charged at the rate of two-thirds (2/3) of the budgeted expenses and reserves to the Commercial Lot Owners divided evenly among Lots A, B, C, D, & E; and at the rate of one-third (1/3) of the budgeted expenses and reserves to the Residential Lot Owners divided evenly among lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13. The Assessments shall be determined by the Board of Directors, or the Declarant, if a Board of Directors has not been formed. Increases in Assessments shall not be more than 10% per annum. Increase of Assessments over 10% per annum require an affirmative vote of two-thirds (2/3) of the Members. The Assessment for Commercial Lots for 2008 is \$1,560.00 and the Assessment for Residential Lots for 2008 is \$300.00. Any Owner fails to pay the Assessments so established within thirty (30) days thereof, shall be deemed in default, and in the event of default by any Owner to the common governing body, said record Owner shall be obligated to make payment and interest at the rate of 12% per annum from the date of demand for payment after delinquency until the time of payment, and shall also be liable for all costs of collection, including but not limited to reasonable attorney's fees and court costs incurred by the governing body of the Owners of the Properties for its collection. The governing body so established in accordance herewith shall have the right and duty to attempt to recover such unpaid Assessments and all expenses of collection.
- C. In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership. Any such Special Assessment shall require approval by a majority vote of the Members, as well as the consent of Declarant as long as the Declarant owns property subject to this Declaration. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Notwithstanding the foregoing, there shall be a Special Assessment for infrastructure enhancement of \$1,200.00 per lot

- payable in one lump sum on November 1, 2008, the date of assessment, or over 12 months at \$100.00 per month beginning November 1, 2008.
- D. Each resident (with the exception of the Declarant, who is exempt from the monthly charges) will be assessed a proportional monthly charge for street light service, if any be installed, as authorized by the South Carolina Public Service Commission.
 - E. In the event of failure to pay the common expenses as above defined and established, the governing body of the property owners shall have the right to establish a lien for the unpaid amount and to foreclose its lien for nonpayment of the expenses in accordance with the laws of the State of South Carolina pertaining to the foreclosures of mortgages on real property. A suit to recover a money judgment for the unpaid common expenses may be maintained against the record property owner by the governing body without first foreclosing or waiving its lien for unpaid common expenses. Such liens shall be subordinate to the lien of any institutional first or purchase money mortgage. Sale or conveyance of the lot shall not affect the lien.
 - F. In the event of a violation or breach of any of these restrictions or covenants, affirmative obligations contained herein by anyone, Declarant or the Association, jointly or severally, shall have the right, but not the obligation, to enter upon any Lot to correct such violation. Entry upon a Lot under this paragraph shall not constitute a trespass. In addition, an Owner, Declarant or the Association may proceed at law or equity to seek damages or compel a compliance with the terms hereof, and to prevent future violations or breaches. The prevailing party in any such enforcement action is entitled to recover its costs and attorney's fees from the other party. The invalidation by any court of any portion of these covenants shall in no way effect any of the other portions hereof shall remain in full force and effect.
 - G. The Declarant, their heirs and assigns reserve the right to amend, add to, or change in total or in any part any of the covenants contained in this document, and may include in any contract or deed hereinafter made or entered into, such modification and/or additions to these protective covenants and restrictions, and any additional covenants and restrictions which will not lower the standards of the property in the sole opinion of the Declarant, or, after seventy-five percent of the lots have been conveyed, the Board of the Property Owners' Association if one shall have been established. As soon as the Declarant, their successors and/or assigns as set forth hereinabove no longer owns twenty-five percent (25%) of interest in the subject property, then in that event a seventy-five per cent supermajority of interest of individual owners may amend, add to, or change in total or in any part, the within covenants, restrictions, and affirmative obligations.
 - H. The failure by the Declarant, the Association, their agents, successors and/or assigns to enforce any restriction, condition, covenant or agreement herein contained shall in no event be deemed a waiver of the right to do so hereafter as to the same breach or as to one occurring prior or subsequent thereto, nor shall such failure give rise to any claim or cause of action against the Declarant or the Association, their agents, successors or assigns. Invalidation of anyone or more of these covenants by a judgment of any court having jurisdiction of the subject shall in no way affect any of the other provisions herein contained, and such other provisions and protective covenants shall remain in full force and effect.
 - I. These covenants shall run with the land and be binding on the successors and assigns of the Declarant and all persons claiming under them for a period of twenty (20) years.

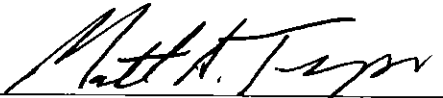
These covenants shall then be automatically extended for successive periods often (10) years, until said covenants shall be amended, changed or terminated in whole or in part as provided elsewhere herein. Such amendments, changes or terminations shall take effect when executed and filed in the proper office.


- J. After the Declarant, its successors and/or assigns have sold all lots, the Declarant, their heirs and/or assigns shall automatically be relieved of duties and responsibilities under these covenants if they so choose.
- K. Until such time as a Property Owners Association is formed, as provided hereinabove, the Declarant is authorized to provide for the maintenance of the roads and open spaces (and their landscaping), and to assess the lot owners for such costs in the same manner as set forth hereinabove for the Property Owners, including the right to charge interest on unpaid assessments and to lien and foreclose upon properties. Assessments shall be charged at the rate of two-thirds of the expenses to the commercial lot owners, and one-third to the residential lot owners.
- L. When the Declarant has conveyed all of the Lots to third parties, all of the Declarant's enforcement and approval rights hereunder shall pass to the Association, which acts through its Board of Directors. However, the Declarant may transfer all or a portion of its enforcement and approval rights under this Declaration to the Association before that time.

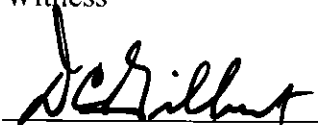
IN WITNESS WHEREOF, the Declarant has executed this Declaration of Restrictive Covenant on the date above stated.

DECLARANT:

BATTERY CREEK MARINA VILLAGE, LLC

By: 
Matt A. Trumps, Member


Witness


Witness

ACKNOWLEDGMENT ON NEXT PAGE

**APPEAL AND
SUPPORTING
DOCUMENTATION FROM
APPLICANT (Starts with
EXHIBIT A)**



APPEAL APPLICATION

Community Development Department
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7011 / f. (843) 986-5606
Email: development@cityofbeaufort.org / www.cityofbeaufort.org

PAID 11/24/25

Application Fees: \$300

Receipt # 194725

OFFICE USE ONLY: Date Filed: 11-19-25 Application #: Zoning District: ACD

Submittal Instructions: Entries must be printed or typewritten. If the application is on behalf of the property owner(s), all owners must sign. If the applicant is not the owner, the owner(s) must sign the Designation of Agent (below).

Submittal Requirements: 1. A legal survey of the property. 2. An accurate, legible site plan showing the north arrow, dimensions, and locations of all existing and proposed structures and any improvements relevant to the appeal such as trees, fences, power lines. Six copies of all plans are required. 3. Photograph(s) of the site.

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application? [X] Yes [] No

Applicant, Owner and Property Information

Answer Yes (with explanation attached)

Applicant Name: James Mead

Applicant Address: 110 Factory Creek Ct., Beaufort SC 29907

Applicant E-mail: jmead17@gmail.com Applicant Phone Number: 702.335.0791

Owner (if other than the Applicant): JPM Property Holdings, LLC

Owner Address: 866 S. Tremaine Street Ave. Los Angeles CA 90005

Owner E-mail: jpmacpherson@gmail.com Owner Phone Number: 323.309.1789

Property Address: 110 Factory Creek Ct. Beaufort SC 29907

Property Identification Number (Tax Map & Parcel Number): R123 015 000 0782 0000, LOT 2 THE COTTAGE AT FACTORY CREEK MARINA VILLAGE PB85 P172 PB86 P169

DESIGNATION OF AGENT (complete only if owner is not applicant)

I (we) here by appoint the person named as Applicant as my (our) agent to represent me (us) in this application.

Date: November 4, 2025 James MacPherson for JPM Property Holdings LLC Owner's Signature:



APPEAL APPLICATION

Community Development Department
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7011 / f. (843) 986-5606
Email: department@cityofbeaufort.org / www.cityofbeaufort.org

Required Application Information

Applicant hereby appeals to the Board of Zoning Appeals from the action of the Zoning Official affecting the property described on page 1 on the grounds as follows: See attached

 granting X denial (check one) of an application for a permit to Business

License was erroneous and contrary to provisions for the Beaufort Code in Section
12.3.2_B or other action or decision of the Zoning Official was erroneous as

follows Applicant is aggrieved by the action or decision in that:

See attached

2. Applicant contends that the correct interpretation of the zoning ordinance as applied to the property is:

See attached

3. Applicant request the following relief:

See attached

I (We) certify that the information in this application is correct.

Date: November 4, 2025

Owner's Signature: JEM

Business License Suspension Appeal – 110 Factory Creek Ct., Beaufort

Submitted by: James Mead License #21524

Summary for Board Review

This process has caused me real and unjust harm. I did everything the City required—paid fees, passed inspection, and followed every published rule—only to have my license suddenly revoked based on a moving target. The City changed its interpretation after the fact, leaving me unable to comply with a demand that is literally impossible to fulfill. If this can happen to me, it can happen to any property owner who follows the law in good faith.

Why My Suspension Is Unjust

My license to operate a short-term rental at 110 Factory Creek Ct. was properly granted after full compliance with every City requirement.

Later, the City abruptly reversed course and suspended the license, citing a supposed need for “*written HOA approval*” under **Beaufort Code § 3.6.2.J**.

This requirement is **impossible to satisfy** because no legally constituted HOA body exists that can issue such approval, and the governing documents do not require it.

This is a **bureaucratic trap**: I am being asked to perform an act that cannot be done and punished for not doing it. The City’s own Code confirms that license revocation may occur only for specified causes and after due process (§ 12.3.2); none were met in my case.

What Really Happened

- I submitted a complete application, paid all fees, and my business license was approved.

- After outside communications, City staff rescinded the license and demanded written HOA approval.
 - The **Factory Creek HOA** has no recorded bylaws, no elected board, no president, and therefore no legal authority to approve or disapprove any use.
-

What the City Relies On — and Why It Is Insufficient

1. “There’s a recorded HOA and covenants.”

Yes, but recordation alone does not confer authority. Under **S.C. Code § 27-30-130**, unrecorded governing documents cannot impose obligations or grant enforcement powers. *In plain English: Unless a rule is officially filed at the courthouse, it can’t be used to restrict an owner’s rights.*

2. “The covenants prohibit business use.”

The 2008 Amended and Restated Declaration expressly allows “*tenants*” and “*transient guests*” and contains no clause banning rentals or requiring board approval.

Its “business” clause restricts customer-facing commercial activity—not residential leasing.

A short-term residential rental—especially when the owner lives on-site—is not a “public place of business.” It is a private, residential use, no different in character from a long-term lease.

3. “The HOA is in good standing with the Secretary of State.”

That filing status only means a fee was paid; it does not prove lawful elections, meetings, or a functioning board as required by the **S.C. Nonprofit Corporation Act**. In fact, the **Factory Creek HOA has never adopted or recorded bylaws, held annual meetings, or elected officers as required by the South Carolina Nonprofit Corporation Act**, confirming that no lawful president or board exists to issue approval of any kind.

The Real Problem

The City changed its enforcement position without any new law, fact, or Code amendment—responding instead to informal neighbor input.

By doing so, it has effectively **delegated municipal licensing authority to private individuals** who have no legal capacity to act for the neighborhood.

The City is conditioning my license on an **approval that cannot be obtained**, since the HOA has no lawful officers or recorded bylaws. By conditioning my license on an unverifiable HOA approval, the City ignored the procedural safeguards in § 12.3.2 and misread § 3.6.2(C)(2)(j), converting a conditional “if applicable” clause into an absolute requirement.

Why It Matters

If this decision stands, any property owner could lose a license because of a private covenant dispute or a non-existent HOA “approval.”

Due process and consistent enforcement vanish if licenses can be revoked based on ambiguous, privately interpreted documents. *The Board’s role is to protect fairness and predictable standards for all property owners—not to ratify ad-hoc staff interpretations or neighbor complaints or influence.*

What I’m Asking

I respectfully request that the Board:

1. **Reverse the suspension** of Business License #21524.
2. Affirm that the City cannot condition licensing on private HOA approvals unless such authority is clearly established in recorded, enforceable documents.
3. Direct that future enforcement rely only on **objective, public-law standards** within the Beaufort Code.

Restoring my license is not just about my case—it protects every property owner in Beaufort from arbitrary or unequal treatment.

Attachment A – Continuation of ZBOA Appeal Application

Applicant: James Mead

Property: 110 Factory Creek Ct., Beaufort SC 29907

Business License #21524

I. Grounds for Appeal

The denial and suspension of my business license were **erroneous and contrary to the Beaufort Code (§§ 12.3.2 and 3.6.2)**.

The City relied on recorded restrictive covenants that are **ambiguous**, reference **bylaws that were never recorded**, and use **undefined terms** such as “*transient guests*” and “*tenants*.” Interpretation and enforcement of those covenants are **private civil matters**, not within the City’s licensing or administrative authority.

Procedural Error Under Beaufort Code §§ 12.3.2 and 3.6.2.

The City’s suspension of my license did not follow the procedures required by § 12.3.2(B). No written notice of violation, factual findings, or determination that the permit was “procured by false representation” or “issued in error” was ever made. Furthermore, § 3.6.2(C)(2)(j) applies only when a functioning property owners’ association exists to issue written confirmation; because no such body lawfully exists, the City’s reliance on this subsection was misplaced and unenforceable. This factual absence of any functioning HOA or elected board is further confirmed by the **signed Petition of Residents (Exhibit F-1)**, executed by the majority of record owners within The Cottages at Factory Creek. **This conclusion is confirmed by the South Carolina Homeowners Association Act and the South Carolina Nonprofit Corporation Act (Exhibit F-2), which require HOAs to record all governing documents and maintain an elected board and adopted bylaws; failure to do so renders the organization legally incapable of exercising approval authority.**

Under S.C. Code § 27-30-130, no governing-document provision is enforceable unless recorded with the county registry. Because the HOA bylaws were never recorded, the association possesses no enforceable authority. Coupled with the HOA’s failure to meet the organizational requirements of the South Carolina Nonprofit Corporation Act—adopt

bylaws, maintain a board of at least three members, and hold annual meetings—there is no lawful corporate officer capable of granting or denying the approval the City demanded.

II. Reference to Comprehensive Appeal Record (Exhibit G)

A full written appeal dated **October 29, 2025**, submitted to the City’s Business License Inspector and copied to the City Attorney, is incorporated by reference as **Exhibit G**. That filing provides the detailed factual and legal record supporting this appeal, including:

1. **No enforceable HOA approval authority.** The sole recorded instrument—the *2008 Amended and Restated Declaration of Covenants*—contains **no clause requiring HOA approval** for business or rental use.
 2. **Unrecorded and unenforceable bylaws.** Under **S.C. Code § 27-30-130**, unrecorded governing documents cannot create obligations or confer enforcement powers.
In plain English: If it isn’t filed in the public record, it can’t be enforced against an owner.
 3. **Non-compliant HOA structure.** The Factory Creek HOA has never adopted or recorded bylaws, held annual meetings, or elected officers as required by the **S.C. Nonprofit Corporation Act**; no lawful president or board exists to issue “written approval.”
 4. **Administrative overreach.** Reliance on Beaufort Code § 3.6.2.J is **unsupported in law or fact** because the prerequisite HOA authority does not exist.
 5. **Procedural fairness and equal protection.** Suspending a license for failure to provide unattainable approval constitutes **arbitrary and selective enforcement** and violates due-process principles.
-

III. Applicant Is Aggrieved by the Action or Decision in That

My license was suspended because I answered “No” to the covenant question under **S.C. Code § 6-29-1145**. I answered “No” **truthfully and in good faith**, since the covenants do not clearly prohibit the licensed activity and reference **bylaws never filed or recorded**, leaving their effect unknown. The City later reinterpreted that honest answer as a “false statement,” without notice or opportunity to clarify—creating a **Catch-22** and denying due process. The action was **not based on any violation of the Beaufort Code**, but on the City’s interpretation of incomplete private documents, causing immediate business harm.

IV. Correct Interpretation of the Beaufort Code as Applied to the Property

The Beaufort Code authorizes license suspension only for violations of **publicly enacted standards** adopted by the City—not for private restrictive covenants. Under § 3.6.2(C)(2)(k), the City’s role is limited to ensuring a safety inspection and compliance with business-license requirements. I satisfied those conditions and was granted a valid license. Nothing in § 3.6.2 authorizes the City to suspend or revoke a license for lack of HOA approval, especially where the HOA’s legal status is unverified. Although recorded, the covenants remain **private agreements** enforceable only through civil proceedings. This interpretation is consistent with the City’s own written policy statements that it does not interpret or enforce private neighborhood covenants; such matters are civil, not administrative, in nature. Because they contain **ambiguous language** and rely on **unrecorded bylaws**, they cannot serve as a lawful basis for municipal enforcement. The City lacks authority to interpret or apply such covenants; any disputes over them belong in private civil forums, not in business-license administration.

V. Misapplication of Beaufort Code § 3.6.2.J

The City’s suspension notice asserts that, because the property is subject to recorded covenants and a homeowners’ association that it **claims require “written approval for business operations,” the City may suspend or deny my business license unless I obtain that written HOA approval**, citing § 3.6.2.J. In doing so, the City has

effectively made HOA written approval a condition of my business license. This reading of § 3.6.2.J and the covenants is **incorrect and exceeds the City's authority**.

Section 3.6.2(C)(2)(j) simply requires written confirmation **if** a valid property owners' association exists; it does not empower the City to interpret private covenants or to condition licensing on an entity that is defunct or without legal officers. Equally, under § 12.3.2(B), the City may revoke a license only after written notice and a finding of non-compliance, misrepresentation, or issuance in error—none of which occurred here. The City's action therefore exceeded its delegated authority and violated the due-process safeguards built into its own Code. Even if such approval were contemplated, it cannot be applied where:

1. The covenants are **ambiguous** and reference **bylaws that were never recorded**;
2. The HOA's authority is **uncertain and not defined** in any recorded document; and
3. The Beaufort Code provides **no enforcement mechanism** allowing license suspension for lack of HOA consent.

The City's reliance on § 3.6.2.J as a basis to suspend my license was therefore **erroneous as a matter of law** and contrary to both the Beaufort Code and **S.C. Code § 6-29-1145**, which limits governmental involvement in covenant enforcement.

In simple terms: That section only requires the City to ask whether covenants exist—it does not authorize the City to enforce them or turn HOA approvals into City license conditions.

VI. Requested Relief

The Board's duty is to ensure fair and consistent application of City law, not to ratify administrative overreach.

The applicant requests that the **Board of Zoning Appeals, acting as the designated appellate body for administrative decisions, reverse the suspension** of Business License #21524 and order reinstatement. The applicant further asks the Board to clarify that:

1. The City may not rely on interpretations of **recorded restrictive covenants or unrecorded bylaws** when determining license eligibility; and
2. Enforcement of such covenants rests exclusively with private parties under civil law, not the City of Beaufort.

Restoring my license is not just about my case—it safeguards every property owner in Beaufort from arbitrary or unequal treatment.

VII. Addendum A – Statutory Context (§§ 6-29-1145, 12.3.2, 3.6.2)

Recorded restrictive covenants exist for this property; however, their terms are ambiguous and reference bylaws that were never recorded. They use undefined terms such as “transient guests” and “tenants” and do not clearly prohibit the licensed activity. Under § 6-29-1145, the City’s role is limited to inquiry—not enforcement. Enforcement remains a private civil matter. This disclosure acknowledges the recorded documents while clarifying that my original “No” answer was a good-faith response to an ambiguous question. Treating that answer as “false” was mistaken and cannot justify suspension. The South Carolina Homeowners Association Act reinforces this principle by requiring all operative documents to be publicly recorded as a condition of enforceability (§ 27-30-130). **Together these sections confirm that covenant enforcement remains a private matter and that City licensing actions must follow express procedural standards.**

VIII. Exhibit Checklist

- **Exhibit A** – City Suspension Letter (Oct 20 2025)
- **Exhibit B** – Original License Application (highlighting covenant question)
- **Exhibit C** – Beaufort Code § 12.3.2 (Other Remedies and Penalties)
- **Exhibit D** – Beaufort Code § 3.6.2 (Additional Standards for Commercial Uses)

- **Exhibit E - E1** – Covenants and unrecorded Bylaws excerpts showing ambiguous “transient guests/tenants” language
 - **Exhibit F** – Affidavit regarding unrecorded bylaws and HOA status
 - **Exhibit F-1** - Petition of Residents
 - **Exhibit F-2 F-2a** - South Carolina Homeowners Association Act - South Carolina Nonprofit Corporation Act
 - **Exhibit G** – Comprehensive Appeal Letter dated Oct 29 2025 (incorporated by reference)
-

Certification

I certify that the information contained in this attachment is true and correct to the best of my knowledge.

James Mead *JEM* Date: 11/04/2025

110 Factory Creek Ct., Beaufort SC 29907 • ~~703-365-0791 • jmead17@gmail.com~~



**AFFIDAVIT OF ELECTED OFFICERS
THE COTTAGES AT FACTORY CREEK HOMEOWNERS ASSOCIATION
DATE: November 18, 2025**

State of South Carolina
County of Beaufort

We, **Michelle Hipps, Pennie Mead, and Lisa Biesterfeld**, being duly sworn, state the following based on our personal knowledge:

1. We are homeowners or authorized owner representatives in The Cottages at Factory Creek. On **November 18, 2025**, we were elected by the property owners to serve as officers of the Association as follows:
Michelle Hipps – President; Pennie Mead – Secretary; Lisa Biesterfeld – Treasurer.
 2. We reviewed the **recorded 2008 Declaration**, the only document recorded in Beaufort County. It contains **no prohibition** on short-term rentals, no minimum rental duration, and no requirement for HOA approval. It references “transient guests” but does not define the term.
 3. We reviewed the **unrecorded Bylaws draft** for the Association. To the best of our knowledge, these bylaws were **never recorded**, never adopted, and under **S.C. Code § 27-30-130**, unrecorded governing documents are **not enforceable**.
 4. Based on available records and our experience as owners, no functioning HOA board, officers, elections, or annual meetings existed for many years prior to November 18, 2025. No declarant or successor declarant has acted since the original declarant ceased ownership.
 5. We are not aware of **any adopted rule, regulation, or amendment** restricting short-term rentals or requiring HOA approval for rentals.
 6. The Declaration’s use of the term “transient guests,” without definition, creates **ambiguity**, and under South Carolina law, **ambiguities must be resolved in favor of free use of property**.
- **Conclusion:**
There is **no recorded restriction** on short-term rentals, **no adopted rule**, and **no functioning HOA authority prior to Nov. 18, 2025** capable of granting or denying rental approval.

We swear that the above is true to the best of our knowledge.

Michelle Hipps, President Michelle Hipps 11/18/25

Pennie Mead, Secretary Pennie Mead 11/18/25

Lisa Biesterfeld, Treasurer Lisa Biesterfeld 11/18/25

NOTARIAL ACKNOWLEDGMENT

Subscribed and sworn to before me on **November 19th, 2025**, by **Michelle Hipps, Pennie Mead, and Lisa Biesterfeld**, who are personally known to me (or have provided satisfactory proof of identity) and who executed the foregoing instrument.

Christopher Jude Schäffer
Notary Public, Commonwealth of Virginia
Comm. No #7711710
My Comm. Expires: 12/31/2025

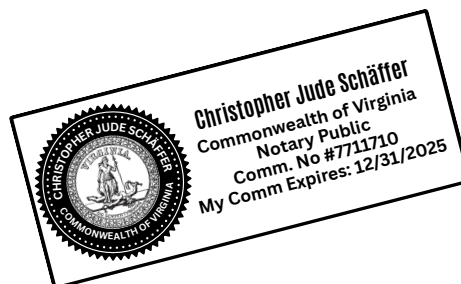


Exhibit A



CITY OF BEAUFORT
BUSINESS LICENSE DIVISION
1911 Boundary Street
BEAUFORT, SOUTH CAROLINA 29902
Phone: 843/525-7025
Email: buslicense@cityofbeaufort.org

October 20, 2025

James Mead
110 Factory Creek Ct.
Beaufort, SC 29907

RE: Immediate Suspension of Business License # 21524

Dear Mr. Mead,

Effective immediately, the business license for Factory Creek, located at 110 Factory Creek Court, is hereby suspended. This action is taken in accordance with Beaufort Code Section 12.3.2.B, as determined by the City Attorney.

The suspension is based on your response of "No" to the application question regarding recorded covenants. The property is subject to existing covenants and a homeowners' association (HOA), which require written approval for business operations, as outlined in the Beaufort Code Section 3.6.2.J.

You have the right to appeal this decision. Any appeal must be submitted in writing to the City Council within ten (10) days of receipt of this notice. The written request must clearly state the reasons for the appeal and be filed with the Business License Inspector.

Failure to comply with this suspension may result in additional legal action, including potential fines.

Sincerely,


Justin A. Rose
Business License Inspector

Exhibit B



CONDITIONAL USE PERMIT APPLICATION SHORT TERM RENTAL

Business License Division

1911 Boundary Street, Beaufort, South Carolina, 29902

p. (843) 525-7025 / e. buslicense@cityofbeaufort.org

Application Fee: \$100

Post Facto Fee: \$1,000

****THIS APPLICATION WILL EXPIRE SIX (6) MONTHS FROM THE DATE OF ENTRY****

Units that were found to be operating without approval of the City prior to submitting this application are subject to the post facto fee of \$1,000 per Section 3.6.2.1 of the City Code

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application? Yes No
If yes, has approval been granted by that governing body? Yes No



Exhibit C

12.3.2 OTHER REMEDIES AND PENALTIES

In addition, the city may use any combination of the following enforcement actions, remedies, and penalties in any particular order to correct, stop, abate, or enjoin a violation of this Code:

- A. **Stop Order:** The Administrator may issue and serve upon a person violating this Code a "stop order" requires the person to stop all actions in violation of this Code, including illegal occupation of a building or structure, performing illegal work, or any other action in violation of this Code.
- B. **Permit Revocation:** Any permit, development approval, or other form of authorization required under this Code may be revoked if the Administrator determines that:
 - 1. There is a failure to comply with the approved permit, development approval, plans, specifications, or terms or conditions required under the permit or development approval.
 - 2. The permit or development approval was procured by false representation.
 - 3. The permit or development approval was issued in error.

Written notice of revocation shall be served upon the landowner, the landowner's agent, or others to whom the permit or development approval was issued, and such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice.

- C. **Civil Remedies:** In addition to all other remedies and penalties outlined in this article, the administrator may institute an action or proceeding for injunction or mandamus or other appropriate action or proceeding to prevent, abate, or correct a violation of this Code or to prevent the occupancy of a structure or land that is in violation of this Code. Each day a person violates this Code shall be considered a separate offense.

Exhibit D

3.6.2 ADDITIONAL STANDARDS FOR COMMERCIAL USES

The following additional standards apply to the approval and development of projects where the use is listed in the "Table of Permitted Uses" in Section 3.2 as Conditional (C), Special Exception (SE), or T4-Neighborhood Artisan (A). In addition, any Building Design standards, as set forth in Article 4, apply as applicable.

A. **Entertainment Uses (Indoor and Outdoor):**

1. **Specific to T3:** Indoor and outdoor entertainment are permitted if the property is owned by a neighborhood association or property owners' association, and if the use is owned and managed by that association.
2. **Specific to T4-N:** Indoor Entertainment shall be limited to 2,500 SF unless it is part of a mixed-use development.
3. **Specific to T4-N and T5-UC:** Outdoor Entertainment is permitted on parcels 7 acres or larger.

B. **Sexually-Oriented Businesses:** See Section 13.2.1.

C. **Overnight Guest Accommodation:**

1. **Bed and Breakfasts (B&B):**

- a. **Number of Rental Rooms:** 10 maximum, not including the caretaker's quarters.
- b. **Signs:** Total sign area for all signs advertising the B&B shall not exceed 5 square feet. All signs shall be constructed of wood or other durable non-plastic materials.
- c. **Parking:** One space per room, plus 1 space for the resident manager shall be provided on-site. Formalized on-street parking spaces meeting the requirements of Section 5.7.4 B. may count towards this requirement.
- d. **Spacing:** There shall be no other B&B in a T3 or T4-HN zoning district located within 500 feet of a proposed B&B in either of these districts. Distances shall be measured from the property line.
- e. **Meals:** No meals will be served to anyone other than registered guests, except as provided for in Section 3.6.2 C.1.f. below. No variances from this condition shall be permitted.
- f. **Events:** Business meetings, receptions, teas, and other events are permitted, provided that the events are hosted for registered guests. This shall apply to all B&Bs established under the Beaufort Code.
- g. **Operation:** B&Bs shall be operated by a resident manager living on the premises.

2. **Short Term Rental:**

- a. **Specific to T3-S, T3-N, and T4-HN:** Short term rentals, where the owner does not live on the premises, are limited to 6% of the lots in the neighborhood as shown on the City of Beaufort Neighborhoods Map zoned T3-S, T3-N, and/or T4-HN with the following exceptions:
 - i. Structures on the City's List of Vacant and Abandoned Structures being rehabilitated for use as a short term rental; and
 - ii. Short term rentals are prohibited in The Point neighborhood, as shown on the City of Beaufort Neighborhoods Map.
- b. **Minimum Stay:** 2 nights.

-
- c. **Permitted Rental Types:**
 - i. Rental of the primary dwelling.
 - ii. Rental of an accessory dwelling.
 - iii. Rental of a portion of a primary dwelling.
 - iv. Rental of a boat in an approved marina.
 - d. **Parking:** Parking shall be provided on-site and located to the side or rear of the dwelling. On-site parking shall be clearly delineated with an improved surface such as pavement, gravel, or another method approved by the administrator. If formalized parking is provided on the street(s) adjacent to the primary or accessory unit, this may be utilized in lieu of on-site parking.
 - e. **Rental Agreement:** The applicant shall provide a copy of the rental agreement that will be used. The rental agreement shall specify the following:
 - i. The minimum stay.
 - ii. The maximum number of guests—which shall be based on the number of beds in the unit. For Primary house rentals, the number of adult guests is limited to 2 per bedroom. For Carriage House rentals, the total number of adult guests is limited to 4.
 - iii. The maximum number of vehicles permitted at the unit—which shall be based on the number of bedrooms and the design of the driveway. For Primary house rentals, the number of vehicles is limited to 1 per bedroom. For Carriage House rentals, the total number of adult guests is limited to 2.
 - iv. Where guests are to park. Where no formalized on-street parking is available, the agreement shall specify that guests are to park on-site and not in the street.
 - v. That the City's noise ordinance applies between 9:00 p.m. and 8:00 a.m.
 - vi. Prohibit large gatherings such as weddings and reunions unless specifically approved by the City.
 - vii. Pets, if permitted, are not to be left outside unattended.
 - f. **Property Management Plan:** A property management plan shall be developed and approved by the administrator. The property management plan shall identify a property manager. Where the property owner does not live on the premises, the property manager must be available to appear on the premises to respond a complaint within three hours of being notified by the administrator. Where the property owner lives on the premises, a back-up property manager must be identified unless the owner certifies the unit will not be rented when the owner is out of town. The administrator shall be notified when management of the unit changes. Failure to comply with the approved property management plan shall result in the revocation of the zoning permit (Section 9.4).
 - g. **Signs:** No on-site signs shall be permitted.
 - h. **Rental Rules:** Rental rules, including use of the sanitation and recycling roll-carts, and emergency contact information including the police non-emergency number, shall be posted in a conspicuous location in the unit.
 - i. **Monitored Fire Alarm:** A monitored fire alarm is required for all units except boats. Boats are required to provide documentation that a Coast Guard Auxiliary Safety Vessel Check

has been performed is required. The Vessel Safety Check can be arranged through this link: <http://www.cgaux.org/vsc>. Existing facilities not meeting this requirement shall be brought into conformance within 6 months of the date of adoption of this Code.

- j. **Outside Approvals Required:** For properties located in a neighborhood with a property owners' association, written confirmation from the association president that short-term rentals are permitted in the neighborhood is required. In multifamily structures, written approval from the property management association is required. For boats in an approved marina, written permission from the marina manager is required.
- k. **Safety Inspection and Licensing:** A Safety Inspection shall be conducted before the Business License for the facility is issued. The facility shall comply with all business license, revenue collection, and health laws of the City of Beaufort, Beaufort County and the State of South Carolina.
- l. **Unlicensed Units:** For units that are found to be operating without approval of the City, the short term rental application fee shall be \$1,000. If the property owner chooses not to submit a short term rental application within 60 days of being notified by the City of being in violation of the ordinance, a short term rental application shall not be approved for a period of 2 years.

3. **Inn/Hotel/Motel:**

a. **Specific to T4-N:**

- i. Inns up to 10 rooms are permitted.
- ii. Inns with 11—24 rooms are permitted in retail frontage overlay areas.

b. **Specific to T4-NA:** This use is prohibited.

D. **Retail and Restaurants:**

- 1. **Specific to T4-N only:** Except for Animal Hospitals/Kennels, Restaurants and Retail are permitted only in Retail Frontage Overlay Districts, and in the T4-NA district per the conditions below. Animal Hospitals/Kennels shall follow the Conditions for T5-UC.
- 2. **Specific to T4-NA:** The only types of general retail/service uses permitted are Artisan-Oriented and Trail-Related uses. The following conditions apply:
 - a. Freestanding signs are limited to one per lot, with a maximum size of 5 square feet.
 - b. No outside amplified music is permitted.
 - c. No alcohol sales are permitted.
 - d. New construction and exterior changes to existing structures to accommodate such uses shall be subject to Article 4 (Building Design and Infill Standards) of this Code.
 - e. Specific to trail-related uses:
 - i. The floor area of each tenant space is limited to 2,500 square feet.
 - ii. On-site parking shall be provided at the rate of 1 space per 300 square feet.
 - iii. The hours of operation shall be limited to between 7:00 a.m. and 6:00 p.m. EST, 7:00 p.m. EDT.
 - iv. Any use that includes outdoor seating shall have a trash container available for disposal of goods consumed on the premises.

-
3. **Specific to T5-UC:** Animal Hospitals/Kennels are permitted with the following Conditions:
 - a. **Outdoor Activity:** Outdoor activity is permitted during daylight hours; animals must be boarded indoors at night.
 - b. **Permitted Accessory Uses:** Boarding, retail sales, and grooming services are permitted.
 4. **Specific to T5-DC:** Animal Hospitals/Kennels are not permitted.
 5. **Specific to IC:** General retail/service uses are not permitted along Highway 170 west of W.K. Alston Drive.

(Ord. No. O-24-1, 9-26-2017)

Exhibit E

II. GENERAL COVENANTS AND RESTRICTIONS.

A. Permitted Uses.

1. The Residential Lots. Lots 1-13 (the "Residential Lots") as shown on the Plat may be used for single family residential purposes only and for no other purpose, and no more than one family (including its servants and transient guests) shall occupy a residential lot. Single family means one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not so related who maintain a common household together. No residential structure shall be used as a place of business other than as a personal office for the resident and may not be used as a public place of business. No residential lot may be subdivided to create additional lots or used for more than one single-family residence.

Exhibit E - 1

ARTICLE III - PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT

Delegation of Property Rights: Each member of the ASSOCIATION shall be entitled to the use and enjoyment of the COMMON PROPERTY as provided in the DECLARATION. Any OWNER may assign his rights of enjoyment and use of the COMMON PROPERTY to the members of his immediate family, to his guests, or to his tenants who reside on his LOT. Such Member shall notify the Secretary in writing of the name or names of any such assignees. The rights and privileges of such assignees are subject to suspension to the same extent as those of the Member.

Exhibit F

AFFIDAVIT

1. HOA Status

The Cottages at Factory Creek Homeowners Association has not held annual meetings, conducted board elections, issued financial disclosures, or engaged in any documented governance activity for many years. To the best of my knowledge and based on a search of public records, there is no current evidence that Articles of Incorporation are active for the Association with the South Carolina Secretary of State. The original governing documents recorded in 2008 have not been amended, updated, or overseen by any functioning board or officers since their recording. Residents within the community, including myself, have requested records and meeting minutes and are actively questioning the legitimacy and governance of the HOA.

2. Community Confirmation

Several property owners acknowledge that no formal governance exists or has functioned for years. No one has been elected to leadership, and no budgetary or administrative actions have been properly conducted in accordance with the governing documents.

3. Recorded Covenants

The recorded Declaration of Covenants requires single-family residential use but does not prohibit renting or leasing. The document is silent regarding tenant occupancy, and no provision limits use to owner-occupants.

4. Lack of Enforcement Authority

There is no active HOA or individual with legitimate authority to approve or restrict short-term rentals. Any individual purporting to act as an HOA representative does so without legal standing or member consensus.

5. Compliance with SC Code § 6-29-1145

I have reviewed the statute (which requires inquiry into restrictive covenants). My statement confirms that there is no recorded covenant prohibiting short-term rentals, nor is there a governing body capable of enforcing such a restriction.

6. Property Ownership and Rights

I am the authorized manager of the property located at 110 Factory Creek Court, which is legally owned by JPM Property Holdings LLC. Any denial of the right to apply for a short-term rental license—absent a clear, recorded, and enforceable restriction—would constitute an overreach that may infringe on the property owner's rights under South Carolina law. I submit this affidavit to ensure full transparency and to shield the City from liability arising from any conflicting, outdated, or unenforceable HOA claims.

Signature: [Handwritten Signature]
Printed Name: Jim Mead
Authorized Manager, JPM Property Holdings LLC
Date: 8/7/2025

Before me this 7th day of August, 2025
personally appeared Jim Mead, known to me (or satisfactorily proven) to be the person who executed
the foregoing affidavit, and acknowledged that he executed it. Notary Public Signature:

My Commission Expires: 12/31/2025

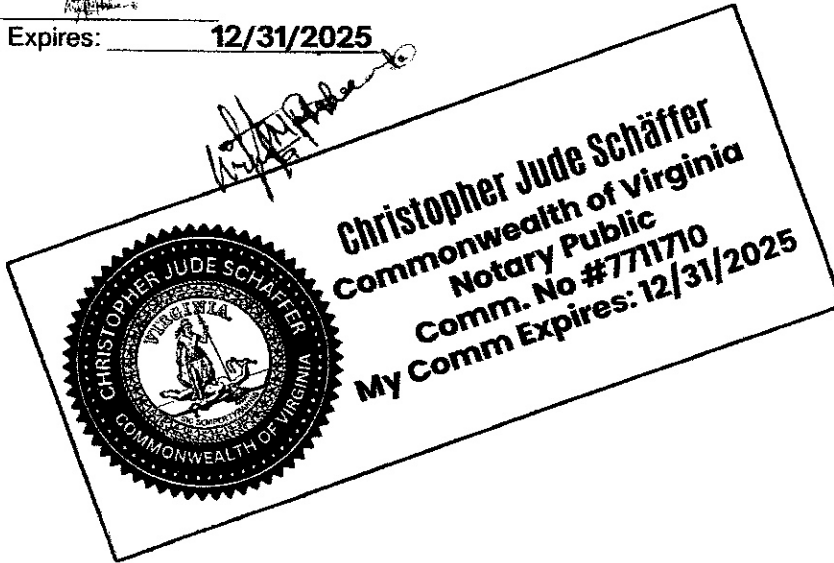


Exhibit F - 1

Exhibit F - 2

SC HOMEOWNERS ASSOCIATION ACT



The **Homeowners Association Act** applies to communities and horizontal property regimes requiring homeowners to pay assessments. The law requires governing documents to be filed, provides certain meeting notice requirements and access to association budget and membership lists.

The law also requires Department of Consumer Affairs (DCA) to collect specific data on HOA complaints, compile and share it with the Governor and the General Assembly each year.

FILING REQUIREMENT — GOVERNING DOCUMENTS, RULES, REGULATIONS & AMENDMENTS:

Any governing documents existing before the Homeowners Association Act became effective (5/17/2018) must have been recorded in the county [clerk of court's](#), Register of Mesne Conveyance, or [Register of Deeds](#) office by January 10, 2019 to be enforceable. New or amended governing documents, rules and regulations must also be filed in the county by January 10th of each year following their adoption or amendment. Governing documents includes the HOA declaration, master deeds and bylaws.

HOMEOWNERS ACCESS TO DOCUMENTS:

Rules, regulations & amendments — HOAs must make rules, regulations and their amendments available to members upon request, unless they are:

- Posted in a conspicuous place in a common area in the community; OR
- Available on a webpage maintained by the HOA, where the member can download them.

When responding to a request, the association may send the items via email or through methods provided in the HOA's bylaws.

Budget & Membership lists — All HOAs are subject to certain access to documents requirements in the [SC Nonprofit Corporation Act](#) for the purpose of letting homeowners inspect and copy the association's budget and membership lists.

MEETING NOTICE REQUIREMENT — BUDGET INCREASE:

Associations other than those incorporated under the [SC Nonprofit Corporation Act](#) must provide homeowners notice 48 hours in advance of the meeting in which a decision to raise the annual budget is made. Notice may be through posting:

- In conspicuous place in a common area in the community;
- On an Internet website maintained by the homeowners association;
- By electronic mail; or
- Through methods provided in the association's bylaws that ensure actual notice.

SC HOA ACT CONTINUED...

DISCLOSURE FOR HOMEBUYERS:

A seller must let the purchaser know if the property is part of a homeowners association. This is done through the "[South Carolina Residential Property Disclosure Statement](#)" produced by the SC Department of Labor, Licensing and Regulation. The form can be found on their website at www.llr.sc.gov.

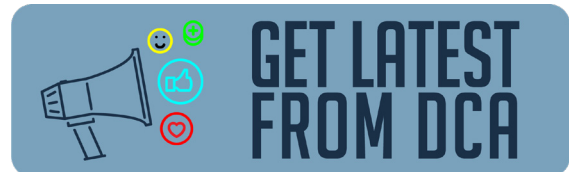
MAGISTRATE'S COURT:

The [Magistrate's Court](#) may hear monetary disputes involving a HOA if the amount in issue does not exceed \$7,500.

COMPLAINT PROCESSING AND REPORTING — DEPARTMENT OF CONSUMER AFFAIRS:

The Department of Consumer Affairs is to take and collect specific data on [HOA complaints](#), compile and share the data with the Governor and the General Assembly each year. The law specifically prohibits the agency from serving as an arbiter of disputes.

FOR MORE HOA INFORMATION, VISIT CONSUMER.SC.GOV.



Please note, this material is for informational purposes only, is general in nature, and is not intended to and should not be relied upon or construed as a legal opinion or legal advice regarding any specific issue or factual circumstance.



South Carolina Department of Consumer Affairs
293 Greystone Blvd., Ste. 400 • PO Box 5757 • Columbia, SC 29210
(800) 922-1594 • www.consumer.sc.gov

Exhibit F – 2a

SC NONPROFIT CORPORATION ACT



The **Nonprofit Corporation Act** (Act) applies to a business, including homeowners associations (HOA), that have filed its nonprofit articles of incorporation with the Secretary of State. The law provides details on meetings (including notice & quorum requirements), rules for the board of directors, access to records and more.

Below are highlights of the law. It does not serve as a substitute for reviewing the actual statute.

SETTING UP A NONPROFIT CORPORATION:

Filing Requirement — To become a nonprofit corporation, Articles of Incorporation (“articles”) must be filed with the South Carolina Secretary of State. For filing forms and more information on what is required, visit <https://businessfilings.sc.gov/businessfiling>. To see if an HOA is registered as a nonprofit corporation, visit sos.sc.gov/searches and click “Business Entities Search.”

Bylaws — The incorporators or board of directors must adopt the corporation’s initial bylaws. The bylaws set out how the business will operate, including what it can and cannot do. A corporation can put what they wish in the bylaws so long as it doesn’t conflict with the law or the business’ articles. Amendments to the bylaws can be made by either the board of directors, or the members, depending on (1) the topic and (2) what the law, articles and bylaws provide.

DIRECTORS & OFFICERS:

A nonprofit corporation must either have a board of directors or someone named in the articles who has powers normally held by the board. When the business chooses a board, it must consist of 3 or more people either elected by members or appointed through the bylaws for a term of five years or less.

Unless otherwise provided in the articles or bylaws, a corporation must have a president, a secretary, a treasurer. One officer must be given the duty to take minutes at directors’ and members’ meetings.

MEMBERS:

The articles or bylaws must set out how someone becomes a member of the corporation. All members have the same voting rights and obligations unless the articles or bylaws lay out different member classes.

ACCESS TO DOCUMENTS:

Members of the HOA have the right to inspect and copy records held by the corporation. The law requires nonprofit corporations to keep certain items, including:

- Minutes of director’s and members’ meetings, including committees of the board;
- Articles and any current amendments;
- Names and addresses of its current directors and officers;
- Written communications to members made within the past three years, including financial statements;
- Records of all actions approved by members for the past three years;
- Copies of reports filed with the Secretary of State.

NONPROFIT CORPORATIONS ACT CONT...

MEETINGS - TYPES, NOTICE AND VOTING:

Meeting Types — Nonprofit corporations must have an annual meeting each year where the President and Chief Financial Officer report on activities and the financial condition of the corporation. Regular membership meetings and special-called meetings are allowed.

Notice — The Act sets rules for giving notice. One requirement is that notice must be “fair and reasonable.” If the corporation notifies members of the following, the notice is considered “fair and reasonable.”

1. The place, date, and time of each annual, regular and special meeting at least 10 days ahead of time, but no sooner than 60 days before the meeting (if using first-class or registered mail);
2. Any matter the members must approve if an annual or regular meeting or if a special-called meeting, a description of what will be discussed; and
3. Issues a member intends to raise at the meeting, if certain requirements are met.

VOTING:

Unless the Act, articles or bylaws say otherwise: (1) each member is entitled to one vote, (2) a quorum is 10% of votes entitled to be cast and (3) proxies are allowed.

COMPLAINT PROCESSING AND REPORTING — DEPARTMENT OF CONSUMER AFFAIRS:

The Department of Consumer Affairs is to take and collect specific data on [HOA complaints](#), compile and share the data with the Governor and the General Assembly each year. The law specifically prohibits the agency from serving as an arbiter of disputes.

FOR MORE HOA INFORMATION, VISIT CONSUMER.SC.GOV.



Please note, this material is for informational purposes only, is general in nature, and is not intended to and should not be relied upon or construed as a legal opinion or legal advice regarding any specific issue or factual circumstance.



South Carolina Department of Consumer Affairs
293 Greystone Blvd., Ste. 400 • PO Box 5757 • Columbia, SC 29210
(800) 922-1594 • www.consumer.sc.gov

Exhibit G

October 29, 2025

Justin Rose, MBL
Business License Inspector
City of Beaufort
1911 Boundary Street
Beaufort, SC 29902

Cc: Ben Coppage, City Attorney; City Council

RE: Appeal of Business License Suspension – 110 Factory Creek Ct., BL 21524

Executive Summary

This formal appeal demands immediate reversal of the business license suspension for 110 Factory Creek Ct. The City's action, resting solely on the alleged need for "written approval" from a homeowners association, is unsupported in law or fact. No such approval is required by the only enforceable governing documents. **Critically, all referenced Bylaws—intended to provide the necessary procedures and enforcement authority for the HOA—are not recorded in the public record as required by South Carolina law. There is thus no legal or practical basis for suspending or conditioning my license on an HOA act that cannot lawfully occur.**

Key Facts

- I complied fully with every procedural requirement and application step, including inspection, fees, and affirmative disclosure of all recorded covenants.
- The 2008 Amended and Restated Declaration of Covenants, the sole recorded restriction document, does not prohibit short-term rentals, impose lease-duration minimums, or require any board or president "approval" for rental uses. It expressly contemplates "guests" and "tenants" with no restriction on duration.

- Importantly, the covenants are ambiguous with regard to the terms “transient guests” and “tenants,” explicitly permitting their presence but offering no minimum duration or express prohibition on short-term rentals. Under South Carolina law, any ambiguity in a restrictive covenant must be resolved in favor of the free use of the property by its owner. Thus, the absence of a clear, express rental restriction fully supports approval of my application.
- While the Covenants reference “[see Bylaws]” for operational authority, elections, enforcement, and board structure, there are no Bylaws ever recorded in the Beaufort County Registry. This is critical: under the South Carolina HOA Act (§ 27-30-130), unrecorded Bylaws cannot serve as a basis for owner obligations or confer enforcement authority to any individual or group.
- **Resident petitions and affidavits confirm no board elections, no annual meetings, and no functioning HOA governance has occurred in years, contrary to law.**

Legal Argument

1. Enforceability Hinges on Public Record

South Carolina statute is unequivocal: “no provision in any governing document... is enforceable against a property owner unless the document is recorded with the county registry of deeds.” (SC Code § 27-30-130) The Bylaws are cited throughout the Covenants as the source of key operational, election, and enforcement mechanisms. *With NO Bylaws recorded, the “engine” of HOA enforcement or procedural legitimacy never existed for this community.*

2. SC Nonprofit Corporation Act Requirements

Bolded statutory highlights:

- HOA nonprofit corporations must:
 - File Articles of Incorporation and formally adopt Bylaws
 - Maintain a board of directors of at least three, elected or appointed for up to five years
 - Hold annual meetings, maintain notice and quorum procedures for all member actions
 - Keep accurate minutes, amendments, officer lists, reports, and provide records on request

The Factory Creek HOA has never adopted or recorded Bylaws, conducted annual meetings or elections, or maintained and provided the required records. By statute and as a matter of fact, there is no lawful president, board, or officer able to act for this association.

“In accordance with the South Carolina Nonprofit Corporation Act, homeowners associations must have formally adopted bylaws, a board of directors elected by members, annual meetings, and provide members access to all key records. The Factory Creek association has not met any of these statutory requirements, further confirming it has no lawful authority to act as an HOA or to confer or withhold approval for business licensing.”

3. No Legally Competent HOA for Approvals

Section 3.6.2.J of City Code only requires president approval IF such officer and authority exist under enforceable, of-record governance. They do not. Without recorded Bylaws, there is no enforceable process for elections, meetings, or conferral of powers, so no HOA president providing authoritative approval can exist. **This is confirmed by a majority resident petition and statements: no elections, meetings, or president in fact or law.**

4. City’s Action is Legally Unsupportable

Conditioning my license on HOA “approval” is a *nullity*: the office and power to grant or deny such approval are not established or provided for as a matter of public record or enforceable right. South Carolina and wider case law make clear: HOAs or covenants referencing but NOT supplying operative documents cannot deprive property owners of fundamental use rights. Decisions must be based only on clear, recorded, and enforceable restrictions. The City, in prior correspondence, stated it does not enforce neighborhood covenants—confirming that enforcement or interpretation of such covenants is not the City’s function or policy.

5. Compliance and Lack of Code Violation

All application steps, inspections, and fees were completed in good faith. Suspension cited only the unattainable HOA approval, which—given the above grounds—is legally and factually baseless. My particular application has never been shown to violate any City code, zoning regulation, or valid restrictive covenant.

6. Selective and Arbitrary Enforcement

No evidence exists that the City applies this “HOA approval” condition uniformly across communities or to commercial properties in similar or adjacent areas. Waivers, variances, or administrative discretion have routinely been granted elsewhere without requirement of HOA president action.

7. Constitutional and Equitable Principles

Procedural due process and equal protection are denied when property rights are removed based on the absent acts (or deliberate inaction) of nonexistent authority. Owners cannot be denied a license or stranded in a “Catch-22”—required to provide approval by an official or body that has no legal or factual existence.

Request for Relief

- Immediate, retroactive reinstatement of Business License 21524.
- Written acknowledgment that with no recorded Bylaws and no valid board or president, HOA approval is neither required nor legally obtainable.
- Erasure of suspension from all City records, with confirmation that future license decisions will be governed by South Carolina law and the actual record—not unrecorded, unenforceable, or imaginary documents or offices.
- Written assurance that no property owner will be deprived of rights based on unrecorded governance documents or private actors whose legal authority is not established.

Attachments/Exhibits

- 2008 Amended and Restated Declaration of Covenants (recorded, full and summary)
- Unrecorded or missing Bylaws (for illustration of the missing link)
- Petition and affidavits from the resident majority
- Relevant City correspondence and emails
- SC HOA Act and SC Nonprofit Corporation Act excerpts
- Suspension notice and communications

Final Note

The law, facts, and spirit of fairness all demand immediate reversal. The recorded covenants, the absence of enforceable Bylaws and lawfully acting board, and the clear language of South Carolina law itself leave your suspension of my license on no legal foundation. I respectfully request prompt reversal, correction of the record, and

assurance that the City's process in all future matters will be governed only by operative, recorded documents—not references or claims that cannot withstand scrutiny.

Respectfully,

James Mead

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