

****Rerecord to correct Exhibit "C" of the Master Deed**

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at 03:10:34 PM, 1 OF 47, EXEMPT, MARION
D. FOXWORTH III, Horry County, SC
REGISTRAR OF DEEDS

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D. FOXWORTH III, Horry County, SC
REGISTRAR OF DEEDS

MASTER DEED

for

OCEAN BAY HORIZONTAL PROPERTY REGIME

Developer:

SM Capital, LLC

Prepared By:

**RICHARD M. LOVELACE, JR., PA
Attorneys at Law
Post Office Box 1704
Conway, South Carolina 29528**

I.

HORIZONTAL PROPERTY REGIME CREATED

SM Capital, LLC, ("the Developer"), having its principal office at Myrtle Beach, Horry County, South Carolina, which is the sole owner in fee simple of the land and improvements hereinafter described, does hereby make, declare and publish its intention and desire to submit, and does hereby submit, the lands and buildings hereinbelow described, together with all other improvements thereon, including all easements, rights and appurtenances thereto belonging, to Developer to be known as Ocean Bay Horizontal Property Regime ("the Regime"), in the manner provided for by the South Carolina Horizontal Property Act, as amended, S.C. Code Ann. Sections 27-31-10 et seq. (1988 Supp.) ("the Act"). By the execution and recording of this Master Deed, the Developer further states that:

1. The Developer proposes to create and does hereby create, with respect to the property described above, the Regime containing not less than one (1) phase nor more than four (4) phases, for a total of not more than 24 units, to be governed by and to be subject to the provisions of this Master Deed and of the Act;

2. The Regime, and all property and/or interests in property contained therein, shall be owned, occupied, used, conveyed, encumbered, leased, improved in phases, maintained and governed in accordance with the provisions of the Act and in accordance with the covenants, restrictions, encumbrances, and obligations set forth or incorporated by reference in this Master Deed, all of which shall be deemed to be covenants, restrictions, encumbrances and obligations running with the land.

In conformity with Sections 27-31-30 and 27-31-100 of the Act, the Developer sets forth the following particulars with respect to the Regime:

II.

GENERAL DESCRIPTION OF PLAN OF DEVELOPMENT

The Developer intends to develop the property hereinafter described as a phased horizontal property regime consisting of not less than one (1) nor more than four (4) phases. The first phase shall consist of six (6) Units configured in one (1) building. The number of Units in any subsequent phase(s) shall be designated upon submission of subsequent phases. The Developer shall elect on or before December 31, 2030 as to whether or not to submit additional phases to the Regime:

<u>PHASE</u>	<u>UNITS</u>	<u>CONTAINING BUILDING</u>	<u>DATE OF COMPLETION</u>
I	6	1	Not later than 24 months after execution of the Contract of Sale

A chart showing the percentage interest in the common elements of Phases I is attached hereto and made a part hereof by reference as Exhibit C to this Master Deed. As additional phases are added, the percentage interest of each Unit shall be appropriately diminished so that the aggregate interest in the number of Units actually built and submitted to the Horizontal Property Regime adds up as closely as possible to one hundred (100%) percent. As each phase is added, and when and if amenities are added in subsequent phases, the amount of property in which each Unit owns a percentage interest will increase.

III.

LEGAL DESCRIPTION

The land comprising Phases II through IV, which may be added to the Regime, is proximate to Phase I.

IV.

SURVEY AND DESCRIPTION OF IMPROVEMENTS

Attached hereto at the time this Master Deed is filed for record and incorporated herein by reference as if set forth in full herein are one or more boundary surveys, an as-built survey (Phase I only) and site plan showing the location of all buildings and other improvements, a set of floor plans of the buildings which show graphically the dimensions, area and location of each Unit therein and the dimensions, area, and location of the General Common Elements and Limited Common Elements affording access to each Unit. Each Unit is identified thereon by specific number and no Unit bears the same designation as any other Unit. Said surveys, site plan and set of floor plans (hereinafter collectively called "the Regime Plans") are recorded as a separate Horizontal Property Regime plat in the office of the Clerk of Court for Horry County in Condominium Plat Book 268 at page 305. The buildings containing the Units have the areas set forth on Exhibit "B" attached hereto.

V.

UNITS, GENERAL COMMON ELEMENTS

AND LIMITED COMMON ELEMENTS

The Regime consists of Units, General Common Elements and Limited Common Elements, as said terms are hereinafter defined.

Units, as the term is used herein, shall mean and comprise the separate and numbered Units which are designated in Exhibit "B" to this Master Deed, excluding, however, all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and above the undecorated and/or unfinished inner surfaces of the ceilings of each Unit, and further excluding all spaces and improvements lying beneath the undecorated and/or unfinished bearing partitions, and further excluding all pipes, ducts, wires, conduits and other facilities running through any interior wall or

partition for the furnishing of utility services to Units and the Common Elements (as hereinafter defined). The general description and number of each Unit, expressing its area, general location and any other data necessary for its identification, also appear in Exhibit "B". Each Unit has a direct access, through one or more of the General Common Elements and Limited Common Elements as shown on the Regime Plans and described herein, to a public street or highway.

General Common Elements means and includes:

1. The Real Property (excluding the Limited Common Elements and the Units), including but not limited to the land on which the buildings containing the Units are constructed;
2. Entrance roadway, parking, landscaping, the foundations, main walls, roofs, stairways, and entrance and exit or communication ways;
3. The compartments or installations of central services such as power, light, gas, cold and hot water, reservoirs, water tanks and pumps, and the like;
4. In general, all devices and installations existing for common use;
5. All other elements of the property rationally of common use or necessary to its existence, upkeep and safety.

Limited Common Elements means and includes:

6. Those common elements which are agreed upon by all the Unit owners to be reserved for the exclusive use of each individual Unit to the exclusion of the other Units;
7. The maintenance and repair of property designated as Limited Common Elements are the responsibility is the individual unit owner whose dwelling the Limited Common Elements serve and are listed below:
 - a. All enclosed screen porches or decks.
 - b. Heating, ventilation and air conditioning systems.
 - c. Driveways which serve any unit.
 - d. Landscaping, plants, flowers which decorate an individual Unit/dwelling.
 - e. Windows and doors.

VI.

OWNERSHIP OF UNITS AND APPURTENANT

INTEREST IN COMMON ELEMENTS

Once the Real Property and Common Elements are submitted to the Regime, an Unit in the Regime may be individually conveyed and encumbered and may be the subject of ownership, possession or sale and of all types of juridic acts inter vivos or mortis causa, as if it were sole and entirely independent of the other Units in the Regime of which it forms a part, and the corresponding individual titles and interests shall be recordable.

A Unit Owner shall have the exclusive ownership of his/her/their/its Unit and shall have a common right to share equally, with the other Co-Owners, in the Common Elements of the Regime, with relation to the value of the whole Regime. This percentage is set forth on Exhibit "C" attached hereto and made a part hereof by reference, shows the percentage interest of the first phase, which is being submitted simultaneous with the recording of this original Master Deed, and it also shows the diminution and percentage interest as additional Units in the first two phases are submitted by supplement to this Master Deed. As the number of Units increases, up to a maximum of 24, the percentage interest, which each Unit has in the overall Common Elements which shall ultimately be submitted as a part of the Ocean Bay Horizontal Property Regime, shall decrease percentage-wise, as the number of Units submitted and sold increases, however, as the percentage ownership of each Unit shall decrease with the number of owners, likewise the amount of property, which is subject to percentage ownership, shall increase, to include an interest in ownership in any amenities which are submitted as part of the Ocean Bay Horizontal Property Regime, in subsequent phases. The proportional changes in percentage of ownership exhibited, and as filed with this Master Deed, shall be followed in accordance with the same formula for the balance of the phases submitted by supplement to this Master Deed with the maximum number of Units to be included within the Ocean Bay Horizontal Property Regime being 24.

The basic value (identified as the "Value for Statutory Purposes" on said Exhibit "C"), which shall be fixed for the sole purpose of this Master Deed and irrespective of the actual value, shall not prevent each Co-Owner from fixing a different circumstantial value to such Co-Owner's Unit in all types of acts and contracts.

VII.

RESTRICTION AGAINST FURTHER SUBDIVIDING

OF UNITS AND SEPARATE CONVEYANCE

OF APPURTENANT COMMON ELEMENTS, ETC.

No Unit may be divided or subdivided into a smaller Unit or smaller Units than as described in Exhibit "B" attached hereto, nor shall any Unit, or portion thereof, be added to or incorporated into any other Unit. The undivided interest in the Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Unit, and the undivided interest in the Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered, or otherwise included with the Unit even though such undivided interest is not expressly

mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such Unit. Any conveyance, mortgage, or other instrument which purports to affect the conveyance, devise or encumbrance, or which purports to grant any right, interest or lien in, to, or upon, an Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in an Unit and its appurtenant undivided interest in the Common Elements, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit which describes said Unit by the Unit Number assigned thereto in Exhibit "B" without limitation or exception, shall be deemed and construed to affect the entire Unit and its appurtenant undivided interest in the Common Elements. Nothing contained in this paragraph shall be construed as limiting or preventing ownership of any Unit and its appurtenant undivided interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or any other recognized form of real property ownership.

VIII.

REGIME SUBJECT TO RESTRICTIONS

Each and every Unit and the Common Elements shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established herein, governing the use of said Unit and the Common Elements, and setting forth the obligations and responsibilities incident to ownership of each Unit and its appurtenant undivided interest in the Common Elements and said Units and the Common Elements are further declared to be subject to the restrictions, easements, conditions, and limitations now of record affecting the Real Property and/or the improvements thereon.

IX.

PERPETUAL NON-EXCLUSIVE EASEMENT

IN COMMON ELEMENTS

The General Common Elements shall be, and the same are hereby declared to be subject to a perpetual non-exclusive easement in favor of all of the Co-Owners of Units in the Regime for their use and the use of their immediate families, tenants, lessees, licensees, guests, and invitees, for all proper and normal purposes, for the furnishing of services and facilities for which the same are reasonably intended, and for the enjoyment of said Co-Owners of Units. Notwithstanding anything above provided in this article, The Ocean Bay HOA, Inc. (a South Carolina eleemosynary corporation, hereinafter called "the Association"), shall have the right to establish the rules and regulations pursuant to which the Co-Owner or Co-Owners of any Unit may be entitled to the exclusive use of any parking space or spaces as well as any other Common Elements (whether General or Limited).

X.

**EASEMENT FOR UNINTENTIONAL AND
NON-NEGLIGENT ENCROACHMENTS**

In the event that any portion of the Common Elements now or hereafter encroaches upon any Unit, or vice versa, or in the event that any portion of one Unit now or hereafter encroaches upon another Unit, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, does and shall exist.

XI.

**RESTRAINT UPON SEPARATION AND PARTITION
OF COMMON ELEMENTS**

The Common Elements, both General and Limited, shall remain undivided and shall not be the object of an action for partition or division of the co-ownership. Any covenant to the contrary shall be void.

All the Co-Owners or the sole owner of the Regime may waive the Regime and regroup or merge the records of the individual Units with the Real Property, provided that the individual Units are unencumbered, or if encumbered, that the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors.

Subject to the other provisions of this Article XI, unless all of the first mortgagees (based upon one vote for each first mortgage owned), and owners (other than the Developer) of the Units have given their prior written approval, the Association shall not be entitled to:

- a. by act or omission, seek to abandon to terminate the Regime;
- b. change the pro rata interest or obligations of any Unit for the purpose of: (I) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the Common Elements;
- c. partition or subdivide any Unit;
- d. by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Regime shall not be deemed a transfer within the meaning of this subparagraph (d).

With the exception of permitted dogs, cats, and caged birds, no other animals, livestock, yard fowl, may be kept in any Unit or allowed on common areas. Doberman Pinchers, Pit Bulls, and Rottweiler are considered dangerous animals and shall not be permitted within any Unit or upon the Common Areas. Dogs and cats must be kept on a leash and under the control of the owner thereof when they are outside the Unit and must not become a nuisance to other residents by barking or other acts. Non-owners (e.g., renters, lessees or guests) may not keep any pets on any part of the Unit or Common Elements without prior written approval of the Board of Directors of the Association.

XIV.

USE OF COMMON ELEMENTS SUBJECT TO RULES OF ASSOCIATION

The use of the Common Elements by the Co-Owner or Co-Owners of the Units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may hereafter be prescribed and established by the Association.

Traffic regulations on all paved surfaces within the Regime will be enforced under the provisions of the South Carolina Uniform Act for regulating traffic on private roads. A speed limit of 5 MPH is established on all paved surfaces/streets and all traffic control signs, including but not limited to speed limit, stop, directional and "no parking" signs, will be enforced by fines or assessments, and no parking shall be permitted on any paved surface except in designated parking areas.

No stripped, partially wrecked, disabled or junk motor vehicle, or part thereof, shall be permitted to be parked or kept on any Regime property.

XV.

REGIME TO BE USED FOR LAWFUL PURPOSES, RESTRICTION AGAINST NUISANCES, ETC.

No immoral, improper, offensive or unlawful use shall be made of any Unit or of the Common Elements, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Regime shall be observed. No Co-Owner of any Unit shall permit or suffer any thing to be done or kept in his Unit, or on the Common Elements, which will increase the rate of insurance on the Regime, or which will obstruct or interfere with the rights of other occupants of the building or annoy them by unreasonable noises, nor shall any such Co-Owner undertake any use or practice which shall create and constitute a nuisance to any other Co-Owner of an Unit, or which interferes with the peaceful possession and proper use of any other Unit or the Common Elements.

XVI.

RIGHT OF ENTRY INTO UNITS IN EMERGENCIES

In case of any emergency originating in or threatening any Unit, regardless of whether the Co-Owner is present at the time of such emergency, the Board of Directors of the Association or any other person or firm authorized by it, or the building superintendent or managing agent, shall have the right to enter such Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate, and to facilitate entry in the event of any such emergency, the Co-Owner of each Unit if required by the Association, shall deposit under the control of the Association a key to such Unit.

XVII.

RIGHT OF ENTRY FOR MAINTENANCE OF COMMON ELEMENTS

Whenever it is necessary to enter any Unit for the purpose of performing any maintenance, alteration or repair to any portion of the Common Elements, the Co-Owner of each Unit shall permit other Co-Owners or their representatives, or the duly constituted and authorized agent of the Association, to enter such Unit, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

XVIII.

LIMITATION UPON RIGHT OF CO-OWNERS

TO ALTER AND MODIFY UNITS

No Co-Owner of an Unit shall permit there to be made any structural modifications or alterations therein without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association determine, in its sole discretion, that such structural modifications or alterations would affect or in any manner endanger any building in part or in its entirety. If the modification or alteration desired by the Co-Owner of any Unit involves the removal of any permanent interior partition, the Association shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load-bearing partition, and so long as the removal thereof would in no manner affect or interfere with the provision of utility services constituting Common Elements located therein. No Co-Owner shall cause any balcony or deck abutting such Co-Owner's Unit to be enclosed, or cause any improvements or changes to be made on the exterior of the building, including painting or other decoration, or the installation of electrical wiring, television antennae, machines or air conditioning units which may protrude through the walls or roof of the building, or in any manner change the appearance of any portion of the building not within the walls of such Unit, nor shall storm panels or awnings be affixed, without the written consent of the Association being first obtained.

XIX.

**RIGHT OF ASSOCIATION TO ALTER AND IMPROVE
COMMON ELEMENTS AND ASSESSMENT THEREFOR**

Only the Association shall have the right to make or cause to be made such alterations, modifications and improvements to the Common Elements, provided such alterations, modifications or improvements are first approved in writing by the Board of Directors of the Association and by the Co-Owners of fifty-one per cent (51%) or more of the Common Elements of the entire Regime; provided further, that such alterations, modifications or improvements do not adversely affect the value of the Common Elements or Units in the Regime; and the cost of such alterations, modifications or improvements shall be assessed as common expenses and collected from the Co-Owners of all Units according to their percentage of ownership of the Common Elements.

XX.

MAINTENANCE AND REPAIR BY CO-OWNERS OF UNITS

Every Co-Owner must perform promptly all maintenance and repair work within such Co-Owner's Unit which, if omitted, would adversely affect the Regime in its entirety or in a part belonging to other Co-Owners, such Co-Owner being expressly responsible for the damages and liability which such Co-Owner's failure to do so may engender. The Co-Owner of each Unit shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to such Co-Owner's Unit and which may now or hereafter be situated in such Co-Owner's Unit. Such Co-Owner shall further be responsible and liable for maintenance, repair and replacement of any and all window glass, wall, ceiling and floor exterior surfaces, painting, decorating and furnishings, and all other accessories which such Co-Owner may desire to place or maintain in such Co-Owner's Unit. Whenever the maintenance, repair and replacement of any items for which the Co-Owner of an Unit is obligated to maintain, repair or replace at such Co-Owner's own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by Association, the proceeds of the insurance received by Association, or the insurance trustee hereinafter designated, shall be used for the purpose of making such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of any insurance maintained by the Co-Owner of such Unit, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement received by such Co-Owner on account of any insurance maintained by the Co-Owner of such Unit. The floor and interior walls of any balcony or deck attached to such Co-Owner's Unit shall be maintained by the Co-Owner at such Co-Owner's expense. Reference is made to S.C. Code Ann. Section 27-31-250 (1988 Supp.), which code section is controlling of insurance proceeds when said code section is applicable by its terms.

XXI.

**MAINTENANCE AND REPAIR OF
COMMON ELEMENTS BY THE ASSOCIATION**

The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Common Elements, including those portions thereof which contribute to the support of any building, and all conduits, ducts, plumbing, wiring and other facilities located in the Common Elements (which are not the responsibility of another entity such as a utility or public service district) for the furnishing of utility services to the Units and the Common Elements, and should any incidental damage be caused to any Unit by virtue of any work which may be done or caused to be done by Association in the maintenance, repair, or replacement of any Common Elements, the Association shall, at its expense, repair such incidental damage.

XXII.

**PERSONAL LIABILITY AND RISK OF LOSS OF CO-OWNER
OF UNIT AND SEPARATE INSURANCE COVERAGE**

The Co-Owner of each Unit may, at such Co-Owner's own expense, obtain insurance coverage for loss of or damage to any furniture, appliances, plumbing, fixtures, furnishings, carpet, floor, and ceiling, and wall coverings, personal effects and other personal property belonging to such Co-Owner and may, at such Co-Owner's own expense and option, obtain insurance coverage against personal liability for injury to the person or property of another while within such Co-Owner's Unit or upon the Common Elements. All such insurance obtained by the Co-Owner of each Unit shall, where available, provide that the insurer waives its right of subrogation as to any claims against other Co-Owners of Units, the Association, and the respective servants, agents and guests of said other Co-Owners and Association. Risk of loss of or damage to any furniture, appliances, furnishings, personal effects and other personal property (other than such furniture, appliances, furnishings and personal property constituting a portion of the Common Elements) belonging to or carried on the person of the Co-Owner located in or upon the Common Elements shall be borne by the Co-Owner of each such Unit. All furniture, appliances, furnishings, carpet, floor, ceiling, and wall coverings and personal property constituting a portion of the Common Elements and held for the joint use and benefit of all Co-Owners of all Units shall be covered by such insurance as shall be maintained in force and effect by Association as hereinafter provided. The Co-Owner of an Unit shall have no personal liability for any damages caused by the Association or in connection with the use of the Common Elements. The Co-Owner of an Unit shall be liable for injuries or damage resulting from an accident in such Co-Owner's own Unit, to the same extent and degree that the Co-Owner of a house would be liable for an accident occurring within the house.

XXIII.

EMINENT DOMAIN

(1) Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury, or destruction of all or part of the Common Elements of one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Board of Directors of the Association and each Unit owner shall be entitled to notice thereof and the Board of Directors shall, and the Unit Co-Owners at their respective expense may, participate in the proceedings incident thereto.

(2) With respect to Common Elements, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Unit Co-Owner's interest therein. After such determination, each Unit Co-Owner shall be entitled to a share in the damages in the same proportion as his percentage of undivided interest in the Common Elements and facilities. This provision does not prohibit a majority of Unit Co-Owners from authorizing the Board of Directors to use such damages or awards for replacing or restoring the Common Elements so taken on the remaining land, or on other acquired land, provided that this Master Deed and Regime Plans are duly amended.

(3) With respect to one or more Units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of such taking shall be deemed to be proceeds from insurance on account of damage or destruction and pursuant to the By-Laws of the Association, and shall be deposited with the Insurance Trustee as defined therein. Even though the damage or awards may be payable to one or more Unit Co-Owners, the Unit Co-Owners shall deposit the damages or awards with the Insurance Trustee, and in the event of failure to do so, at the option of the Board of Directors, either a special assessment shall be made against a defaulting Unit Co-Owner in such Co-Owner's unit in the amount of this award or the amount of such award shall be set off against the sums hereafter made payable to such Unit Co-Owner. The proceeds of the damages or awards shall be distributed or used in the manner provided for in the By-Laws of the Association and the Co-Owners of affected Units shall have the rights provided in the By-Laws of the Association for insurance proceeds provided the Property is removed from the Regime and from the provisions of the Act as may be allowed by applicable law. If the property is not removed from the Regime and from the provisions of the Act, and one or more Units are taken, in whole or in part, the taking shall have the following effects:

(a) If the taking reduces the size of an Unit and the remaining portion of the unit may be made tenant able, the Unit shall be made tenant able. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Co-Owner of the Unit. The balance of the award, if any, shall be distributed to the mortgagee (if any) of the Unit to the extent of the unpaid balance of its mortgage and the excess, if any, shall be distributed to the Unit Co-Owner. If there is a balance of the award distributed to the Unit Co-Owner or a mortgagee, the Unit Co-Owner's percentage of undivided interest in the Common Elements and facilities shall be equitably reduced to the extent allowed by law. This reduction shall be done by reducing such interest in the proportion by which the floor area of the Unit is reduced by the taking, and then recomputing the percentages of undivided interest of all Unit Co-Owners in the Common Elements.

(b) If the taking destroys or so reduces the size of an Unit that it cannot be made tenant able, the award shall be paid to the mortgagee (if any) of the Unit to the extent of the unpaid balance of its mortgage and the excess, if any, shall be distributed to the Unit Co-Owner, and the remainder of the Unit shall become a part of the Common Elements and shall be placed in condition for use by all Unit Co-Owners in the manner approved by the Board of Directors. The percentages of undivided interests in the Common Elements appurtenant to the Unit that continue as part of the property shall, to the extent allowed by law, be equitably adjusted to distribute the ownership of the Common Elements among the reduced number of Unit Co-Owners.

(c) Changes in Units, in the Common Elements, and in the ownership of the Common Elements that are affected by the taking referred to in this Article XXIII shall be evidenced by an appropriate amendment to this Master Deed and Regime Plans, which must be approved by a majority of the Co-Owners of the Units.

XXIV.

INSURANCE

The Association shall insure the Regime against risks, as is set forth in the By-Laws of the Association attached hereto (as the same may be amended from time to time), without prejudice to the right of each Co-Owner to insure such Co-Owner's Unit on such Co-Owner's own account or for such Co-Owner's own benefit.

XXV.

APPORTIONMENT OF TAX OR SPECIAL ASSESSMENT IF LEVIED

AND ASSESSED AGAINST THE REGIME AS A WHOLE

In the event that any taxing authority having jurisdiction over the Regime shall levy or assess any tax or special assessment against the Regime as a whole, as opposed to levying and assessing such tax or special assessment against each Unit and its appurtenant undivided interest in the Common Elements as now provided by law, then such tax or special assessment so levied shall be paid as a common expense by the Association, and any taxes or special assessments which are to be levied shall be included, wherever possible, in the estimated annual budget of the Association, or shall be separately levied and collected as an assessment by the Association, against all of the Co-Owners of Units and said Units if not included in said annual budget. The amount of any tax or special assessment paid or to be paid by Association in the event that such tax or special assessment is levied against the Regime, as a whole, instead of against each separate Unit and its appurtenant undivided interest in the Common Elements shall be apportioned among the Co-Owners of all Units so that the amount of such tax or special assessment so paid or to be paid by Association and attributable to and to be paid by the Co-Owner or Co-Owners of each Unit shall be that portion of such total tax or special assessment which bears the same ratio to said total tax or special assessment as the undivided interest in the Common Elements appurtenant to each Unit bears to the total undivided interest in the Common Elements appurtenant to all Units. In the event that any tax or special assessment shall be levied against the Regime in its entirety, without apportionment by the taxing authority to the Units and appurtenant undivided interests in the Common Elements, then the assessment by Association, which shall include the proportionate share of such tax or special assessment

attributable to each Unit and its appurtenant undivided interest in the Common Elements, shall separately specify and identify the amount of such assessment attributable to such tax or special assessments, and the amount of such tax or special assessment so designated shall be and constitute a lien prior to all mortgages and encumbrances upon any Unit and its appurtenant undivided interest in the Common Elements, regardless of the date of the attachment and/or recording of such mortgage or encumbrance, to the same extent as though such tax or special assessment had been separately levied by the taxing authority upon each Unit and its appurtenant undivided interest in the Common Elements.

XXVI.

AMENDMENT OF MASTER DEED

Subject to the provisions of Article XI of this Master Deed and subject to any applicable laws requiring a greater majority, neither this Master Deed nor any of its provisions shall be revoked or amended without the approval of fifty-one (51%) percent of the Co-Owners. So long as the SM Capital, LLC, owns fifty-one per cent (51%) of the Units and at least fifty-one per cent (51%) of the total interest in the Common Elements, it may amend or modify this Master Deed in such particulars as it may, in its sole and unfettered discretion, deem appropriate or necessary, so long as any amendment is not in contravention with the South Carolina Horizontal Property Act, and statutes and laws of the State of South Carolina, and the record holders of first mortgages affecting at least fifty-one per cent (51%) of the total interest in the Common Elements, except that the system of administration as set forth in the Certificate of Incorporation and By-Laws of the Association may be amended and modified from time to time in accordance with the provisions of the Act and other applicable law, the Certificate of Incorporation, and By-Laws of the Association. Any such amendment or revocation shall be executed and subscribed with the same formalities required in South Carolina for the making of deeds, and recorded in the public records of Horry County.

XXVII.

REMEDIES IN EVENT OF DEFAULT

The Co-Owner or Co-Owners of each Unit shall be governed by and shall comply with the provisions of this Master Deed, and the Certificate of Incorporation and/or the By-Laws of the Association and its rules and regulations as any of the same are now constituted or as they may be adopted and/or amended from time to time. The following described defaults by the Co-Owner or Co-Owners of any Unit shall entitle the Association or the Co-Owner or Co-Owners of other Unit or Units to the following relief:

A. Failure to comply with any of the terms of this Master Deed or other restrictions and regulations contained in the Certificate of Incorporation, or By-Laws of the Association, or its rules and regulations, shall be grounds for relief which may include, but not be limited to, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof and which relief may be sought by Association, or, if appropriate, by an aggrieved Co-Owner of an Unit, or both.

B. The Co-Owner or Co-Owners of each Unit shall be liable for the expense of any maintenance, repair or replacement rendered necessary by such Co-Owner's act, neglect or carelessness, or by that of any member of such Co-Owner's family, or such Co-Owner's or their guests, employees, agents or lessees,

but only to the extent that such expense is not met by the proceeds of insurance carried by Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of an Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subornation.

C. In any proceeding arising because of any such alleged default by the Co-Owner of any Unit, the Association, if successful, shall be entitled to recover against the Unit and have a lien for the costs of the proceedings, and such reasonable attorney's fees as may be determined by the Court, but in no event shall the Co-Owner of any Unit be entitled to such attorney's fees.

D. The failure of the Association or of the Co-Owner of an Unit to enforce any right, provision, covenant, or condition which may be granted by this Master Deed or other above mentioned documents shall not constitute a waiver of the right of the Association or of the Co-Owner of an Unit to enforce such right, provision, covenant or condition in the future.

E. All rights, remedies and privileges granted to Association or the Co-Owner or Co-Owners of an Unit pursuant to any terms, provisions, covenants, or conditions of this Master Deed or other above mentioned documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional right, remedies, or privileges as may be available to such party at law or in equity.

F. The failure of the Developer or of any mortgagee to enforce any right, privilege, covenant or condition which may be granted to them, or either of them, by this Master Deed or other above mentioned documents shall not constitute waiver of the right of either of said parties to thereafter enforce such right, provision, covenant or condition in the future.

XXVIII.

USE OR ACQUISITION OF INTEREST IN THE REGIME TO RENDER USER OR ACQUIRER SUBJECT TO PROVISIONS OF MASTER DEED, RULES AND REGULATIONS

All present or future Co-Owners, tenants, or any other person who might use the facilities of the Regime in any manner, are subject to the provisions of this Master Deed and all documents appurtenant hereto and incorporated herewith, and the mere acquisition or rental of any Unit, or the mere act of occupancy of any Unit, shall signify: (1) that the provisions of this Master Deed are accepted and ratified in all respects; and (2) that the Co-Owner of such Unit acquiesces in the decreasing percentage set forth in Article VI and Exhibit "C" of this Master Deed and such decreases as shall be set forth and established upon the addition of one or more phases to the Horizontal Property Regime, in accordance with this instrument.

XXIX.

**RIGHT OF DEVELOPER TO REPRESENTATION ON BOARD
OF DIRECTORS OF ASSOCIATION**

So long as the Developer is the owner of more than twenty (20%) percent of the unsold Units in the Regime, the said Developer shall have the right to designate and select all of the persons who shall serve as members of each Board of Directors of the Association; and so long as the Developer is the Co-Owner of at least One (1) Unit, the Developer shall serve as a member of the Board of Directors of the Association. The Developer shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed for the remainder of the unexpired term of any director or directors so removed. Any director designated and selected by the Developer need not be a resident in or Co-Owner of an Unit in the Regime. The above-described power in the Developer to designate directors shall terminate on December 31, 2020.

Any representative of the Developer serving on the Board of Directors of the Association shall not be required to disqualify himself or herself upon any vote upon any management contract or other matter between Developer and Association where the Developer may have a pecuniary or other interest. Similarly, Developer as a member of Association, shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any management contract or other matter between the Developer and the Association where the Developer may have a pecuniary or other interest.

XXX.

ANNUAL REPORTS TO BE PROVIDED TO LENDER

So long as any lender is the owner or holder of mortgages encumbering Five (5) or more Units in the Regime, the Association shall furnish said lender with at least one copy of the annual financial statement and report of the Association audited satisfactorily to such lender and setting other such details as the said lender may reasonably require, including a detailed statement of annual carrying charges or income collected, and operating expenses, such financial statement and report to be furnished upon written request of such lender(s) within ninety (90) days following the end of each fiscal year.

Such statement shall be prepared in accordance with generally accepted accounting principles and shall contain the certificate of the accountant or accounting firm to that effect. Further, the accountant or accounting firm shall include as a special item(s) any information to which a reasonable man would attach importance in the management of his own financial affairs, should said information not appear readily from the face of the statement.

XXXI.

SEVERABILITY

In the event that any of the terms, provisions or covenants of this Master Deed are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

XXXII.

**MASTER DEED BINDING UPON DEVELOPER, ITS SUCCESSORS
AND ASSIGNS, AND SUBSEQUENT CO-OWNERS**

The restrictions and burdens imposed by the covenants of this Master Deed are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in the Common Elements and this Master Deed shall be binding upon the Developer, its successors and assigns, and upon all parties who may subsequently become Co-Owners of Units in the Regime, and their respective heirs, legal representatives, successors and assigns.

XXXIII.

DEVELOPER'S EASEMENTS AND RESERVATIONS

Developer, its successors and assigns, shall have the right of ingress and egress over, upon, and across the Common Elements, and/or any phases which may now or hereafter be submitted to the Regime in accordance with the provisions of this Master Deed, and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to construction, development and sales of the Units and operation of the Units and Common Elements, the Regime and the overall development of the Property of which the Regime is a part. Developer, its successors and assigns, shall retain the right to use the sales office and any model Units and the Common Elements in connection therewith during the period of development and sale of the Regime, including additional phases of development.

Developer also reserves unto itself, its successors and assigns, the right to submit additional phases to the Regime in accordance with this Master Deed and applicable law.

Developer also reserves unto itself, its successors and assigns, a perpetual, non-exclusive easement across Phase I of the Regime for access, egress, ingress, utilities, drainage and all other purposes reasonably necessary and/or appropriate (in the Developer's sole discretion) for the development of and construction of improvements upon the land described as Phases II through XXII of the Regime, whether or not Developer elects to submit any of such phases to the Regime and for the Development of and construction of improvements upon later sections of the SM Capital, LLC, if any. At the time of submission of any of Phases II through XII of the Regime, the Developer shall be deemed to have reserved to itself and its successors and assigns identical easements to those reserved herein across the phase so submitted for the remaining phases or parcels, whether or not so stated in the instrument of submittal.

XXXIV.

DEFINITIONS

Unless the context requires otherwise, the terms used in this Master Deed and the Exhibits attached hereto shall have the meanings contained in The Horizontal Property Act of the South Carolina Code in effect upon the recordation of this Master Deed and/or any supplements, subsequently filed. S.C. Code Ann. Section 27-31-20 (1994 Supp.) and in the remainder of the Act.

XXXV.

MISCELLANEOUS

Attached hereto as Exhibit "D" and made a part hereof by reference is the Architect's Certificate required by S.C. Code Ann. Section 27-31-110 (1988 Supp.).

Attached hereto as an Appendix and made a part hereof by reference is a copy of the By-Laws of the Association, as required by S.C. Code Ann. Section 27-31-150 (1976).

IN WITNESS WHEREOF, the Developer has executed this Master Deed this 11 day of January, 2016.

Signed, Sealed and Delivered
in the Presence of:

Jennifer Stacey
Susan Shelley

SM Capital, LLC

By: [Signature] (SEAL)

Its: Sole member

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

PROBATE

PERSONALLY APPEARED before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw SM Capital, LLC, by Patrick Marino, its Managing Member, sign, seal and as his act and deed deliver the within Master Deed and that (s)he with the other witness whose name is subscribed above witnessed the execution thereof.

Jennife Stacey
(Witness)

SWORN TO before me this
11 day of January, 2016

Susan P. Shelley (L.S.)

Notary Public for South Carolina

My Commission Expires: 12/15/21

EXHIBIT "A"

**TO MASTER DEED OF
OCEAN BAY
HORIZONTAL PROPERTY REGIME**

DESCRIPTION OF REAL PROPERTY

A. **Legal Description of Real Property Submitted to Regime by the Execution and Recording of the Master Deed:**

All that certain piece, parcel or tract of land, situate, lying and being in the County of Horry, State of South Carolina, Dogwood Neck Township, designated as Lot 25B, Phase 2B, containing 1.78 acres, more or less, more fully shown on a plat entitled "Final Plat of Towne Centre Commons, Phase 2B prepared for Hinson Properties, LLC", dated September 2, 2008, revised September 22, 2008, prepared by DDC Engineers, Inc., and recorded in Plat Book 240 at Page 282 in the Office of the Register of Deeds for Horry County.

ALSO:

A non-exclusive easement for ingress, egress and regress over and across Towne Centre Parkway and Hinson Drive leading from the above-described real property and being shown on the Phase 2B Plat referred to herein on that certain plat prepared by DDC Engineers, Inc. entitled "Towne Centre Commons — Phase I", prepared for Towne Centre Development Company, LLC, dated February 15, 2006, last amended June 9, 2006, and recorded in Plat Book 214 at Page 236 in the Office of the Register of Deeds for Horry County (the "Phase 1 Plat") and as shown on the "Final Plat of Towne Centre Commons — Phase 2A, Horry County, South Carolina Prepared for Towne Centre Commons, LLC", dated June 19, 2006, revised July 19, 2006 and again revised July 27, 2006, prepared by DDC Engineers, Inc., and recorded on August 4, 2006 in Plat Book 216 at Page 16 in the Office of the Register of Deeds for Horry County.

This property is subject to all easements and restrictive covenants of record.

DERIVATION: This being the identical property conveyed to SM Capital, LLC by deed of Marquee Investments, LLC dated February 20, 2014 and recorded June 6, 2014 in Deed Book 3738 at Page 1705 in the Office of the Register of Deeds for Horry County.

TMS # 165-00-01-435

EXHIBIT "B"
TO MASTER DEED OF
OCEAN BAY
HORIZONTAL PROPERTY REGIME

Unit Description and Numbers

Exhibit "B" incorporates into the Master Deed both a site plan which locates the parcels submitted to the Horizontal Property Regime, and showing relative locations of adjacent streets, and parking, which are not included nor submitted to the Horizontal Property Regime and the set of as built floor plans of the buildings which show graphically the dimensions, area, and location of each apartment, as well as the areas of access to each apartment.

The as built plans and specifications were certified by Wall Engineering, LLC and are filed for record in the Office of the R.O.D. for Horry County, South Carolina, in Condominium Plat Book 268 at page 307, which plans are hereby incorporated by reference into this Master Deed.

The site plan shows the one (1) building which contains six (6) Units in Phase 1 of the Regime. The site plan, and description of the property actually submitted to this Horizontal Property Regime were prepared by Castles Engineering, dated June 30, 2015, and is filed for record in the Office of the R.O.D. for Horry County, South Carolina in Real Estate Plat Book 268 at page 305. This site plan, and survey of the actual land submitted to the Horizontal Property Regime also sets forth the numbers of the buildings and the units.

All kitchen and other electrical appliances, air conditioning, wherever installed, and heating units and hot water heaters located within each Apartment are neither General Common Elements nor Limited Common Elements, but are the personal property of the Apartment owners.

Included in the General Common Elements are the asphalt steps and entrance foyers for each building, the roofs, and exterior building walls, in addition to those General Common Elements as further defined elsewhere in this Master Deed.

Included in the Limited Common Elements are exterior patio decks and/or porches adjacent to the individual units which they serve, and the windows and doors for each individual unit.

Maintenance of Limited Common Areas are the responsibility of the individual unit owner to which any Limited Common Area attaches and/or exclusively serves only his/her/their/its unit.

EXHIBIT "C"

**TO MASTER DEED OF
OCEAN BAY
HORIZONTAL PROPERTY REGIME**

Schedule of Percentage of Undivided Interest in the Common Elements Appurtenant to All Units in Ocean Bay Horizontal Property Regime, pursuant to S.C. Code Ann. Section 27-31-60 (1976):

Each Unit's Percentage of Undivided Interest in the Common Elements Upon Submission to the Regime of:

Unit Number	No. of Bedrooms	Statutory Value	Percentage of Undivided Interest in Common Elements
Building D			Phase I
Units 1	3	\$190,000.00	17%
2	3	\$190,000.00	17%
3	3	\$190,000.00	17%
4	3	\$190,000.00	17%
5	3	\$190,000.00	17%
6	3	\$190,000.00	17%

EXHIBIT "D"
TO MASTER DEED OF
OCEAN BAY HORIZONTAL PROPERTY REGIME

Engineer's Certificate

Pursuant to S.C. Code Ann. §27-31-110 (1976), I certify that the Regime Plans described in the attached Exhibit "D" of Ocean Bay Horizontal Property Regime (situate upon real estate described in the attached Exhibit "A"), fully depict (with reasonable construction tolerances) the layout, location, number identification, and dimensions of the buildings and improvements contained in the Regime, said plans being dated 5-20-14, 2015.

BY: Amelia G. Wall

South Carolina License No. 27043.

November
10th, 2015

EXHIBIT "E"

**TO MASTER DEED OF
OCEAN BAY
HORIZONTAL PROPERTY REGIME**

**SEE ATTACHED ARTICLES OF INCORPORATION FOR OCEAN BAY
TOWNHOMES HOMEOWNER'S ASSOCIATION, INC.**

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF INCORPORATION
Nonprofit Corporation - Domestic
Filing Fee \$25.00

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

FEB 05 2015

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

TYPE OR PRINT CLEARLY IN BLACK INK

Pursuant to S.C. Code of Laws §33-31-202, the undersigned corporation submits the following information:

1. The name of the nonprofit corporation is Ocean Bay Townhomes Homeowner's Association, Inc.

2. The initial registered office (registered agent's address in SC) of the nonprofit corporation is

406 Pinecrest Drive
Street Address
Myrtle Beach Horry SC 29572
City County State Zip Code

The name of the registered agent of the nonprofit corporation at that office is

Michael A. Marino
Print Name

I hereby consent to the appointment as registered agent of the corporation.

Michael A. Marino
Agent's Signature

3. Check "a," "b," or "c," whichever is applicable. Check only one box.

- a. The nonprofit corporation is a public benefit corporation.
- b. The nonprofit corporation is a religious corporation.
- c. The nonprofit corporation is a mutual benefit corporation.

4. Check "a," or "b," whichever is applicable.

- a. This corporation will have members.
- b. This corporation will not have members.

5. The address of the principal office of the nonprofit corporation is

406 Pinecrest Drive
Street Address
Myrtle Beach Horry SC 29572
City County State Zip Code



6. If this nonprofit corporation is either a public benefit or religious corporation complete either "a," or "b," whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation. If you are going to apply for 501(c)(3) status, you must complete section "a."

a. Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

If you choose to name a specific 501(c)(3) entity to which the assets should be distributed, please indicate the name of the selected entity.

OR

b. If the dissolved corporation is not described in Section 501(c)(3) of the Internal Code, upon dissolution of the corporation, the assets shall be distributed to one or more public benefit or religious corporations or to one or more of the entities described in (a.) above.

If you chose to name a specific public benefit, religious corporation or 501(c)(3) entity to which the assets should be distributed, please indicate the name of the selected entity.

7. If the corporation is a mutual benefit corporation complete either "a," or "b," whichever is applicable, to describe how the (remaining) assets of the corporation will be distributed upon dissolution of the corporation.

a. Upon dissolution of the mutual benefit corporation, the (remaining) assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefiting or serving.

b. Upon dissolution of the mutual benefit corporation, the (remaining) assets, consistent with the law, shall be distributed to

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See S.C. Code of Laws §33-31-202(c)).

None

Name of Corporation Ocean Bay Townhomes Homeowner's Association, Inc.


9. The name and address of each incorporator is as follows (only one is required, but you may have more than one).

Michael A. Marino	408 Pinecrest Drive, Myrtle Beach, SC	29572
Name	Address	Zip Code
Name	Address	Zip Code
Name	Address	Zip Code

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles.

Name (only if named in articles)	Signature of director
Name (only if named in articles)	Signature of director
Name (only if named in articles)	Signature of director

11. Each incorporator listed in #9 must sign the articles.


Signature of incorporator

Signature of incorporator

Signature of incorporator

12. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date/time is _____

Filing Checklist

- Articles of Incorporation (in duplicate)
- \$25.00 made payable to the SC Secretary of State - Political Associations must also submit CL-1 form and additional \$25.00 fee
- Self-Addressed, Stamped Return Envelope
- Return all documents to: South Carolina Secretary of State's Office
Attn: Corporate Filings
1205 Pendleton Street, Suite 525
Columbia, SC 29201

The State of South Carolina



Office of Secretary of State Mark Hammond

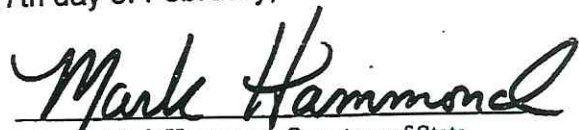
Certificate of Incorporation, Nonprofit Corporation

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

OCEAN BAY TOWNHOMES HOMEOWNER'S ASSOCIATION, INC., a nonprofit corporation duly organized under the laws of the State of South Carolina on February 5th, 2015, and having a perpetual duration unless otherwise indicated below, has as of the date hereof filed a Declaration and Petition for Incorporation of a nonprofit corporation for Religious, Educational, Social, Fraternal, Charitable, or other eleemosynary purpose.

Now, therefore, I Mark Hammond, Secretary of State, by virtue of the authority in me vested by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto, do hereby declare the organization to be a body politic and corporate, with all the rights, powers, privileges and immunities, and subject to all the limitations and liabilities, conferred by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto.

Given under my Hand and the Great Seal of the State of South Carolina this 17th day of February, 2015.


Mark Hammond, Secretary of State

APPENDIX "A"

BY-LAWS

OF

OCEAN BAY HOMEOWNERS ASSOCIATION, INC.

1. INTRODUCTION

These are the By-Laws of The Ocean Bay HOA, Inc., an eleemosynary corporation organized and existing under the laws of the State of South Carolina (hereinafter called "the Association"), which has been organized for the purpose of administering The Ocean Bay HOA, Inc., a horizontal property regime established pursuant to S.C. Code Ann. Sections 27-31-10 et seq. (1976) (hereinafter called "the Regime"). The Regime is identified by the name The Ocean Bay, HOA, Inc., and is located upon the real property in Horry County, South Carolina, described in the Master Deed of the Regime.

(a) The provisions of these By-Laws are applicable to the Regime, and the terms and provisions hereof are expressly subject to the effect of the terms, provisions, conditions, and authorizations contained in the Certificate of Incorporation of the Association and in the Master Deed of the Regime (hereinafter "the Master Deed") which has been recorded in the public records of Horry County, South Carolina, at the time portions of said property and the improvements now or hereafter situate thereon were submitted to the plan of condominium ownership. The terms and provisions of said Certificate of Incorporation and Master Deed shall be controlling wherever the same may be in conflict with these By-Laws.

(b) All present or future co-owners, tenants, future tenants, or their employees, or any other person that might use the Regime or any of the facilities thereof in any manner, are subject to the regulations set forth in these By-Laws and in said Certificate of Incorporation and Master Deed (and any amendments thereto).

(c) The office of the Association shall be c/o Ocean Bay Townhomes Homeowner's Association Inc., 406 Pinecrest Drive, Myrtle Beach, SC 29572, or such other place as the Board of Directors of the Association may designate from time to time.

(d) The fiscal year of the Association shall be the calendar year, unless otherwise ordered by the Board of Directors.

(e) The seal of the Association shall bear the name of the Association and the word "South Carolina".

(f) There shall be no dividends or profits paid to any members nor shall any part of the income of the Association be distributed to its Board of Directors or officers. In the event there are any excess receipts over disbursements as a result of performing services, such excess shall be applied against future expenses, etc. The Association may pay compensation in a reasonable amount to its members, directors or officers for services rendered, may confer benefits upon its members in conformity with its purpose and may make such payments to any management firm as is mutually agreed upon between the Association and the management firm for the performance of duties and services

by the management firm. Upon final dissolution of and liquidation, the Association may make distribution to its members as is permitted by the Court having jurisdiction thereof, and no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income.

This Association shall issue no shares of stock of any kind or nature whatsoever. Membership in the Association and the transfer thereof as well as the number of members shall be upon such terms and conditions as provided in the Master Deed of the Regime and the By-Laws of the Association and the voting rights of the owners of interests in said Regime shall be as set forth in the Master Deed of the Regime and/or the By-Laws of the Association.

2. MEMBERSHIP, VOTING, QUORUM, PROXIES

(a) All persons who are owners of Units in the Regime shall be members of this Association. Such membership shall automatically terminate when such person is no longer the owner of such Unit and membership shall be limited to such owners.

(b) The quorum at members' meetings shall consist of persons entitled to cast a majority (fifty-one per cent (51%) of the number of Units) of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining a quorum.

(c) The vote of the Co-Owners of an Unit owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate or appropriate resolution signed by all of the Co-Owners of the Unit and filed with the Secretary of the Association, and such certificate or resolution shall be valid until revoked by subsequent certificate or resolution. If such a certificate is not on file, the vote of such Co-Owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.

(d) Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of the meeting for which their use is sought.

(e) Approval or disapproval of an Unit Co-Owner upon any matters, whether or not the subject of an Association meeting, shall be by the same person who casts the vote of such Co-Owner if in an Association meeting.

(f) Except where otherwise required under the provisions of the Certificate of Incorporation of the Association, these By-Laws, the Master Deed, or where the same may otherwise be required by law, the affirmative vote of the Co-Owners of fifty-one per cent (51%) of the Units represented at any duly called members' meeting at which a quorum is present shall be binding upon the members.

3. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP

(a) The annual members' meeting shall be held at the office of the Association or such other place as may be designated by the Board of Directors, at 10:00 a.m., Eastern Standard Time, on the first Saturday in October of each year (unless otherwise ordered by the Board of Directors) for the purpose of electing directors and of transacting any other business authorized to be transacted by the members; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next succeeding Saturday. The

first annual meeting shall be held in 2017.

(b) Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from the members of the Association owning a majority of the Units.

(c) Notice of all members' meetings, regular or special, shall be given by the President, Vice President or Secretary of the Association, or other officers of the Association in the absence of said officers, to each member, unless waived in writing, such notice to be written or printed and to state the time and place and object for which the meeting is called. Such notice shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting, which notice shall be mailed or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him or her. If mailed, such notice shall be deemed properly given when deposited in the United States mail addressed to the member at his or her post office address as it appears on the records of the Association, the postage thereon prepaid. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. If any members' meeting cannot be organized because a quorum has not been attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended, whenever the latter percentage of attendance may be required as set forth in the Certificate of Incorporation, these By-Laws or the Master Deed, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance if greater than a quorum, is present.

(d) At meetings of membership, the President shall preside or, in the absence of him or her, the membership shall select a chairman.

(e) The order of business at annual members' meetings, and, as far as practical, at any other members' meeting, shall be:

- I. Calling of the roll and certifying proxies
- ii. Proof of notice of meeting or waiver of notice
- iii. Reading of minutes
- iv. Reports of officers
- v. Reports of committees
- vi. Appointment by chairman of inspectors of election
- vii. Election of directors
- viii. Unfinished business
- ix. New business
- x. Adjournment

4. BOARD OF DIRECTORS

(a) The first Board of Directors of the Association and succeeding Boards of Directors, shall consist of five (5) persons. At least a majority of the Board of Directors shall be members of the Association, or shall be authorized representatives, officers, or employees of a corporate member of the Association. The first Board of Directors of the Association shall be comprised of the one (1) person designated to act and serve as a director in the Certificate of Incorporation,

and four (4) more individuals appointed by the Developer/Declarant, which said persons shall serve until their successors are elected or appointed. Should any member of said first Board of Directors be unable to serve for any reason, a majority of the remaining members of the Board of Directors shall have the right to select and designate a party to act and serve as a director for the unexpired term of said director who is unable to serve. So long as SM Capital, LLC, hereinafter referred to as the "Developer", is the Owner of more than twenty (20%) percent of the unsold Units in the Regime, the Developer shall have the right to designate and select one (1) individual who shall serve as members of the Board of Directors of the Association; and so long as the Developer is the Co-Owner of at least one (1) Unit, the Developer shall have the right to designate and select a majority of the persons who shall serve as a member of each Board of Directors of the Association. The power of the Developer to designate directors as above referred to shall terminate on December 31, 2020. The Developer has heretofore (in the Certificate of Incorporation of the Association) designated the initial Board of Directors and Officers of the Association.

(b) Election of directors shall be conducted in the following manner:

i) The Developer, as Sponsor of the Regime, shall at the beginning of the election of the Board of Directors, designate and select that number of the members of the Board of Directors which it should be entitled to designate and select in accordance with the provisions of these By-Laws, and upon such designation and selection by the Developer by written instrument presented to the meeting at which such election is held, said individuals so designated and selected by the Developer shall be deemed and considered for all purposes directors of the Association, and shall thenceforth perform the offices and duties of such directors until their successors shall have been selected or elected in accordance with the provisions of these By-Laws.

ii) All members of the Board of Directors whom the Developer shall not be entitled to designate and select under the terms and provisions of these By-Laws, shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association immediately following the designation and selection of the members of the Board of Directors whom the Developer shall be entitled to designate and select.

iii) Vacancies in the Board of Directors may be filled until the date of the next annual meeting by the remaining directors, except that should any vacancy in the Board of Directors be created in any directorship previously filled by any person designated and selected by the Developer, such vacancy shall be filled by Developer designating and selecting, by written instrument delivered to any officer of the Association, the successor director to fill the vacated directorship for the unexpired term thereof.

iv) At the first annual meeting of the members held after the Master Deed has been recorded in the public records of Horry County, South Carolina, the term of office of the two (2) directors receiving the highest plurality of votes shall be established at two (2) years, and the term of office of the other one (1) director shall be established at one (1) year. Thereafter, as many directors of the Association shall be elected at the annual meeting as there are regular terms of office of directors expiring at such time, and the term of the directors so elected at the annual meeting of the members each year shall be for two (2) years expiring at the second annual meeting following their election, and thereafter until their successors are duly elected and qualified or until removed in the manner elsewhere provided or as may be provided by law for the removal of directors of

South Carolina corporations for profit. If at the time of the first annual meeting, the Developer is the Co-Owner of at least one (1), but not more than four (4) Units, then the Developer shall have the right to designate and select the two (2) directors whose term of office shall be established at two (2) years.

v) In the election of directors, there shall be appurtenant to each Unit as many votes for directors as there are directors to be elected (regardless of the percentage interest in common elements appurtenant to such Unit); provided, however, that no member or Co-Owner of any Unit may cast more than one vote for any person nominated as director, it being the intent hereof that voting for directors shall be non-cumulative.

vi) In the event that the Developer, in accordance with the privilege granted unto it, selects any person or persons to serve on any Board of Directors of the Association, the Developer shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or persons to serve on said Board of Directors. Replacement of any person or persons designated by the Developer to serve on any Board of Directors of the Association shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons designated as successor or successors to the person or persons so removed from said Board of Directors. The removal of any director and designation of his successor shall be effective immediately upon delivery of such written instrument by the Developer to any officer of the Association.

(c) The organizational meeting of newly elected Board of Directors shall be held within ten (10) days of its election, at such time and at such place as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary provided a quorum shall be present.

(d) 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. Notice of regular meetings shall be given to each director, personally or by mail, telephone or telegram, at least three (3) days prior to the day named for such meeting, unless notice is waived.

(e) Special meetings of the directors may be called by the President, and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than three (3) days' notice of a meeting shall be given to each director, personally, or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

(f) Any director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

(g) A quorum at a directors' meeting shall consist of the directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting which a quorum is present shall constitute the acts of the Board of Directors except as specifically otherwise provided in the Certificate of Incorporation, these By-Laws or the Master Deed. If any director's meeting cannot be organized because a quorum has not attended, or because the greater percentage of the directors required to constitute a quorum for particular purposes has not attended wherever the latter percentage of attendance may be required as set forth in the Certificate of Incorporation, these By-Laws or the Master Deed, the directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of

attendance if greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.

(h) The presiding officer of directors' meetings shall be the President of the Association. In the absence of the President, the directors present shall designate one of their number to preside.

(i) Directors' fees, if any, shall be determined by the members.

(j) The Board of Directors shall manage and direct the affairs of the Association and subject to any restrictions imposed by law, by the Master Deed, or these By-Laws, may exercise all of the powers of the Association subject only to approval by the Co-Owners when such is specifically required by these By-Laws. The Board of Directors shall exercise such duties and responsibilities as shall be incumbent upon it by law, the Master Deed or these By-Laws, or as it may deem necessary or appropriate in the exercise of its powers and shall include, without limiting the generality of the foregoing, the following:

i) To make, levy and collect assessments against members and members' Units to defray the cost of the common areas and facilities of the Regime, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

ii) To carry out the maintenance, care, upkeep, repair, replacement, operation, surveillance and the management of, and grant easements and/or licenses in, upon or across the general and limited elements, services and facilities of the Regime wherever the same is required to be done and accomplished by the Association for the benefit of its members;

iii) To carry out the reconstruction of improvements after casualty and the further improvement of the property, real and personal;

iv) To make and amend regulations governing the use of the property, real and personal, in the Regime so long as such regulations or amendments thereto do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Master Deed;

v) To acquire, operate, lease, manage and otherwise trade and deal with property, real and personal, including Units in the Regime, as may be necessary or convenient in the operation and management of the Regime, and in accomplishing the purposes set forth in the Master Deed; provided, however, that any agreement for professional management of the Regime, or any other contract providing for services of the Developer, may not exceed three years and must be with a property manager properly licensed by the State of South Carolina as set forth in S.C. Code Ann. Sections 40-57-10 et seq. (1988 Supp.). Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice;

vi) Subject to the provisions of subparagraph (v) above, to contract for the management of the common areas and facilities in the Regime and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Master Deed to have approval of the Board of Directors or membership of the Association;

vii) To enforce by legal means the provisions of the Certificate of Incorporation and By-Laws of the Association, the Master Deed and the regulations hereinafter promulgated governing use of the property in the Regime;

viii) To pay all taxes and assessments which are liens against any part of the Regime other than Units and the appurtenances thereto, and to assess the same against the members and their respective Units subject to such liens;

ix) To carry insurance for the protection of the Regime, the members of the Association, and the Association against casualty, liability and other risks;

x) To pay all costs of power, water, sewer and other utility services rendered to the condominium and not billed to the owners of the separate Units; and

xi) To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association as well as to dismiss said personnel.

xii) **TO PERFORM PERIODIC MAINTENANCE SCHEDULE ADOPTED AND/OR MODIFIED ANNUALLY BY THE BOARD OF DIRECTORS AND MAINTAINING ADEQUATE RESERVES FOR REPAIR AND REPLACEMENT OF THE COMMON AREAS SHALL BE DEEMED NEGLIGENCE PER SE.**

(k) The undertakings and contracts authorized by said first Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board of Directors duly elected by the membership after Phase I of the property identified herein has been submitted to the plan of condominium ownership and said Master Deed has been recorded in the Horry County public records, so long as any undertakings and contracts are within the scope of powers and duties which may be exercised by the Board of Directors of the Association in accordance with all applicable Regime documents.

(l) Directors may be removed from office in the manner provided by law for the removal of directors of South Carolina corporations for profit.

5. ADDITIONAL PROVISIONS ABOUT MEETINGS OF MEMBERS AND DIRECTORS

(a) Notwithstanding anything contained in these By-Laws to the contrary any meeting of members of directors may be held at any place within or without the State of South Carolina of which notice is waived by any person otherwise entitled thereto at, during or after any such meeting.

(b) To the extent now or from time to time hereafter permitted by the laws of South Carolina the directors may take any action which they might take at a meeting of directors without a meeting, a record of any such action so taken, signed by each director, to be retained in the Association's minute book and given equal dignity by all persons to the minutes of meetings duly called and held.

6. OFFICERS

(a) The executive officers of the Association shall be a President, who shall be a director, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the directors at any meeting. No person may hold two (2) or more offices. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

(b) The President shall be the chief executive officer of the Association. The President shall have all the powers and duties which are usually vested in the office of the President of an association, including, but not limited to, the power to appoint committees from among the members from time to time, as the President may in the President's discretion determine appropriate, to assist in the conduct of the affairs of the Association.

(c) Any Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. Any Vice President shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the directors.

(d) The Secretary shall keep the minutes of all proceedings of the directors and the members. The Secretary shall attend to the giving and serving of all notices to the members and directors, and such other notices required by law. The Secretary shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. The Secretary shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an association and as may be required by the directors or President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

(e) The Treasurer shall have custody of all of the property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep the assessment rolls and accounts of members; the Treasurer shall keep the books of the Association in accordance with good accounting practices; and the Treasurer shall perform all other duties incident to the office of Treasurer.

(f) The compensation of all officers and employees of the Association shall be fixed by the directors. This provision shall not preclude the Board of Directors from employing a director as an employee of the Association, nor preclude the contracting with a director from management of the Regime.

7. FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Master Deed shall be supplemented by the following provisions:

(a) The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. Such an account shall designate the name and address of the Co-Owner or Co-Owners, the amount of each assessment against the Co-Owners, the dates and amount in which assessments come due, the amounts paid upon the account and the balance due upon assessments.

(b) The Board of Directors shall adopt a budget for each year which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following items:

i) Common expense budget, which shall include without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of Common Elements, landscaping, street and walkways, office expense, swimming pool, utility services, casualty insurance, liability insurance, administration and reserves (operating and replacement); and

ii) Proposed assessments against each member. Copies of the proposed budget and proposed assessments shall be transmitted to each member at least 60 days prior to the commencement of the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished each member concerned. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board of Directors to at any time in their sole discretion levy an additional assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

(c) The Board of Directors shall determine the method of payment of such assessments and the due dates thereof and shall notify the members thereof. The assessments will initially be on a quarterly basis unless changed by a vote of the majority of the Board of Directors.

(d) The depository of the Association shall be such bank or banks as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the directors.

(e) An audit of the accounts of the Association shall be made annually and a copy of the report shall be furnished to each member not later than April 1st of the year following the year for which the report is made.

(f) Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least the amount of the total annual assessments against members for common expenses. The premiums on such bonds shall be paid by the Association.

8. PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Certificate of Incorporation and these By-Laws or with the statutes of the State of South Carolina.

9. AMENDMENTS TO BY-LAWS

Amendments to these By-Laws shall be proposed and adopted in the following manner:

(a) Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon vote of the majority of the directors, or by members of the Association owning a majority of the total value of the property in the Regime, whether meeting as members or by instrument in writing signed by them.

(b) Upon any amendment or amendments to these By-Laws being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in absence of the President, who shall thereupon call a special joint meeting of the members of the Board of Directors of the Association and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members if required as herein set forth.

(c) In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of the members owning not less than fifty-one per cent (51%) of the total number of Units in the Regime (subject to any applicable laws requiring a greater majority). Thereupon, such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the public records of Horry County, South Carolina, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the directors and members.

(d) At any meeting held to consider such amendment or amendments to the By-Laws, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

(e) Notwithstanding the foregoing provisions of this Article 9, no amendment to these By-Laws which shall abridge, amend or alter the right of the Developer to designate and select members of each Board of Directors of the Association, as provided in Article 4 hereof, may be adopted or become effective without the prior written consent of the Developer.

(f) Finally, the Developer, so long as it owns 51% of the condominiums erected as a part of the Ocean Bay Development, whether or not said Units have been submitted to the Horizontal Property Regime, shall have the right to amend these By-Laws in any particular not inconsistent with the South Carolina Horizontal Property Act.

10. INSURANCE

Section 1. Insurance Required. The Board of Directors shall obtain and maintain, to the extent available, at least the following insurance:

A. Hazard Insurance. The Association shall insure all Units and all Common Elements against all hazards and risks normally covered by a standard hazard policy, including fire and lightning, the hazards and risks covered by "extended coverage", and vandalism and malicious mischief. All Units and all Common Elements shall be insured for the full replacement cost thereof (without deduction or allowance for depreciation), and the policy of insurance shall have

a full replacement cost rider. Such insurance shall cover only the Units and the Common Elements. The hazard insurance obtained by the Association may provide that an amount not to exceed One Thousand Dollars (\$1,000.00) shall be deductible from any indemnity payable on account of a single loss, but any such deductible portion shall be borne by the Association as a common expense regardless of the number of Co-Owners or Units directly affected by the loss. The hazard insurance obtained by the Association shall provide coverage for common expenses with respect to the Units and Common Elements during any period of repair or reconstruction.

B. **Liability Insurance.** The Association shall also obtain premises liability insurance on all Units and Common Elements and the Association providing for a single-limit indemnity of not less than Two Million Dollars (\$2,000,000.00) and covering bodily and personal injury and property damage. Such liability insurance shall cover claims of one or more Co-Owners against one or more other Co-Owners as well as claims of third parties against one or more Co-Owners or the Association. The Association shall not be required, however, to obtain public liability insurance covering accidents occurring within the limits of a Unit or off the Regime Property. If available at a reasonable cost, the Association shall cause to be included within the policy of liability insurance premises medical payment coverage. The policy shall not be cancelled or reduced as to coverage limits without thirty (30) days' prior written notice to the Board of Directors and to every holder of a security interest in any Unit who is named in the policy or an endorsement thereto.

C. The Association shall also obtain and maintain worker's compensation insurance to the extent necessary to comply with any applicable law.

D. The Association shall also obtain and maintain such other policies of insurance, including insurance for other risks of a similar or dissimilar nature, as are or shall hereafter be considered appropriate by the Board of Directors.

Section 2. Limitations. Any insurance obtained pursuant to the requirements of this article shall be subject to the following provisions:

A. **General Provisions.** All insurance obtained on the Units and General Common Elements by the Association shall be written in the name of the Association as trustee for the Co-Owners, and the cost of such insurance shall be a Common Expense. All such insurance shall be obtained from a company or companies licensed to do business in the State of South Carolina (South Carolina admitted carriers) and rated "A+" or better and classified "10" or better by the most recent issue of Best's Insurance Reports. No such insurance shall be permitted to expire except upon resolution of a majority of the Co-Owners to that effect. Duplicate originals or copies of all policies of hazard insurance obtained on the Regime by the Board of Directors, together with proof of payment of the premiums thereon, shall be delivered upon request to any Co-Owner or any entity holding a lien upon or security interest in any Unit.

B. **Hazard and Flood Policy Provisions.** All policies of hazard insurance on the Units and the Common Elements obtained by the Board of Directors shall provide as follows:

1. The indemnity payable on account of any damage to or destruction of the Units or the Common Elements shall be payable to any mortgagees holding mortgages on any damaged Units as their interests may

appear;

2. The policy shall not be cancelled or reduced as to coverage limits without thirty (30) days' prior written notice to the Board of Directors and to every holder of a security interest in any Unit who is named in the policy or an endorsement thereto;

3. No Co-Owner shall be prohibited from insuring such Co-Owner's own Unit for such Co-Owner's own benefit;

4. No insurance obtained by a Co-Owner on such Co-Owner's own Unit shall be brought into contribution with the insurance obtained by the Board of Directors.

5. If the Board of Directors determines that it is possible to obtain such a provision, no right of subornation shall exist against any Co-Owner or members of such Co-Owner's household or such Co-Owner's social guests;

6. The insurer shall not be entitled to reconstruct in lieu of paying the indemnity in cash if the Owners determine in the manner provided in the Master Deed or by applicable law not to repair or restore the damaged property; and

7. The policy shall not be cancelled on account of the actions of one or more, but fewer than a majority, of the Co-Owners.

If a policy of insurance containing all of the foregoing provisions cannot be obtained at a reasonable cost, one or more of such provisions (except provisions 1 and 2 above) may be waived by unanimous resolution of the Board of Directors preceded by ten (10) days' notice to every Co-Owner or by resolution of a majority of the Co-Owners.

C. **Claims.** The Board of Directors of the Association shall have exclusive authority to negotiate and settle on behalf of the Co-Owners all claims arising under policies of hazard insurance obtained on the Property by the Board of Directors. In the event of damage to or destruction of any portion of the Units or the Common Elements, the Board of Directors shall promptly file claim for any indemnity due under any such policies. The Board of Directors shall simultaneously notify the holders of any security interests in the Property who may be entitled to participate in such claim or the filing of the same.

D. **Insurance Proceeds.** The net proceeds received by or due to the Board of Directors from any indemnity paid under a policy of hazard insurance obtained on the Property by the Board of Directors shall promptly be paid by the Board of Directors or the appropriate insurer to an Insurance Trustee as trustee for the Co-Owners as hereinafter provided. The Insurance Trustee shall be a state or federally chartered bank selected by the Board of Directors and having trust powers and capital and surplus of Fifty Million Dollars (\$50,000,000.00) or more. The Insurance Trustee shall hold the insurance proceeds in trust and disburse said proceeds, after deduction of all reasonable fees and expenses of the Insurance Trustee, as follows:

1. If the Co-Owners determine in the manner provided in the Master Deed or by applicable law not to reconstruct the damaged property, the Insurance Trustee shall distribute the insurance proceeds among all the Co-Owners and/or mortgagees with liens upon the Unit, as their respective interest may appear, in proportion to their respective undivided interests in the portion or

portions of the property damaged or destroyed.

2. If the Board of Directors is required to provide for the reconstruction of the damaged property, the Insurance Trustee shall disburse the insurance proceeds to the person or persons employed by the Board of Directors to effect such reconstruction in accordance with written authorizations submitted to the Insurance Trustee by the architect supervising the reconstruction or by the Board of Directors. Any portion of the insurance proceeds remaining after all the costs of reconstructing the Property have been paid shall be disbursed to the Co-Owners and their respective mortgagees in proportion to their interests in the portion or portions of the Property repaired or restored. In making disbursements of the insurance proceeds, the insurance Trustee shall be entitled to rely without further inquiry upon the written authorizations submitted as provided above or upon any written certificate of facts submitted to the Insurance Trustee by the Board of Directors as hereinafter provided. The Insurance Trustee shall in no event be responsible for obtaining insurance on the Property, paying the premiums on any such insurance or filing claims for any payments due under any such insurance.

E. **Insurance by Co-Owners.** Each Co-Owner shall be responsible for obtaining such amounts of the following types of insurance as such Co-Owner deems necessary or desirable:

1. Hazard insurance on such Co-Owner's Unit for such Co-Owner's own benefit;
2. Hazard insurance on the contents of such Co-Owner's Unit and on improvements made to such Co-Owner's Unit; and
3. Liability insurance covering accidents occurring within the boundaries of such Co-Owner's Unit.

Any Co-Owner who obtains hazard insurance on such Co-Owner's Unit for such Co-Owner's own benefit shall within thirty (30) days of obtaining the same deliver to the Board of Directors a copy of the policy of insurance.

F. Where the insurance proceeds are insufficient to cover the cost of reconstruction, the rebuilding costs shall be paid by all the Co-Owners directly affected by the damage, in proportion to the value of their respective Units, or as may be provided in the By-Laws; and if any one or more of those Co-Owners owning a minority of Units in the Regime directly affected by the damage shall refuse to make such payments, the majority of such Co-Owners directly affected by such damage may proceed with the reconstruction at the expense of all the Co-Owners benefitted thereby, upon proper resolution setting forth the circumstances of the case and the cost of the works, with the intervention of the Association.

11. **ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT**

The Association is given the authority to administer the operation and management of the Regime, it being recognized that the delegation of such duties to one entity is in the best interests of the Co-Owners of all Units. To properly administer the operation and management of the project, the Association will incur, for the mutual benefit of all of the Co-Owners of Units, costs and expenses which will be continuing or non-recurring costs, as the case may be, which costs and expenses are sometimes herein referred to as "common expense". To provide the funds necessary for such proper operation and management, the said Association has heretofore been granted the right to make, levy and collect

assessments against the Co-Owners of all Units and said Units. In furtherance of said grant of authority to Association to make, levy and collect assessments to pay the costs and expenses for the operation and management of the Regime, the following provisions shall be operative and binding upon the Co-Owners of all Units, to wit:

(a) All assessments levied against the Co-Owners of Units and said Units shall, unless specifically otherwise provided for in these By-Laws, be in the same proportion to the total assessment made against all Co-Owners of Units and their Units as the undivided interest in the Common Elements appurtenant to each Unit bears to the total undivided interest in the Regime. Should the Association be the Co-Owner of any Unit or Units, the assessment which would otherwise be payable to Association by the Co-Owner of such Unit or Units, reduced by the Unit or Units by the Association, shall be apportioned and assessment therefor levied ratably among the Co-Owners of all Units which are not owned by the Association, based upon their proportionate interests in the Common Elements exclusive of interests therein appurtenant to any Unit or Units owned by Association.

(b) The assessment levied against the Co-Owner of each Unit and such Co-Owner's Unit shall be payable in annual, quarterly or monthly installments, or in such other installments and at such times as may be determined by the Board of Directors of the Association.

(c) The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year which shall correspond to the calendar year, and such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Regime, including a reasonable allowance for contingencies and reserves, such budget to take into account projected anticipated income which is to be applied in reduction of the amount required to be collected as Directors of Association, copies of said budget shall be delivered to each Co-Owner of an Unit and the assessment for said year shall be established based upon such budget, although the delivery of a copy of said budget to each Co-Owner shall not affect the liability of any Co-Owner for such assessment. Should the Board of Directors at any time determine, in the sole discretion of said Board of Directors, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Regime, or in the event of emergencies, said Board of Directors shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary.

(d) The Board of Directors of Association, in establishing said annual budget for operation, management and maintenance of the project shall include therein a sum to be collected and maintained as reserve fund for replacement of Common Elements, which reserve fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Elements as well as the replacement of personal property which may constitute a portion of the Common Elements held for the joint use and benefit of all of the Co-Owners of all Units. The amount to be allocated to such reserve fund for replacements shall be established by said Board of Directors so as to accrue and maintain at all times a sum reasonably necessary to anticipate the need for replacements of said Common Elements. The amount collected and allocated to the reserve fund for replacements from time to time shall be maintained in a separate account by Association, although nothing herein contained shall limit Association from applying any monies in such reserve fund for replacements to meet other needs or requirements of Association in operating or managing the project in the event

of emergencies, or in the event the sums collected from the Co-Owners of Units are insufficient to meet the then fiscal financial requirements of Association, but it shall not be a requirement that these monies be used for such latter purposes, as a separate assessment may be levied therefor if deemed to be preferable by the Board of Directors of the Association in the sole discretion of said Board of Directors.

(e) The Board of Directors of the Association, in establishing said annual budget for operation, management and maintenance of the project, shall include therein a sum to be collected and maintained as a general operating reserve which shall be used to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by Co-Owners of Units, as a result of emergencies or for other reason placing financial stress upon the Association.

(f) Except as to special assessments, all monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the said Association to the payment of any expense of operating and managing the regime, or to the proper undertaking of all acts and duties imposed upon it by virtue of these By-Laws and the Master Deed and as the monies for any assessment are paid unto the Association by any Co-Owner of an Unit the same may be commingled with the monies paid to the Association by the other Co-Owners of Units. Although all funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of General Common Elements, shall be held for the benefit of the members of the Association, who shall own any common surplus in the proportions of their percentage of undivided interest in the Regime, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer this membership interest therein, except as an appurtenance to such Co-Owner's Unit.

(g) The payment of any assessment or installment thereof due to the Association shall be in default if such assessment, or any installment thereof, is not paid unto Association, on or before the due dates for such payment. When in default, the Board of Directors may accelerate the remaining installments of any annual assessment upon notice thereof to the Unit Co-Owner, whereupon the entire unpaid balance of the annual assessment shall become due upon the date stated in the notice, which shall not be less than ten (10) days after the date of the notice. In the event any assessment or installment is not paid within twenty (20) days after their due date, the Association, through its Board of Directors, may proceed to enforce and collect the said assessments against the Unit Co-Owner owing the same in any manner provided for by the Act, including the right of foreclosures and sale. When in default, the delinquent assessment or delinquent installment thereof due to Association shall bear interest at a rate equal to the lesser of (a) eighteen (18%) per cent per annum, or (b) the maximum rate permitted by applicable law, until such delinquent assessment or installment thereof, and all interest due thereon, has been paid to Association.

(h) The Co-Owner or Co-Owners of each Unit shall be personally liable to Association for the payment of all assessments, regular or special, which may be levied by Association while such party or parties are Co-Owner or Co-Owners of an Unit in the Regime. In the event that any Co-Owner or Co-Owners are in default in payment of any assessment or installment thereof owed to the Association, such Co-Owner or Co-Owners of any Unit shall be personally liable for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit be

brought or not.

(i) No Co-Owner of an Unit may exempt such Co-Owner from liability for any assessment levied against such Co-Owner and such Co-Owner's Unit by waiver of the use or enjoyment of any of the General Common Elements, or by abandonment of the Unit, or in any other manner.

(j) Recognizing that the necessity for providing proper operation and management of the project entails the continuing payment of costs and expenses therefor, which results in benefit to all of the Co-Owners of Units, and that the payment of such common expense represented by the assessments levied and collected by Association is necessary in order to preserve and protect the investment of the Co-Owner of each Unit, Association is hereby granted a lien upon such Unit and its appurtenant undivided interest in the Common Elements, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Co-Owner of each Unit, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant undivided interest in the Common Elements. The lien granted to Association may be foreclosed in the same manner as mortgages may be foreclosed in the State of South Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to rental from the Co-Owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a receiver for said Unit. The rental required to be paid shall be equal to the rental charged on comparable type of Units in Myrtle Beach, South Carolina. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate provided in subparagraph (g) above on any such advances made for such purpose.

(k) The lien herein granted unto Association shall be effective from and after the time of recording in the public records of Horry County, South Carolina, a claim of lien stating the description of the Unit encumbered thereby, the name of the record Co-Owner, the amount due and the date when due, and the lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed, and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The claim of lien filed by the Association shall be subordinate to the lien of any mortgage encumbering the Unit.

In the event that any person, firm or corporation shall acquire title to any Unit and its appurtenant undivided interest in the Common Elements by virtue of any foreclosure, judicial sale or deed in lieu of foreclosure, such person, firm or corporation so acquiring title shall only be liable and obligated for assessments as shall accrue and become due and payable for said Unit and its appurtenant undivided interest in the Common Elements subsequent to the date of acquisition of such title, and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title subject to the lien of any assessment by Association representing an apportionment of taxes or special assessment levied by taxing authorities against the Regime in its entirety. In the event of the acquisition of title to an Unit by foreclosure, judicial sale or deed in lieu of foreclosure, any assessment or

assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Co-Owners of all Units as part of the common expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or as preventing the enforcement of collection of such payment by means other than foreclosure.

(l) Whenever any Unit may be sold by the Co-Owner thereof, which sale shall be concluded only upon compliance with other provisions of these By-Laws, the Association upon written request of the Co-Owner of such Unit shall furnish to the proposed purchaser a statement verifying the status of payment of any assessment which shall be due and payable to Association by the Co-Owner of such Unit. Such statement shall be executed by an officer of the Association and any purchaser may rely upon such statement in concluding the proposed purchase transaction, and Association shall be bound by such statement. Any holder of any mortgage on any Unit shall have the right at all reasonable times and frequency to inquire as to the past due status of any assessment payments, and the Association shall, upon request, promptly notify any such mortgagee when any assessment payment becomes more than sixty (60) days past due, or when any default in the performance of any obligation required by the Master Deed or these By-Laws as to such Unit is not cured within sixty (60) days.

In the event that an Unit is to be sold at the time when payment of any assessment against the Co-Owner of said Unit and such Unit due to Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the proceeds of such purchase shall, after payment of those sums given priority by S.C. Code Ann. Section 27-31-200 (1976) be applied by the purchaser first to payment of any then delinquent assessment or installment thereof due to Association before the payment of any proceeds of purchase to the Co-Owner of any Unit who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of an Unit (other than a deed in lieu of foreclosure as set forth above), the Grantee shall be jointly and severally liable with the Grantor for all unpaid assessments against Grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the Grantee to recover from the Grantor the amounts paid by the Grantee therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be election by Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sums then remaining owing to it.

No Unit and its appurtenant percentage interest shall be exempt from the assessment created herein.

12. **DEFINITIONS**

All terms defined in the Master Deed shall have the same meaning in these By-Laws as in the Master Deed.

13. **CONFLICTS**

In the event of any conflict between the provisions of the Master Deed and the provisions of these By-Laws, the provisions of the Master Deed shall control.