

BYLAWS

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**BYLAWS OF
BERRYS POND HOMEOWNERS' ASSOCIATION, INC.**

Article I

Name, Membership, Applicability, and Definitions

Section 1. Name. The name of the Association shall be Berrys Pond Homeowners' Association, Inc. (hereinafter referred to as the "Association").

Section 2. Membership. The Association shall have one (1) class of membership, as is more fully set forth in that Declaration of Protective Covenants for Berry's Pond Subdivision (such Declaration, as amended, renewed, or extended from time to time is hereinafter sometimes referred to as "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

Section 3. Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

Article II

Association: Meetings, Quorum, Voting, Proxies

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office of the association or as such other suitable place convenient to the members as may be designated by the Board, either in the Community or as convenient thereto as possible and practical.

Section 2. First Meeting and Annual Meetings. An annual or special meeting shall be held within one (1) year from the date the Declaration is recorded. Annual meetings shall be set by the Board so as to occur no later than sixty (60) days after the close of the Association's fiscal year.

Section 3. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the association if so directed by resolution of the Board or upon a petition signed by at least twenty-five percent (25%) of the Total Association Vote (the consent of the Declarant shall not be required). The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to the Owner of each Lot (as shown in the records of the Association) a notice of each annual or special meeting of the Association stating the time and place where it is to be held and in the notice of a special meeting, the purpose thereof. If an Owner wishes notice to be given at an address other than the Lot, the

Owner shall designate by notice in writing to the Secretary such other address. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered service of notice. Notices shall be served not less than 10 (10) nor more than sixty (60) days before a meeting.

Section 5. Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

Section 6. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 7. Voting. The voting rights of the members shall be as set forth in the Articles of Incorporation and the Declaration, and such voting rights are specifically incorporated herein.

Section 8. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of such member's Lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

Section 9. Quorum. The presence, in person or by proxy, of twenty-five percent (25%) of the total eligible Association vote shall constitute a quorum at all meetings of the Association. The members present at a dually called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 10. Action Without a Formal Meeting. Any action to be taken at a meeting of the members or any action that may be taken at a meeting of the members, may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by members holding the voting power required to pass such action at a meeting held on the date that the last consent is executed and such action is consented to by the Declarant if required. Such action shall be effective upon receipt by the Association of a sufficient number of such consents executed by current members unless a later effective date is specified therein. Each signed consent shall be delivered to

the Association, and shall be included in the minutes of meetings of members in the permanent records of the Association.

Section 11. Action by Written Ballot. Any action to be taken at any annual, regular, or special meeting of members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot of an action shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meeting the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked without the consent of the Board of Directors. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of members filed in the permanent records of the association.

Article III

Board of Directors, Number, Powers, Meetings

A. Composition and Selection.

Section 1. Governing Body: Composition. A board of Directors shall govern the affairs of the Association. Except as provided in section 2 of this Article, the directors must reside in the Community and shall be members of spouses of such members; provided, however, no Person and his or her spouse may serve on the Board at the same time.

Section 2. Number of Directors. The Board shall consist of five (5) members.

Section 3. Nomination of Directors. Elected directors shall be nominated from the floor and may also be nominated by a nominating committee, if the Board establishes such committee. All candidates shall have a reasonable opportunity to communicate their qualification to the members and to solicit votes.

Section 4. Election and Term of Office. Owner-elected directors shall be elected and hold office as follows:

- (a) After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting to be held at which Owners shall elect five (5) directors.

- (b) At annual meetings of the membership thereafter, directors shall be elected. All eligible members of the Association shall vote on all directors to be elected, and the candidate(s) receiving the most votes shall be elected.

Initially, the term of two (2) directors shall be fixed at two (2) years, and the term of three (3) directors shall be fixed at three (3) years. At the expiration of the initial term of office of each respective Owner-elected member of the Board of Directors, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one (1) or more of the members of the Board of Directors may be removed, with or without cause, by a majority of the Total Association Vote and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed by the Owners shall be given at least ten (1) days notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than thirty (30) days may be removed by a majority vote of the remaining directors at a meeting.

Section 6. Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each Person so selected shall serve unexpired portion of the term.

B. Meetings.

Section 7. Organization Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

Section 9. Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President, or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) by communication, either directly to the director or to a Person at the director's home or office who would reasonably be expected

to communicate such notice promptly to the director; (d) by telegram, charges prepaid; or (e) by commercial delivery service to such director's house or office. All such notices shall be given or sent to the director's address, or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph, company shall be given at least forty-eight hours (48) before the time set for the meeting.

Section 10. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 11. Quorum of Board of Directors. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board.

Section 12. Compensation. No director shall receive any compensation from the Association for acting as such.

Section 13. Open Meetings. All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board.

Section 14. Executive Session. The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 15. Action Without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by a majority of the Directors and delivered to the Association for inclusion in the minutes for filing in the corporate records.

Section 16. Telephonic Participation. One (1) or more Directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or hear each other at the same time, and those directors so participating

shall be present at such meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Board.

C. Power and Duties.

Section 17. Powers. The Board shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted the Board shall have the power to and be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the common expenses.
- (b) making assessments to defray the common expenses, establishing the means and methods of collecting such assessments;
- (c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association;
- (d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;
- (f) making and amending use restrictions and rules and regulations;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bring any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (j) paying the cost of all services rendered to the Association or its members which are not directly chargeable to Owners;

- (k) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration and specifying the maintenance and repair expenses and any other expenses incurred; and
- (l) contracting with any person for the performance of various duties and functions.

Section 18. Management Agent. The Board may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The term of any management agreement shall not exceed one (1) year.

Section 19. Borrowing. The Board shall have the power to borrow money without the approval of the members of the Association.

Section 20. Fining or Suspension Procedure. The Board shall not imposed a fine (a late charge shall not constitute a fine) or suspend a member's right to use any part of the Common Area unless and until the following procedure is followed:

- (a) Notice. Written notice shall be served upon the violator by first-class or certified mail sent to the last address of the member shown on the Association's records, specifying:
 - (i) the nature of the violation, the fine or suspension to be imposed and the date, not less than fifteen (15) days from the date of the notice, that the fine or suspension will take effect;
 - (ii) that the violator may, within ten (10) days from the date of the notice request a hearing regarding the fine or suspension imposed;
 - (iii) the name, address and telephone numbers of a person to contact to challenge the fine or suspension;
 - (iv) that any statements, evidence, and witnesses may be produced by the violator at the hearing; and
 - (v) that all rights to have the fine or suspension reconsidered are waived if a hearing is not requested within ten (10) days of the date of the notice.

Article IV **Officers**

Section 1. Officers. The officers of the Association shall be a President, Vice President, Treasurer, Secretary and Member-at-Large. The same person, accepting the offices of President and Secretary, may hold any two (2) or more offices. The President and Treasurer shall be elected from among the members of the Board. The Board may appoint such other offices, including one (1) or more Vice Presidents, Assistant Secretaries, or Assistant Treasurers, as it shall deem desirable.

Section 2. Election, Term of Office and Vacancies. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each annual meeting of the members. The Board for the unexpired portion of the term may fill a vacancy in any office arising because of death, resignation, removal, or otherwise.

Section 3. Removal. Any officer may be removed by the Board whenever, in their judgment, the best interests of the Association will be served thereby.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at the meetings of the Association and of the Board. The President shall have all the general powers and duties which are incident to the office of the president of a corporation.

Section 5. Vice President. The Vice President shall act in the President's absence and have all powers, duties and responsibilities provided for the President when so acting.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors and shall have charge of such books and papers as the Board may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with South Carolina law.

Section 7. Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board.

Section 8. Member-At-Large. The Member-At-Large shall preside at the meetings of the Association and of the Board and shall generally perform all duties which are incident to the Board.

Section 9. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article V **Committees**

Committees to perform such tasks and to serve for such periods as may be designated by the Board are hereby authorized. Each committee shall be composed and

shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Article VI
Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by resolution of the Board.

Section 2. Parliamentary Rules. Roberts Rules of Order (current edition) shall govern the conduct of all Association's proceedings when not in conflict with South Carolina law, the Articles of Incorporation, the Declaration, these Bylaws or a ruling made by the Person presiding over the proceeding.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provision of South Carolina law, the Articles of Incorporation, the Declaration and these Bylaws, the provisions of South Carolina law, the Declaration, the Articles of Incorporation and the Bylaws (in that order) shall prevail.

Section 4. Amendment. These Bylaws may be amended by the Board of Directors (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation of judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to the Lots subject to the Declaration; or (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to the Declaration; or (3) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Lots subject to the Declaration. In addition, these Bylaws may be amended upon the affirmative vote or written consent, or any combination thereof, at least two-thirds (2/3) of the Total Association Vote; provided, however, that the U.S. Department (of Veterans Affairs (if it is then guaranteeing Mortgages in the Community or has issued a project approval for the guaranteeing of such mortgages) and/or the U.S. Department of Housing and Urban Development (if it is then guaranteeing Mortgages in the Community or has issued a project approval for the insuring of such mortgages) shall have the right to veto amendments to these Bylaws.