

COUNTY OF BEAUFORT) **FIFTH AMENDMENT TO BY-LAWS OF**
) **HICKORY COVE VILLAS HORIZONTAL**
STATE OF SOUTH CAROLINA) **PROPERTY REGIME**

THIS FIFTH AMENDMENT TO THE BY-LAWS FOR HICKORY COVE VILLAS HORIZONTAL PROPERTY REGIME (hereinafter "Amendment") is made as of this 7th day of September 2021 by the Council of Co-Owners of Hickory Cove Horizontal Property Regime.

This document amends the By-Laws set out in the Master Deed for Hickory Cove Villas Horizontal Property Regime as Exhibit "F", said Master Deed being duly recorded on June 15, 1973 in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 210 at Page 1560-1594 (hereinafter the "Master Deed") with the By-Laws being recorded specifically on Pages 1580-1591 (hereinafter the "By-Laws") and subsequently amended by the Amendments to By-Laws of Hickory Cove Villas Horizontal Property Regime being duly recorded on September 1, 1987 in Book 484 at Pages 1964-1965, and subsequently amended by the Amendment to By-Laws of Hickory Cove Villas Horizontal Property Regime being duly recorded on June 15, 1993 in Book 631 at Pages 395-398, and subsequently amended by the Amendment to By-Laws of Hickory Cove Villas Horizontal Property Regime being duly recorded on May 25, 2005 in Book 2154 at Pages 2574-2576, and subsequently amended by the Amendment to By-Laws of Hickory Cove Villas Horizontal Property Regime being duly recorded on November 17, 2016 in Book 3011 at Pages 815-816.

WHEREAS, the Council of Co-Owners of Hickory Cove Horizontal Property Regime (hereinafter the "Association") desires to amend its By-Laws to 1) clarify the Association's authority to declare special assessments subject to Owner approval and 2) allow for the annual meeting to be held each year during the month of October on a date and time established by the Board of Administration, as opposed to the "first Friday in October" requirement currently required under the By-Laws; and

WHEREAS, the purpose of this Amendment is to remove any doubt or confusion as to the Association's ability to declare special assessments; and, to provide flexibility in the scheduling of the annual meeting in the event the date set forth in the By-Laws creates a hardship or difficulty for the Board of Administration and/or the Owners; and

WHEREAS, Article IX Section 1 of the By-Laws provide that the By-Laws may be amended upon the approval of the co-owners representing at least two-thirds (2/3) of the total

value of Hickory Cove Villas Horizontal Property Regime (hereinafter, the “Regime”) as shown in the Master Deed, at a duly constituted meeting held for such purpose; and

WHEREAS, on September 2, 2020 a Notice of the 2020 Annual Meeting was sent to all Owners, which placed on the agenda the proposed amendments to the By-Laws; and

WHEREAS, on October 2, 2020 the 2020 Annual Homeowners Meeting was held during this the following vote totals were received for each proposed amendment:

- a. Special Assessment Amendment resulted in a vote of 72.35 percentage owner interest in favor and 5.58 percentage owner interest against; and
- b. Annual Meeting Date Amendment resulted in a vote of 72.35 percentage owner interest in favor and 3.66 percentage owner interest against; and

WHEREAS the votes in favor of the By-Law Amendments meets the two-thirds (2/3) threshold of the total value of the Regime and the proposed Amendments to the By-Laws was adopted and approved; and

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS that the Association does hereby declare:

1. **Recitals:** The foregoing paragraphs and recitals, also known as “Whereas clauses”, are not mere recitals, are incorporated herein as part of this Amendment, and are an integral part hereof.
2. **Definitions:** Unless otherwise specified herein, all terms are to be given the same meaning as set out in Master Deed and By-Laws, including all Exhibits and amendments thereto.
3. **Effective Date:** This Amendment is to be effective upon recording in the Beaufort County land records.
4. **First Adopted Amendment to the By-Laws:** Article VII titled “Obligations of the Co-Owners”, is amended by adding a new Section 3 that shall read as follows:

Section 3. Pursuant to the powers of Article VII and Section 1 in particular, the Board of Administration may levy, and establish payment terms for, special assessments for the purposes of defraying, in whole or in part, the costs of any reconstruction and or emergency or unexpected repairs to the Property, provided that any such special assessment, including the payment terms thereof, shall have the assent of co-owners representing at least 50% of the total value of Property as shown on the Master Deed. Any such special assessment so approved by the requisite co-owners shall be deemed and collectible as common charges.

The original Section 3 through Section 14 of the By-Laws are renumbered Sections 4-15, as a result of this Amendment.

5. **Second Adopted Amendment to the By-Laws:** Article III titled “Council of Co-Owners”, Section 3 titled “Annual Meetings” of the By-Laws is amended by removing “on the first Friday in October” and replacing the same with “...during the month of October at a date and time established by the Board of Administration each year.” Article III, Section 3 as amended reads in its entirety:

Section 3. Annual Meetings. The annual meeting of the Council shall be held at the call of the Regime President once a year during the month of October at a date and time established by the Board of Administration each year. At such meetings there shall be elected by ballot of the co-owners a Board of Administration in accordance with the requirements of Section 5 of Article IV of these By-Laws. The co-owners may also transact such other business of the Council as may properly come before them.

6. **Conflict:** The provisions stated herein constitute an Amendment to the By-Laws and any amendments thereto. Should any of the changes adopted herein conflict only with the Master Deed and/or By-Laws as originally drafted and recorded, this document controls.

7. **Incorporation:** The provisions of the By-Laws, and all valid amendments thereto, which are not modified herein are expressly incorporated into and reaffirmed by this Amendment in the same manner as if the same were expressly set forth herein. This Amendment is intended to comply with the provisions of the aforementioned By-Laws.

8. **MISCELLANEOUS:** This Amendment is intended to comply with the provisions of the aforesaid Master Deed and By-Laws and the South Carolina Horizontal Property Act. In case any of the provisions stated above conflict with the provisions of said statute, the provisions of said statute shall control. The provisions hereof shall be deemed independent and severable, and the invalidity in whole or in part of any section, sub-section, sentence, clause, phrase or word, or other provision of this Amendment shall not affect the validity or enforceability of the remaining portions thereof and, in that event, all of the other provisions of the Amendment shall continue in full force and effect as if such invalid provision had never been included therein.

[SIGNATURE, NOTARIZATION AND ACKNOWLEDGEMENT PAGE FOLLOWS]

IN WITNESS WHEREOF, the Council of Co-Owners of Hickory Cove Horizontal Property Regime, has caused the undersigned, Tom Phelps, its President and duly-authorized signatory, to execute this "FIFTH AMENDMENT TO THE BY-LAWS OF HICKORY COVE VILLAS HORIZONTAL PROPERTY REGIME" and certify to its contents, and for the undersigned Secretary/Treasurer, Mary O'Neill, to attest to the President's signature and also certify to the contents hereof, on the date first set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

COUNCIL OF CO-OWNERS OF
HICKORY COVE HORIZONTAL
PROPERTY REGIME

Laura DeLeon
Witness No. 1
Annette M. Fioravanti
Witness No. 2 (Notary Public)

By: [Signature]
Name: Tom Phelps
Its: President

Attest: Mary O'Neill
Name: Mary O'Neill
Its: Secretary/Treasurer

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned notary public, do hereby certify that Tom Phelps, as President of the Council of Co-Owners of Hickory Cove Horizontal Property Regime, personally appeared before me this day and acknowledged execution of the foregoing instrument.

Witness my hand and official seal this 7th day of September, 2021.
Annette M. Fioravanti
Notary Public for South Carolina
My Commission Expires: 7/15/2029

