

**NEW AMENDED AND RESTATED BYLAWS OF HAMMOND POINTE
HOMEOWNERS ASSOCIATION
(A South Carolina Not for Profit Association)
August 29, 2024**

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ARTICLE 3

DIRECTORS

- 3.1 **Qualifications.** Members of the Board of Directors need not be residents of the State of South Carolina, however, all Members of the Board of Directors serving at any time, shall consist of Association Members. Directors shall be of legal age. Only one (1) person per lot can serve as a Director at any time.
- 3.2 **Authority.** The Board of Directors shall have ultimate authority over the conduct and management of the business and affairs of the Association except to the extent the Members may reserve same to themselves by action taken by them. This authority may include, but is not limited to, the imposition of fines for unremedied Covenant violations. To proactively prevent Member covenant violations, the Board shall maintain a procedure for handling covenant violations and an accompanying schedule of fines.
- 3.3 **Number.** The Corporation shall have such number of Directors as is fixed by resolution of the Members from time to time, but not less than three (3) nor more than nine (9).
- 3.4 **Election and Terms.**
- a. Directors shall be elected to office by written or electronic ballot pursuant to Section 33-31-708 of the South Carolina Nonprofit Corporation Act immediately prior to the Annual Meeting. Each elected Director shall hold office for a term of two (2) years or until the effective date of his resignation, removal or death. Otherwise, he or she shall serve his or her term or thereafter until such later date when his or her successor has been elected and qualified. The number of Directors elected will equal the number of Directors whose terms are expiring unless the Members vote to modify the size of the Board. Directors may serve successive terms.
 - b. Directors shall be elected by plurality vote, meaning that the persons receiving the largest number of votes shall be elected. Since Members only get one (1) vote per lot, cumulative voting is not applicable.
 - c. Nominations for election to the Board of Directors may be made by the Board or by any Member of the Association (including self-nomination).
- 3.5 **Removal.**
- a. Any or all of the Directors may be removed without assignment of cause by vote of a majority of the Members entitled to vote in a duly called meeting. Such removal may only be voted on at a meeting which is called for the purpose of voting on the removal of the Director and the meeting notice must state that purpose as one of the purposes for which the meeting is being called.
 - b. In the event a Director ceases to be a Member of the Association by virtue of transfer of his ownership interest, the Director shall be deemed to have automatically resigned as a Director upon the recording of the deed of transfer and a new Director shall be appointed as provided in article 3.6.

- b. **Website Coordinator.** The Association's website shall serve as an official communications channel for the Board of Directors. The Website Coordinator shall work under the authority and direction of the Board to maintain the Association Website.
- c. **Financial Reviewer.** The Board of Directors will ensure that an annual review of financial records is completed. The financial records of the Hammond Pointe Homeowners Association shall be examined each year to ensure that transactions have been properly recorded and the financial statements are an accurate representation of the assets, liabilities, income and expenses of the Corporation.

The financial review may be conducted by a Member of the Association so long as the Reviewer has a background in financial matters. The Reviewer, however, may not be an Officer of the Corporation or a current member of the Hammond Pointe Board of Directors. No Board Member may be present during the financial review.

The Reviewer shall provide a written report to the Hammond Pointe Board of Directors documenting that the work has been completed and stating the overall status of the Association's financial records. The Board shall distribute the report provided by the Reviewer to the Members within 30 days via any official Board communication channel.

ARTICLE 4

BOARD OF DIRECTOR MEETINGS

- 4.1 **Initial Annual Board of Directors Meeting.** The newly elected Board shall hold a meeting each year, within two weeks after the Annual Meeting of Members, to appoint Officer positions of the new Board. The new Board of Directors shall take office at the start of the new Fiscal Year (1 September). The previous Board shall submit the minutes of the Annual Meeting of Members, a Fiscal Year Close Out Budget, a statement of accrued liabilities and an Architectural Review Committee Report of any open/ongoing requests to the new Board at or before the first Board meeting of the new fiscal year.
- 4.2 **Meetings of the Board and Committees.** By resolution, the Board may establish a date or dates on which regular meetings of the Board, or any Committee shall be held between annual meetings. A Committee of the Board shall meet on the dates established by the Board and on any additional date or date established by the Committee. The Board shall maintain a procedure whereby the Members have the right to speak at a Board Meeting by request.
- 4.3 **Special Meetings.** A Special Meeting of the Board may be called at any time by a majority of the Board.

adjournment of the meeting. The right of dissent is not available to a Director who votes in favor of the action taken.

- 4.10 **Action by Consent.** Directors may take any action on matters related to the Architectural Review Committee without a meeting when written or electronic agreement by a majority of Directors is achieved. Any other action to be taken at a Board of Directors meeting may be taken without a meeting only if the action is taken by all Members of the Board. The action must be evidenced by one or more written consents describing the action taken, signed by each Director, as applicable, and included in the minutes filed with the corporate records reflecting the action taken.
- 4.11 **Participation by Telecommunications.** Any Director may participate in, and be regarded as present at, any meeting of the Board of Directors by means of conference telephone or any other means of communication by which all persons participating in the meeting can hear each other at the same time.
- 4.12 **Order of Business.** The order of business at all Board of Directors meetings shall be:
- a. Proof of Notice of the Meeting
 - b. Determination of quorum
 - c. Reading and disposal of all unapproved minutes
 - d. Reports of Officers and Committees
 - e. Results of election (Annual Meeting only)
 - f. Unfinished business
 - g. New business
 - h. Adjournment

ARTICLE 5 **OFFICERS**

- 5.1 **Titles of Officers.** The Association shall have a President, Vice President, Secretary and Treasurer, appointed annually by the Board of Directors.
- 5.2 **Appointment of Officers.** All Officers shall be appointed at the meeting of the Board following the Annual Meeting of Members or at any Special Meeting of the Board held for the purpose of appointing one or more Officers.
- 5.3 **Term of Office.** The Officers of the Corporation shall be appointed for a one year term, unless otherwise set forth in the appointment, extending from the date of appointment to the next meeting held for the purpose of appointing a successor Officer.
- 5.4 **Removal and Vacancies.** Any Officer may be removed from the office they hold without assignment of cause by vote of a majority of the Members of the Board of Directors. This removal does not change his or her status as a member of the Board. Such removal may only occur at a meeting called for that purpose. An Officer may resign at a meeting at any time by

ARTICLE 6
MISCELLANEOUS

- 6.1 **Seal.** The Corporation may have a corporate seal which may be altered at the pleasure of the Board; but the presence or absence of such seal on any instrument, or its addition thereto, shall not affect the character or validity or legal effect of the Document in any respect.
- 6.2 **Fiscal Year.** The Fiscal Year of the Corporation shall be September 1 to August 31.
- 6.3 **Registered Agent and Office.** The registered agent and registered office of the Corporation shall be as designated by the Board from time to time. The Corporation may maintain such other offices, within or without the State of South Carolina as the Board may designate, or as the business of the Corporation may require. In the absence of directions from the Board of Directors to the contrary, the Secretary or Treasurer of the Corporation shall cause the Corporation to maintain currently all filings respecting the registered office and registered agent with all governmental officials as required by the South Carolina Business Corporation Act or otherwise by law.
- 6.4 **Inspection of Records by Members.** A Member is entitled to inspect and copy, at a reasonable time arranged with the Corporation's Officers, any of the following records of the Corporation, if he or she gives the Corporation written notice of his or her request at least five business days before the date on which he or she wishes to inspect and copy:
- a. Articles of Incorporation, or Restated Articles of Incorporation, and all amendments to them currently in effect;
 - b. Its Bylaws, or restated Bylaws, and all amendments to them currently in effect;
 - c. The minutes of all Members' meetings for the past three years;
 - d. All written communication to all Members, generally, within the last three years; including the financial statements furnished for the past three years;
 - e. All contracts or written agreements between the Corporation and any of its Members.

A Member is entitled to inspect and copy, at a reasonable time and location specified by the Corporation, any of the following records of the Corporation, if he or she gives the Corporation written notice of his or her request at least five (5) business days before the date on which he or she wishes to inspect and copy and his or her request is made in good faith and for a proper purpose, he or she describes with reasonable particularity his or her purpose and the records he or she desires to inspect, and the records are directly connected with his or her purpose.

- a. Excerpts of minutes of any Board of Directors meeting; records of any action of a Committee of the Board of Directors while acting in place of the Board of Directors on behalf of the Corporation; minutes of any meeting of the Members; and records of action taken by the Members or Board of Directors without a meeting to the extent not otherwise subject to inspection under this section of the Bylaws;
- b. Account records of the Corporation
- c. The record of Members
- d. Tax Returns

Each Board Status Report shall be posted on the Association's website, stored in the Association's digital storage platform and delivered electronically to all homeowners who have provided an email address to the Board.

- d. A Community Member Directory will be published annually in alignment with the new Fiscal Year. The volunteer coordinator responsible for compiling the Community Directory shall serve at the pleasure of the Board and be reimbursed for the material cost of producing the Community Directory. Each Association Member shall choose whether to be in the Community Directory.

6.6 **Severability**. Any provision of these Bylaws, or any amendment or alteration thereof, which is determined to be in violation of the South Carolina Business Corporation Act shall not in any way render any of the remaining provisions invalid.

6.7 **Dissolution**. Upon the dissolution of the Corporation, the assets of the Corporation shall be distributed in accordance with a plan of distribution adopted by the Board of Directors, which shall meet all of the requirements of the laws of the State of South Carolina and the Internal Revenue Code as prescribed for the distribution of assets upon the dissolution of a non-profit organization.

ARTICLE 7

INDEMNIFICATION OF DIRECTORS AND OFFICERS

7.1 **Definitions**. For purposes of this article all terms used herein that are defined in Section 33-31-850 of the South Carolina Nonprofit Corporation Act or any successor provision shall have the meanings so prescribed in such section.

7.2 **Indemnification of Directors and Officers**. The Corporation shall indemnify and may contract in advance to indemnify an individual who is or was threatened to be made a party to proceedings because he or she is or was a Director or Officer of the Corporation or, while a Director or Officer of the Corporation, is or was serving the Corporation or any other legal entity in any capacity at the request of the Corporation against all liabilities and reasonable expenses incurred in the proceeding to the fullest extent permissible under the South Carolina Nonprofit Corporation Act and regardless of whether the proceeding is by or in the right of the Corporation. The determination that indemnification under this section is permissible and the evaluation of the reasonableness of expenses in a specific case shall be made, in the case of a Director, as provided by law, and in the case of an Officer, as provided in Section 7.3 of this Article provided, however, that if a majority of the Directors of the Corporation has changed after the date of the alleged conduct giving rise to a claim for indemnification, such determination and evaluation shall, at the option of the person claiming such indemnification, be made by a special legal counsel agreed upon by the Board of Directors and such person. Unless a determination has been made that indemnification is not permissible, the Corporation shall make advancements and reimbursements for expenses incurred by a Director or officer in a proceeding upon receipt of an undertaking from him or her to repay the same if it is ultimately determined that he is not entitled to indemnification. Such an undertaking shall be an unlimited, unsecured general obligation of the Director or Officer and

shall be accepted without reference to his or her ability to make repayment. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that a Director or Officer acted in such a manner as to make him or her ineligible for indemnification.

- 7.3 **Indemnification of Others.** The Corporation may, to a lesser extent or to the same extent that the Corporation is required to provide indemnification and make advances and reimbursements for expenses to its Directors and Officers, provide indemnification and make advance and reimbursements of expenses to its employees and agents, the Directors, Officers, employees, and agents of its subsidiaries and predecessor entities, and any person serving any other legal entity in any capacity at the request of the Corporation, and if authorized by general or specific action of the Board of Directors, may contract in advance to do so. The determination that indemnification under this Section is permissible, the authorization of such indemnification, and the evaluation as to the reasonableness of expenses in a specific case shall be made as authorized from time to time by general or specific action of the Board of Directors, which action may be taken before or after a claim for indemnification is made, or as otherwise provided by law. No person's rights under Section 7.2 of this Article shall be limited by provisions of this paragraph.
- 7.4 **Miscellaneous.** Every reference in this Article to persons who are or may be entitled to indemnification shall include all persons who formerly occupied any of the positions referred to and their respective heirs, executors, and administrators. Special legal counsel selected to make determinations under this Article may be counsel for the Corporation. Indemnification pursuant to this Article shall not be exclusive of any other right of indemnification to which any person may be entitled, including indemnification pursuant to a valid contract, indemnification by legal entities other than the Corporation and indemnification under policies of insurance purchased and maintained by the Corporation or others. However, no person shall be entitled to indemnification by the Corporation to the extent he is indemnified by another, including an insurer. The Corporation is authorized to purchase and maintain insurance against any liability it may have under this Article or to protect any of the persons named above against any liability arising from their service to the Corporation or any other legal entity at the request of the Corporation, regardless of the Corporation's power to indemnify against such liability. The provisions of this Article shall not be deemed to prohibit the Corporation from entering into contracts otherwise permitted by law with any individuals or legal entities, including those named above, for the purpose of conducting the business of the Corporation. If any provision of this Article or its application to any person or circumstances is held invalid by a court of competent jurisdiction, this invalidity shall not affect other provisions or application of this Article, and to this end the provisions of this Article are severable.

ARTICLE 8

AMENDMENTS

These Bylaws may be amended or repealed, and new Bylaws may be adopted by the Board. Any Bylaws adopted by the Board may be amended or repealed by the Members of the Association. The resulting Bylaws may contain any provision for the regulation and management of business of the Corporation not inconsistent with the law, the Articles of Incorporation, and the Restrictive Covenants. Any amendment of the Articles of Incorporation or Restrictive Covenants that is inconsistent with these Bylaws shall operate to amend the Bylaws pro tanto. Any part, or parts of these Bylaws which merely summarize or restate the provisions of the Articles of Incorporation, the provisions of the South Carolina Business Corporation Act, as amended, or the Restrictive Covenants shall be operative with respect to the Corporation only so far as they are an accurate description of existing law, Articles of Incorporation, or the Restrictive Covenants. To the extent there is any inconsistency, these Bylaws shall be deemed amended to agree with applicable law, Articles of Incorporation, and/or Restrictive Covenants.

8.1 Procedure for Amending these Bylaws. This procedure shall ensure that the full history of any and all ratified amendments to the Bylaws are accurately captured in Article 8. The text of Articles 1 through 7 will reflect only the current amended language with no mention of previous revisions. This shall provide all Members with a clear, concise set of current Bylaws that does not require reference to prior amendments.

Each amendment entry into Article 8 shall provide the original text prior to the amendment, the amended text, any pertinent notes or information, and the date of the ratification of the amendment by the Board. Each amendment shall be assigned a unique paragraph header and consecutive paragraph number (i.e. - 8.2, 8.3, etc.).

8.2 Amendment of Bylaw 6.5 C Publication of Governing Documents and Association

Updates. On June 11, 2024, the Hammond Pointe HOA Board amended **Bylaw 6.5c Publication of Governing Documents and Association Updates** by eliminating the 4th Quarter Status Report and thus reducing the number of required Status Reports from 5 to 4 (three quarterly reports and the Annual Status Report). The previously required Fourth Quarter Status Report and the Annual Status Report were released simultaneously and were redundant.

The original language of 6.5c reads:

- c. To ensure transparency between the Board of Directors and Association **Members**, the Board of Directors shall post no fewer than five Status Reports (quarterly plus one annual update) during each Fiscal Year. Each Status Report shall include at a minimum:
 - i. a disclosure of any changes in the Board of Directors and Officers
 - ii. a description of all proposed or adopted Bylaw amendments
 - iii. a reporting of Fiscal Year to Date expenditures versus Budget and any projected Budget overruns
 - iv. formation or dissolution of Board Committees
 - vi. other Board or Association accomplishments since the last report

Each Board Status Report shall be posted on the Association's website, stored in the Association's digital storage platform and delivered electronically to all homeowners who have provided an email address to the Board...

As of June 11, 2024, the **newly amended and restated Bylaw 6.5c Publication of Governing Documents and Association Updates** now reads:

- c. To ensure transparency between the Board of Directors and Association **Members**, the **Board** of Directors shall post no fewer than four Status Reports (3 quarterly Status Reports plus one annual update) during each Fiscal Year. Each Status Report shall include at a minimum:
- i. a disclosure of any changes in the Board of Directors and Officers
 - ii. a description of all proposed or adopted Bylaw amendments
 - iii. a reporting of Fiscal Year to Date expenditures versus Budget and any projected Budget overruns
 - iv. formation or dissolution of Board Committees
 - v. an update on current and upcoming Board projects
 - vi. other Board or Association accomplishments since the last report

Each Board Status Report shall be posted on the Association's website, stored in the Association's digital storage platform and delivered electronically to all homeowners who have provided an email address to the Board.

8.3 Amendment of Bylaw 2.7c Voting/Electronic Voting. On June 11, 2024, Hammond Pointe HOA Board amended **Bylaw 2.7c Voting/Electronic Voting** to ensure that the way in which voting is conducted is clear without the need for legal interpretation and explanation of the Bylaw.

The original language reads:

- c. Whenever any corporate action, except election of Directors and except as otherwise provided by law, the Articles of Incorporation, or the Restrictive Covenants, is to be taken by vote of the Members, it shall be taken if authorized by a majority of the votes by the Members entitled to vote thereon; provided that on matters for which approval by written or electronic ballot is permitted, so long as a quorum votes on the matter, the matter passes if more Members vote in favor of the proposal than against it, except that in elections of Directors, those candidates who receive the greatest number of votes cast by Members entitled to vote shall be deemed elected. Voting by proxy in the election of the Directors or on any other matter that is described in the Notice of Meeting is not permitted, unless otherwise provided in the notice. In the election of Directors or items in Notice of Meeting, a Member may vote his shares by written or electronic ballot in accordance with the guidelines set forth in the South Carolina Code for the Annual Meeting of the Homeowners Association.

As of August 5, 2024 The Newly Amended and Restated Hammond Pointe Bylaw 2.7c -

Voting/Electronic Voting reads:

c. Subject to the exceptions described below, any time a matter requires approval of Members:

- If the matter is voted upon at a meeting at which a quorum is present, the matter passes if more Members who are entitled to vote on the matter vote in favor of the proposal than against it;
- If the matter is voted upon by written or electronic ballot, then the matter passes if (i) at least a quorum of Members votes on the matter and (2) more Members who are entitled to vote on the matter vote in favor of the proposal than against it.

A separate voting requirement applies to the election of Directors. In elections of Directors:

- (i) voting shall be by written or electronic ballot, and
- (ii) if at least a quorum of Members votes on the matter, then the candidates who receive the greatest number of votes cast by Members entitled to vote shall be deemed elected. For example, if there are five board seats being voted upon, the five candidates receiving the most votes shall be elected, even if one or more of the candidates receives fewer than a majority of the votes cast.

Voting by proxy in the election of the Directors or on any other matter that is described in the Notice of Meeting is not permitted, unless otherwise provided in the notice.

Whenever the Articles of Incorporation, the Restrictive Covenants, or the South Carolina Nonprofit Corporation Act requires a higher threshold for Member approval (such as approval by a majority of all Members rather than just those who choose to vote on the matter), then the matter passes only if such higher voting threshold is exceeded.

8.4 Amendment of Bylaw 2.6 Quorum. On August 28, 2024, Hammond Pointe HOA Board amended **Bylaw 2.6 Quorum** to ensure clarity in how a quorum is determined for electronic voting.

The original language reads:

2.6 Quorum. Twenty percent (20%) of the homeowners entitled to vote, either present or represented by duly executed proxy, shall constitute a quorum at all meetings of the Members. When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any of those present. A meeting may be adjourned by vote of the majority of the Members present despite the absence of quorum.

As of August 28, 2024 The Newly Amended and Restated Hammond Pointe Bylaw 2.6 - Quorum reads:

2.6 **Quorum.** Twenty percent (20%) of the homeowners entitled to vote, either present, represented by duly executed proxy, or participating in electronic voting shall constitute a quorum of the Members. When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any of those present. A meeting may be adjourned by vote of the majority of the Members present despite the absence of quorum.

8-29-2024
Shirley W. Osborn
Secretary

Hammond Pointe Homeowners Association