

**BY-LAWS  
OF  
THE PINES AT GAHAGAN HOMEOWNERS ASSOCIATION, INC.  
(A South Carolina Nonprofit Corporation)**

**ARTICLE I: NAME, PURPOSE, AND LOCATION**

The name of the corporation is The Pines at Gahagan Homeowners Association, Inc. (hereinafter, the "Association"). The principal office of the corporation shall be located in Charleston County, South Carolina, and the meetings of Members and Directors may be held at such places within Charleston County, South Carolina, as may be designated by the Board of Directors.

The purpose of the Association shall be administering and maintaining certain common property in The Pines at Gahagan subdivision and enforcing the covenants and restrictions as set forth in the Declaration of Covenants, Conditions, Easements, and Restrictions Applicable to The Pines at Gahagan subdivision (hereinafter, the "Declaration").

**ARTICLE II: DEFINITIONS**

The Definitions set out in Article I of the Declaration, as the same may be amended from time to time, are adopted as part of the By-Laws of the Association and are incorporated herein by reference, as if they were set forth here verbatim.

**ARTICLE III: MEMBERS OF THE ASSOCIATION**

3.1 Membership in the Association. The Members of the Association shall be the Owners, as a matter of public record, of every parcel (hereinafter, "Lot") within the Property described in Exhibit A to the DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS APPLICABLE TO THE PINES AT GAHAGAN, as amended (hereinafter, the "Property") as those terms are defined in the Declaration. At the time of creation and organization of this Association, the Property and any Lots within it are owned by DRMB, LLC (hereinafter, the "Declarant"). These By-Laws and the Declaration were created by the Declarant.

The Board of Directors of the Association may, after notice and hearing, suspend any Owner's membership in the Association during any period of time when such Owner is in default of any of his or her obligations under the Development Instruments, provided that such default has continued uncured for a period of ten (10) days after written notice thereof to such Member.

3.2 MEMBERSHIP CLASSES. The Association shall have the following three (3) classes of voting Members:

**Class A.** Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned.

**Class B.** The Class B Member shall be the Declarant and shall be entitled to eight (8) votes for each Lot owned. The Class B membership shall cease and be converted to a Class A membership as described in the Declaration. Until the Class B Members are converted to Class A Members, Declarant shall be entitled to appoint all members of the Board of Directors, and the Association need not hold a meeting to elect directors until conversion of the Class B Members.

**Class C Members:** The Class C Member shall be the Declarant, upon termination of the Class B Membership, as set forth above. The Class C Member shall have no voting rights and no assessment obligations. The Class C Member shall enjoy certain limited rights under the Declaration and the other Development Instruments, including without limitation, the right to: (A) Obtain access to, and electronic and/or paper copies of, the Association's books and records, including financial and membership data; and (B) Call Special Meetings of the Association on any topic or issue it sees fit in its sole discretion, although the Class C Member would not be entitled to vote at said meeting. Class C Membership shall terminate at the voluntary discretion of Declarant, although there is no requirement that this membership class be terminated.

- 3.3 Inspection Rights. The books, records, and papers of the Association shall at all times be subject to inspection by any Member during reasonable business hours. The Declaration, the Articles of Incorporation, and the By-Laws of the Association shall be available for by any Member at the principal office of the Association. The Association may charge a reasonable fee for copies of documents made for Members.
- 3.4 Voting Rights. All Class A Members shall be entitled to one (1) vote for each Lot owned, except as otherwise provided for herein. When more than one person holds an interest in any Lot, despite the number of Owners, all Owners together shall collectively have only one (1) vote among themselves. In the event multiple Owners hold title to a single Lot, it shall be the responsibility of those Owners to provide the Association with written notification, with the signatures of all those persons owning an interest in the Lot, of the name and mailing address of one (1) individual authorized to receive notification from the Association and to cast the single vote corresponding to that Lot. If more than one co-Owner attempts to cast the vote for such Lot, the votes for such Lot shall be disregarded. Class A Membership shall be mandatory for all Owners except the Declarant and may not be separated from ownership of any Lot.

A Member may assign his or her voting rights to his or her lessee; provided, however, that the Member may not assign to such lessee any vote or votes not attributable to the Lot actually leased by such lessee.

The Members shall have the right to vote for the election and removal of Directors and upon such other matters with respect to which a vote of Members is required under the Declaration. Each Class A Member shall be entitled to one (1) vote for each Lot owned. The Class B Member shall be entitled to eight (8) votes for each Lot owned. When voting for election of Directors, the vote for a particular Lot shall be multiplied by the number of positions to be filled by such election and the resulting total number of votes for that Lot may be cast for a single candidate or may be split among multiple candidates as the Owner(s) of such Lot determine appropriate. In such elections, all votes must be cast in

whole numbers and not fractions thereof. On any matter other than election of Directors, there shall be no splitting of votes.

- 3.5 Suspension of Voting Rights. Voting rights attributable to an ownership interest in a Lot shall be suspended throughout the term of any default under these By-Laws or of the Declaration.
- 3.6 Control by Declarant. Notwithstanding any other language or provision to the contrary in the Declaration or in these By-Laws, unless Declarant has surrendered by Declarant of the authority to appoint and remove Directors and Officers by an express amendment to the Declaration duly executed and recorded by Declarant, Declarant hereby retains the right to appoint and remove any Members of the Board of Directors of the Association and any Officer or Officers of the Association until thirty (30) days after the Class B membership is converted to Class A membership, as outlined in the Declaration. Upon the expiration of the period of Declarant's right to appoint and remove Directors and Officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant, if it then owns one or more Lots, and a Special Meeting of the Association shall then be called for and held within thirty (30) days from the date of the expiration of Declarant's rights hereunder. At such Special Meeting, the Owners shall elect a new Board of Directors which shall undertake the responsibilities of operating the Association, and Declarant shall deliver to the new Board of Directors the books, accounts, and records which it has kept on behalf of the Association, as well as any agreements or contracts executed by or on behalf of the Association which may still be in effect or operation. Each Owner, by acceptance of a deed to or other instrument of conveyance of a Lot, vests in Declarant such authority to appoint and remove Directors and Officers of the Association as provided in this Section.

#### ARTICLE IV: MEETING OF MEMBERS

- 4.1 Annual Meeting. The annual meeting of the Members shall be held during the month of November on a date set by the Board, or such other time as the Board may determine. Such annual meetings shall be held for the purpose of electing Directors and for the transaction of such other business as may come before the meeting.

If the annual meeting shall not be held on the day designated by these By-Laws, a Substitute Annual Meeting may be called. A meeting so called shall be designated and treated for all purposes as the Annual Meeting.

- 4.2 Special Meetings. Special meetings of the Members may be called by the President, the Board, or Class A Members representing not less than twenty (20%) percent of the Class A votes. The request for the special meeting shall be signed, dated, and delivered to a corporate Officer and shall describe the purpose for which the meeting is to be held.
- 4.3 Place of Meetings. The Board may designate any location within Charleston County, South Carolina as the place for any annual meeting or special meeting called by the Board, and the President may designate any location in Charleston County, South Carolina as the place for any special meeting called by him or her. If no designation is made or if the

Members of the Association call a special meeting, the place of the meeting shall be the principal office of the Association within Charleston County, South Carolina.

- 4.4 Notice of Meeting. Written notice stating the place, day, and hour of the meeting, and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be mailed or delivered not less than fifteen (15) days nor more than sixty (60) days before the date of the meeting. Notices shall be delivered by or at the direction of the President or the Secretary or the person calling the meeting, to each Member of the Association at his or her address as shown on the records of the Association and shall be delivered either personally or by first class mail with postage prepaid. A Member may waive notice of any meeting before or after the date of the meeting stated herein; provided such waiver is in writing and signed and dated by the Member.
- 4.5 Informal Action by Members. Any action required or permitted by law to be taken at a meeting of the Members of the Association may be taken without a meeting if a written consent setting forth the action so taken shall be signed and dated by those Members representing eighty (80%) percent of the voting power of each class of membership, which consent shall be filed with the Secretary of the Association as part of the corporate records.
- 4.6 Quorum Required for any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of the Members at an open meeting of the Association shall be ten (10%) percent of the total votes entitled to be cast within each class of membership, whether such percentage appears in person or by proxy.
- 4.7 Conduct of Meetings. The Directors may make such regulations as they deem advisable for any meeting of the Members, including proof of membership in the Association, evidence of the right to vote, and the appointment and duties of inspectors of votes. Such regulation shall be binding upon the Association and its Members.
- 4.8 Ballots by Mail. When required by the Board, the notices of regular or special meetings shall be accompanied by a statement of certain motions to be introduced for vote of the Members and a ballot on which each Member may vote for or against the motion. Each ballot, which is represented at such meetings, shall be counted in calculating the quorum requirements set out in this Article IV; provided, however, that such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballots.
- 4.9 Proxies. Each Member entitled to vote may vote in person or by proxy at all meetings of the Association. All proxies shall be executed in writing by the Member or by his or her duly authorized attorney-in-fact and filed with the Secretary. No proxy shall extend beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date and no proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. Any proxy shall automatically cease upon sale by the Member of his or her Lot.
- 4.10 Parliamentary Procedure. At all meetings, "Roberts Rules of Order, Revised" shall govern for any question of procedure not covered by the By-Laws.

## ARTICLE V: BOARD OF DIRECTORS

- 5.1 General Powers. The Board shall manage the affairs of the Association. The Director or Directors comprising the Board need not be Members.
- 5.2 Number and Tenure. The initial number of Directors shall be three (3). At the first annual meeting, the Members shall elect two (2) Directors for a term of two (2) years and one (1) Director for a term of one (1) year. Any vacancy occurring in the initial or any subsequent Board may be filled at any meeting of the Board by the affirmative vote of a majority of the remaining Directors, even if less than a quorum of the Board, or by a sole remaining Director. If vacancies on the Board are not previously filled in this manner, then such vacancies shall be filled at the next succeeding meeting of the Members. Any Director elected to fill a vacancy shall serve as such until the expiration of the term of the Director(s) whose position he or she was elected to fill. Election of Directors may be conducted by mail ballot if the Board so determines.
- 5.3 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.
- 5.4 Annual Meeting. Annual meetings of the Board shall be held immediately following the annual meeting of the Members. The Board may provide by resolution the time and place for the holding of additional regular meetings of the Board without notice.
- 5.5 Notice. When notice of any meeting of the Board is required, such notice shall be given at least seven (7) days prior to such meeting by written notice delivered personally or sent by mail to each Director at his or her address as shown on the records of the Association. If the notice is mailed, when it is deposited with postage prepaid in the United States Mail in a properly addressed sealed envelope it will be deemed delivered. Any Director may waive notice of any meeting before or after the time of the meeting stated therein and attendance of a Director at any meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law, the Articles of Incorporation, these By-Laws, or the Declaration.

- 5.6 Quorum. A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the Directors are present at said meeting, no business may be transacted and the Directors present may adjourn the meeting without further notice. If a quorum of the Board cannot be attained within sixty (60) days after any such adjournment, then any one of the Directors may issue notice of a special meeting of the Members for the purpose of deliberating and transacting any business of the Association, including business which would have come before the Board but for the Board's failure to attain a quorum.
- 5.7 Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board.
- 5.8 Compensation. Directors shall not receive any monetary compensation for their services, but by resolution of the Board, any Director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties as Director. Nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity and receiving compensation therefore.
- 5.9 Informal Action my Directors. Any action required or permitted by law to be taken at a meeting of Directors may be taken without a meeting if a consent, in writing, setting forth the action so taken shall be filed with the Secretary of the Association as part of the corporate records.
- 5.10 Removal of Directors. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members. The vacancy thus created by such removal shall be filled as provided in Section 2 of this Article.
- 5.11 Bonds. The Board of Directors may, by resolution, require any or all Officers, agents, and employees of the Association to give a bond to the Association with sufficient sureties conditioned on the faithful performance of the duties of their respective offices or positions and to comply with such other conditions as may from time to time be required by the Board of Directors.

#### **ARTICLE VI: POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

- 6.1 Powers. The Board shall have the power to:
- A. Adopt and publish Rules and Regulations governing the use of the Common Property and the personal conduct of the Members and their employees, clients, visitors, tenants, and invitees thereon and to establish penalties for the infraction thereof;
  - B. Administer, manage, repair, and maintain the Common Property; provided, however, that if the Board of Directors does not repair or maintain the Common Property, the Declarant shall have the right (but not the obligation) to do so at the expense of the Association;

- C. Exercise for the Association all powers provided in the Association's Articles of Incorporation, as amended from time to time, including without limitation the power to suspend the voting rights and the rights to use of the Common Property of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association. Prior to any suspension or assessment and fine, the Member will be entitled to a hearing procedure to be adopted by the Board which provides (1) not less than fifteen (15) days prior written notice of the expulsion, suspension, or termination and the reasons therefor; (2) an opportunity for the Member to be heard, orally or in writing, not less than five (5) days before the effective date of the expulsion, suspension, or termination by a person or persons authorized to decide that the proposed expulsion, termination, or suspension not take place; (3) such lesser notice or greater notice depending on the nature of the infraction so long as such notice and hearing process is fair and reasonable, taking into consideration all of the relevant facts and circumstances; (4) written notice must be given by first class or certified mail sent to the last address of the Member shown on the Association's records; (5) any proceeding challenging an expulsion, suspension, or termination, including a proceeding in which defective notice is alleged, must be commenced within one (1) year after the effective date of the expulsion, suspension, or termination; and (6) that any Member who has been expelled or suspended shall remain liable to the Association for dues, Assessments, or fees as a result of obligations incurred or commitments made before expulsion or suspension or arising thereafter so long as the Member is a Lot Owner in the Pines at Gahagan Community. Such voting rights or rights to use Common Property may also be suspended, after notice and hearing, for a period not to exceed ninety (90) days for infraction of published rules and regulations. Unless, however, such infraction is ongoing, in which case the rights may be suspended during the period of the infraction and for up to ninety (90) days thereafter;
- D. Exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Association's Articles of Incorporation;
- E. Grant permits, licenses, and easements over the Common Property for utilities, roads, and other purposes reasonably necessary or useful for the property maintenance or operation of the Property;
- F. To the extent allowed by law, the Board shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association, which loans shall be used by the Association in performing its authorized functions. Notwithstanding anything in the Declaration to the contrary, the Association shall not be allowed to reduce the amount of the annual assessment at any time there are any such loans with an outstanding balance due;
- G. Employ a manager, independent contractor, accountant, attorney, or such other employees as it deems necessary, and to prescribe their duties;

- H. Acquire additional areas for the Common Property, mortgage the Common Property, and sign notes and mortgages and other loan closing documents in order to make improvements to the Pines at Gahagan community, so long as such acquisition or mortgage and loan shall have the approval of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose;
- I. Exercise for the Association all powers, duties, and authority as set forth in the South Carolina Non-Profit Corporation Act;
- J. Publish a notice and hearing process to be used before a Member can be fined or suspended; and
- K. Provide for the issuance of certificates evidencing membership in the Association, which shall be in such form as may be determined by the Board and the Board shall authorize the Association's President, Secretary, or an Assistant Secretary to sign such certificates. Any such certificates authorized by the Board shall be consecutively numbered and the name and address of each Member and the date of issuance of the certificate shall be entered on the records of the Association. Further, the Board may determine the terms and conditions for issuance of a new certificate if any certificate shall become lost, mutilated, or destroyed.

6.2 Duties. It shall be the duty of the Board to:

- A. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such statement is requested in writing by a one-fourth (1/4) vote of the Members who are entitled to vote;
- B. Supervise all Officers, agents, and employees of the Association, and to see that their duties are properly performed;
- C. As more fully provided in the Declaration, to:
  - 1. Fix the amounts of all Assessments,
  - 2. Send written notice of all Assessments to every Owner subject thereto,
  - 3. Seek legal action for delinquent Assessments, and
  - 4. Provide for an Architectural Review Board, including such guidelines as the Board may determine;
- D. Issue, or to cause an appropriate Officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid. The Board may assess a reasonable charge for the issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;



- E. Procure and maintain adequate liability and hazard insurance on property owned or leased by the Association;
- F. Cause all Officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
- G. Cause the Pines at Gahagan's Common Property, and the other authorized areas, to be maintained or improved.

**ARTICLE VII: OFFICERS**

- 7.1 **General.** The Officers of the Association shall be a President, Vice President, and Secretary-Treasurer. The Board may elect such other Officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such Officers to have the authority and to perform the duties prescribed from time to time by the Board. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary. The President shall be a Director of the Association. Other Officers may be, but need not be, Directors of the Association.
- 7.2 **Powers and Duties.** The Officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board, except as otherwise determined by the Board. Furthermore, the Officers shall have the following specific duties:
- A. **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and other written instruments; and shall sign all promissory notes and, in the absence of the Treasurer, shall sign all checks.
  - B. **Vice President.** The Vice President shall act in the place and stead of the President in the event of the President's absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.
  - C. **Secretary-Treasurer.** The Secretary-Treasurer shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and perform such other duties as required by the Board. The Secretary-Treasurer shall also receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; sign all checks of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and prepare an annual budget

and a statement of income and expenditures to be represented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

- 7.3 Election, Term of Office, and Vacancies. The Officers of the Association shall be elected annually by the Board at its annual meeting following each annual meeting of the Members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.
- 7.4 Removal. Any Officer may be removed by the Board whenever, in its judgment, the best interest of the Association will be served thereby.
- 7.5 Resignation. 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 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 VIII: COMMITTEES

- 8.1 Nominating Committee. The Association shall appoint a Nominating Committee as provided in these By-Laws.
- 8.2 Committees of Directors. The Board may designate one or more committees to have and exercise the authority of the Board in the management of the affairs of the Association; provided, however, each such committee must consist of one (1) or more Directors and the Board's resolution enabling the committee sets forth the extent to which the committee may exercise the Board's authority. It is specifically provided, however, that no such committee shall have the authority of the Board as to the following matters:
- A. The dissolution, merger, or consolidation of the Association;
  - B. The amendment of the Articles of Incorporation or the sale, lease, or exchange of all or substantially all of the property of the Association;
  - C. The designation of any such committee or the filling of the vacancies in the Board or in any such committee;
  - D. The amendment or repeal of these By-Laws or the adoption of new By-Laws; or
  - E. The amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable.
- 8.3 Other Committees. Other committees not having and exercising the authority of the Board in the management of the affairs of the Association may also be designated by a Board resolution. Such committees shall perform such duties and have such powers as may be provided in the resolution.

- 8.4 Rules. Each committee may adopt rules for its own government not inconsistent with the terms of the resolution of the Board designating the committee or with rules adopted by the Board.

#### **ARTICLE IX: MERGER OR CONSOLIDATION**

To the extent and in the manner provided by law, the Association may participate in mergers and consolidation with other nonprofit associations organized for the same purpose; provided, however, that any such merger or consolidation shall require approval by vote of two-thirds (2/3) of the Members at a meeting duly called for such purpose.

Upon merger or consolidation of the Association with another association or associations, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights, and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving Association pursuant to merger. The surviving or consolidated association may administer the existing property, together with the covenants, including without limitation, the maximum limits on assessments and dues of the Association, or any other matter subsequently affecting the interest of Members of the Association.

#### **ARTICLE X: INDEMNIFICATION OF OFFICERS AND DIRECTORS**

Neither Declarant, nor any Member of Declarant, nor any Member, nor the Board (individually or collectively), nor the Association, nor any Officers, Directors, agents, or employees of any of them, shall be personally liable for debts contracted for, or otherwise incurred by, the Association or for a tort of a Member, whether such Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their Directors, Officers, agents, Members, or employees, shall be liable for any incidental or consequential damages for failure to inspect the Lots, the Common Property, or any other portion of the Community or the Property comprising it, as described in detail in the Declaration, or any improvements thereon, or for failure to repair or maintain the same. Neither Declarant, the Association, nor any other person, firm, or association making such repairs or maintenance shall be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any portion of the subdivision Property, as described and defined in the Declaration, including any improvements thereon.

The Association shall, to the extent permitted by applicable law, indemnify, defend, and hold harmless all Members of the Board from and against any and all loss, cost, expense, damage, liability, claim, action, or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action, or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

The Association shall indemnify every Director, Officer, former Director, and former Officer of the Association, and any person who may have served at the request of the Association as a Director or Officer of another corporation, whether for profit or not-for-profit, against expenses (including attorney's fees) and liabilities actually and reasonably incurred by him or her in connection with the defense of, or as a consequence of, any threatened, pending, or completed action, suit, or proceeding (whether civil or criminal) in which he or she is made a party or was (or is threatened to be made) a party by reason of being or having been such Director or Officer, except in relation to matters as to which he or she shall be

adjudged in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty.

The indemnifications provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, By-Law, agreement, vote of Members or any disinterested Directors, or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, employee, or agent and shall inure to the benefit of the heirs, successors, assigns, executors, and administrators of such a person.

The Association shall undertake to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or agent of the Association, or is or was serving at the request of the Association as a Director, Officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him or her and incurred by him or her in such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability.

The Association's indemnity of any person who is or was a Director, Officer, employee, or agent of the Association, or is or was serving at the request of the Association as a Director, Officer, employee, or agent of the another corporation, partnership, joint venture, trust, or other enterprise, shall be reduced by any amounts such person may collect as indemnification: (a) under any policy of insurance purchased and maintained on his or her behalf by the Association or (b) from such other corporation, partnership, joint venture, trust, or other enterprise.

The provisions hereof shall be in addition to and not exclusive of any and all other rights to which any Director or Officer may otherwise be entitled under any law, By-Law, agreement, vote of Association Members or otherwise. In the event of death of any Officer or Director, the provisions hereof shall extend to such person's legal heirs, representatives, successors, and assigns. The foregoing rights shall be available whether or not such person or persons were, in fact, Directors or Officers at the time of incurring or becoming subject to such expenses, and whether or not the proceeding, claim, suit, or action is based on matters which antedate the adoption of these By-Laws.

Nothing contained in this Article, or in any provision of these By-Laws, shall operate to indemnify any Director or Officer if such indemnification is, for any reason, contrary to any applicable state or federal law.

## **ARTICLE XII: MISCELLANEOUS PROVISIONS**

- 12.1 Construction of By-Laws. In the event of a conflict between the Declaration and the Articles of Incorporation or the By-Laws, the Declaration shall control. In the event of any conflict between the Articles of Incorporation and the By-Laws that the Declaration does not resolve, the Articles of Incorporation shall control. The Association, its Directors, and its Officers shall have all powers as set forth in the South Carolina Nonprofit Corporation Act of 1994 (hereinafter, the "Act"). In the event of a conflict between the Act and the By-Laws, the By-Laws shall prevail if such conflicted action is not prohibited by terms of the Act. If there is a conflict in the By-Laws which is not permitted by the Act, then the terms of the Act shall prevail.

12.2 Amendment. These By-Laws may be amended, changed, added to, derogated, or deleted at any time and from time to time upon the execution and recordation of any instrument executed by Members holding at least fifty-one (51%) percent of the Lots in the Community; provided, however, that so long as the Declarant is the Owner of any Lot affected by this Declaration, the Declarant's consent must be obtained. Any amendment to these By-Laws need not be recorded in the Charleston County RMC Office.

[SIGNATURES ON FOLLOWING PAGE]

CERTIFICATION

I, the undersigned, do hereby certify:

THAT we are the duly elected and acting Officers of the Association, and,

THAT the foregoing By-Laws constitute the original By-Laws of said The Pines at Gahagan Homeowners Association, Inc., as duly adopted at a meeting of the Board of Directors thereof, held on the 30<sup>th</sup> day of September, 2009.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 30<sup>th</sup> day of September, 2009.

THE PINES AT GAHAGAN HOMEOWNERS  
ASSOCIATION, INC.

BY: William John Marx

PRINTED NAME: William John Marx, its President

# RECORDER'S PAGE



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

**Filed By:**

WOODY LAW FIRM, LLC  
 597 OLD MOUNT HOLLY RD.  
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