



BP0593100

# PGS:

11

STATE OF SOUTH CAROLINA ) SECOND AMENDED AND RESTATED  
COUNTY OF CHARLESTON ) BYLAWS OF MARSH POINTE ASSOCIATION, INC.

**ARTICLE I**

**NAME, LOCATION AND RECORDING**

The name of the corporation is Marsh Pointe Association, Inc., hereinafter referred to as the "Association", at Marsh Pointe Subdivision, Mt. Pleasant, South Carolina;

The original Bylaws having been recorded July 19, 1985, in Book T146, Page 663, as amended, by First Amended Bylaws recorded April 11, 2011, in Book 0181, Page 557; and

The Bylaws, as amended by the First Amended Bylaws, were amended at a regular or special meeting of the members, by vote of a majority of a quorum of members present in person or by proxy.

NOW, THEREFORE, THE BYLAWS ARE AMENDED AS FOLLOWS, TO-WIT:

**ARTICLE II**

**DEFINITIONS**

Section 1. "Association" shall mean and refer to Marsh Pointe Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean that certain real property, together with improvements, described in the Second Amended and Restated Declaration of Covenants and Restrictions for Marsh Pointe, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declaration" shall mean and refer to the Second Amended and Restated Declaration of Covenants and Restrictions applicable to the Properties recorded in the Office of the RMC for Charleston County, South Carolina.

Section 7. "Member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 8. "Exterior of dwellings" shall mean maintenance of the exterior unit, improvements, repair and replacement as described in Article IV of this Declaration.

### **ARTICLE III**

#### **MEMBERSHIP**

Section 1. Membership. Every person or entity who is a record owner of a Fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association. The forgoing is not intended to include persons or entities who hold an interest as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. Voting rights shall be as set forth in Articles III of The Declaration of Covenants and Restrictions.

Section 2. Suspension of Membership. During any period in which an Owner shall be default in the payment of any annual or special assessment levied by the Association, the voting rights of such Owner may be suspended by the Board of Directors until such assessment has been paid. Such rights of an Owner may also be suspended after notice and hearing, for a period not to exceed sixty (60) days, for violation on any rules and regulations established by the Board of Directors governing the use of the Common Area and facilities.

### **ARTICLE IV**

#### **PROPERTY RIGHTS: RIGHTS OF ENJOYMENT**

Section 1. Each member shall be entitled to the use and enjoyment of the Common Area and facilities as provided in the Declaration. Any member may delegate his rights of enjoyment of the Common Area and facilities to the members of his family, his tenants, or contract purchasers, who reside on the property. Such member shall notify the secretary in writing of the name of any such delegate. The rights and privileges of such delegate are subject to suspensions to the same extent as those of the member.

### **ARTICLE V**

#### **BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE**

Section 1. Number. The affairs of this Association shall be managed by a Board of five (5) directors, who shall be members of the Association.

Section 2. Election. At the annual meeting, the members shall elect three (3) directors for a term of one year and two (2) directors for a term of two years, and at each annually thereafter, upon expiration of the Directors respective terms.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service it may render the Association. However, any director may be reimbursed for its actual expenses incurred in the performance of its duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a not less than of three (3) of the directors, one (1) of whom shall be the President or Vice-President of the Association. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## **ARTICLE VI**

### **MEETINGS OF DIRECTORS**

Section 1. Meetings. Meetings of the Board of Directors shall be held when called by the president of the Association, or by any two (2) directors, after not less than three (3) days' notice to each director.

Section 2. Quorum of Directors. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 3. Special Meeting of Directors Called by Members. A special meeting of the Board of Directors may be called by a written notice signed by ten (10) members, addressing their concerns, to the Board of Directors, within ten (10) days after the Board receives such notice. Prior to such meeting the Board shall notice its members of the date and purpose of the meeting at which the concerns shall be addressed. A quorum of the Board of Directors must be present for the for the Board to act and to constitute a valid meeting.

## **ARTICLE VII**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. Powers. The Board of Directors shall have power:

- a) To establish and publish rules and regulations governing the use of the Common Area, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- b) To exercise for the Association, all powers, duties, and authority vested in or delegated to this Association not reserved to the membership by other provisions of these By-Laws, and Articles of Incorporation, or the Declaration of Covenants and Restrictions.
- c) To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- d) To employ a manager, and independent contractor, management company, or such other employees as deemed necessary to assist the Board in its responsibilities as to the handling of monies, financial records, Common Area oversight, coordination of improvements and repairs, and such responsibilities, and to prescribe their duties.
- e) To impose fines for violations of the Declaration, these Bylaws or rules and regulations of the Association.

Section 2. Duties. It shall be the duty of the Board of Directors:

- a) To cause to be kept a complete record of all acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting when such statement is requested in writing by fifty-two percent (52%) of the members who are entitled to vote;
- b) To supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- c) As more fully provided herein and in the Declaration:
  - To fix the amount of the annual assessment against each lot.
  - To give reasonable prior notice of such assessment to every Owner.
- d) To maintain accurate records of assessments and payments by individual owners (or) an owner's representative.
  - To assess and collect penalties for non-payment;
  - To take remedial action for continued non-payment;
- e) To determine what alterations may be done to dwellings by individual owners that would have an effect overall on the appearance and aesthetics of the Association neighborhood;
- f) To procure and maintain adequate liability insurance, Hazard insurance and Wind/Hail insurance on property owned by the Association and to secure and maintain a termite bond as set forth in this Declaration;
- g) To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- h) To cause the Common Area to be maintained, and
- i) To cause the exterior of the dwellings to be maintained, as more fully defined or in the Declaration of Covenants and Restrictions.

## **ARTICLE VIII**

### **OFFICER AND BOARD MEMBER LIABILITY**

Section 1. An Officer and/or Board Member of the Association shall not be personally liable to the Association or its Members for money damages for breach of its fiduciary duty or negligence except for liability:

1. For any breach of the Officers or Directors duty of loyalty to the Association or its Members.
2. For acts or omissions not in good faith, or that involve intentional misconduct or knowing violation of law.
3. For any transaction from which the Officer or Director derived an improper personal benefit.
4. For any acts or omissions that are grossly negligent.

Section 2. The Association hereby assumes all liability to any person, other than the Association or its Members for all acts or omissions of an Officer and/or Director occurring on or after ratification and County filing of this Article incurred in the good faith performance of the Officers and Directors duties as an Officer or Director, provided however, that the Association shall not be considered to have assumed any liability to the extent such assumption is inconsistent with the status of the Association as a organization described in Section 501 (c)(3) of the Internal Revenue Code of 1986, or comparable provisions of subsequent legislation. ("The Code")

Section 3. If the South Carolina law on non-profit Associations is hereby amended to authorize the further elimination of limitation of the liability of Officers or Directors of non-profit Associations then the liability of an Officer or Director of the Association (in addition to the limitation, elimination and assumption of personal liability contained in this Article) shall be assumed by the Association or eliminated or limited to the extent such limitations, elimination or assumption of liability is inconsistent with the status of the Association as an organization described in Section 501 (c)(3) of the Code.

## **ARTICLE IX**

### **MEETINGS OF MEMBERS**

Section 1. Regular Meetings. Regular meetings of the members shall be held annually at such place and on such date and time as determined by the Board of Directors.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of ten (10) members who are entitled to vote.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call meetings, by mailing a copy of such notice, postage pre-paid, at least thirty (30) days before

such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day, hour of the meeting, and, in the case of a special meeting the purpose.

Section 4. Quorum of Members. A quorum is defined as fifteen (15) or more voting members. If such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

## **ARTICLE X**

### **OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. The Officers of this Association shall be a president and vice president, who shall at all times be members of the Board of Directors, a secretary, and treasurer, and such other officers as the Board may from time to time by resolution create. A property manager may fulfill the treasurer's duties and be bonded as the Board of Directors mandates.

Section 2. Election of Officers. The election of officers shall take place at the regular meeting of the Board of Directors following each annual meeting of the members.

Section 3. Terms. The officers of the Association shall be elected annually by the Board of Directors and each shall hold said office for one (1) term unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office at any time by being given written cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice, or at any later time specified therein, and unless otherwise specified thereon, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled in the manner prescribed for regular election. The officer elected to such vacancy shall serve the remainder of the term of the office it replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this article.

Section 8. Duties. The duties of the officers are as follows;

President:

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

Vice President

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

Secretary

- c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

- d) The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual review of the Association books to be made at the completion of each fiscal year; and shall prepare an annual budget and statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

## **ARTICLE XI**

### **ASSESSMENTS**

Section 1. Creation of the Personal Obligations of Assessments. By the Declaration, each member is deemed to covenant and agree to pay: (1) to the Association, annual assessments or charges, (2) to the Association, special assessments for capital improvements, maintenance, transfer fees, and (3) to the appropriate governmental

taxing authority, a pro rata share of ad valorem taxes levied against the Common Area and a pro rata share of assessments for public improvements to the Common Area if the Association shall default in the payment thereof for period of six (6) months. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made which can be foreclosed upon. Each such assessment, together with such interest, costs and a reasonable attorney's fee shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due and shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents in the Properties, and in particular for hazard insurance, grounds maintenance, maintaining the Common Area, the painting and/or staining of the exterior of the improvements situated on the Properties for repair and replacement of roof materials and shingles, for any maintenance required to be performed by the Association in accordance with the Declaration, and for other purposes related to the use and enjoyment of the Common Area.

Section 3. Basis of Annual Assessment. The annual assessment amount will be set by the Board of Directors as more particularly set forth in the Declaration.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessment so authorized, the Association's Board of Directors may levy, in any assessment year applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any capital Improvements as special assessments.

Section 5. Uniform Rate of Assessment. Fixed annual assessments and special assessments are to be paid and collected as determined by the Association's Board of Directors.

Section 6. Transfer Fee. A transfer fee of \$1,500 shall be made by new Owners at the time of Lot purchase, to be paid to the Association in one lump sum within thirty (30) days of Lot purchase and recording, or will become a lien on the Lot, which the Association can foreclose on with 8% per annum interest, plus all costs and attorney fees of foreclosure.

Section 7. Date of Commencement of Assessments. The annual assessment provided for herein shall commence as to all Lots the first day of the month following the conveyance of the Lot. The first assessment shall be adjusted according to the number of days remaining in the calendar month. Special assessments shall become due and payable as authorized and levied by the Association's Board of Directors. The Board of Directors shall notify owner members in writing at least thirty (30) days in advance of each special assessment.

Section 8. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent and a lien on the



property. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight (8%) per annum, and the Association may bring an action at law against the Owner member personally obligated to pay the same, seek a delinquency judgment and/or foreclosure the lien against the property. Interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner member may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Effect of Default in Payment of Ad Valorem Taxes or Assessments of Public Improvements by Association. It shall be further provided that upon default by the Homeowners Association in the payment of, to the governmental authority entitled thereto, any ad valorem taxes levied against the Common Area, which default shall continue for a period of six (6) months, each owner of a Lot in the development shall become personally obligated to pay the taxing or assessment governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessment fees to the governmental authority by the total number of lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the Owner, his heirs, devisees, personal representatives, and assigns, and the taxing or assessing governmental authority may either bring an action at law against the Owner personally obligated to pay the same or may elect to foreclose the lien against the real property.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust. Sale or transfer of any Lot which is subject to any mortgage, pursuant to a decree of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which become due prior to such sale or transfer. No sale or transfer shall relieve the Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust.

## **ARTICLE XII**

### **BOOKS AND RECORDS**

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

## **ARTICLE XIII**

Section 1. These Bylaws may be amended at a regular or special meeting of the members by vote of fifty-two (52%) percent of all the members. Voting may be present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration of Covenants and Restrictions shall control.

**ARTICLE XIV**

**MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January, and end on the thirty-first day of December of every year.

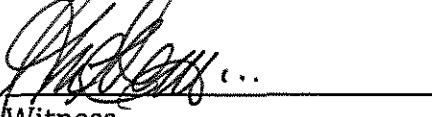
IN WITNESS WHEREOF, the undersigned Marsh Pointe Association, Inc., by and through its undersigned president, has hereunto set its hand, this 26<sup>th</sup> day of October, 2016.

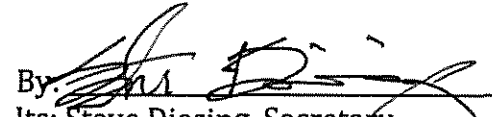
IN THE PRESENCE OF:

MARSH POINTE ASSOCIATION, INC.

  
Witness

By:   
Its: Paul A. Ford, President

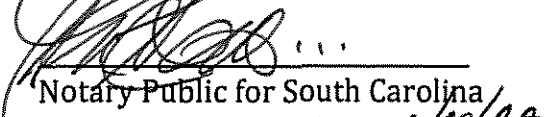
  
Witness

By:   
Its: Steve Diesing, Secretary

STATE OF SOUTH CAROLINA     )  
COUNTY OF CHARLESTON     )

PERSONALLY appeared before me, the undersigned Notary, who, along with the undersigned witness, do hereby certify that the Marsh Pointe Association, Inc., by and through its President and Secretary, respectively, signed the within Second Amended and Restated Bylaws of Marsh Pointe Association, Inc. as its act and deed.

Sworn to before me this 26<sup>th</sup>  
day of October, 2016.

  
Notary Public for South Carolina  
My commission Expires: 6/30/18

  
Witness

# RECORDER'S PAGE



**NOTE:** This page **MUST** remain with the original document

**Filed By:**

CISA & DODDS  
858 LOWCOUNTRY BLVD.  
SUITE 101  
MT. PLEASANT SC 29464 (COURIER)

RECORDED		
Date:	October 27, 2016	
Time:	4:17:44 PM	
<u>Book</u>	<u>Page</u>	<u>DocType</u>
0593	100	Misc/Amend
Charlie Lybrand, Register Charleston County, SC		

**MAKER:**

MARSH POINTE ASSN

**RECIPIENT:**

N/A

**Original Book:**

T146

**Original Page:**

663

# of Pages: 11  
# of Sats:  # of References:

Note:

Recording Fee	\$ 10.00
Extra Reference Cost	\$ -
Extra Pages	\$ 6.00
Postage	\$ -
Chattel	\$ -
<b>TOTAL</b>	<b>\$ 16.00</b>

**DRAWER** Drawer 1  
**CLERK** KLH



0593  
Book



100  
Page



10/27/2016  
Recorded Date



11  
# Pgs



T146  
Original Book



663  
Original Page



D  
Doc Type



16:17:44  
Recorded Time