

**AMENDED AND RESATED BYLAWS  
OF  
OAK HOLLOW PROPERTY OWNERS' ASSOCIATION, INC.**

1. **IDENTITY.** These are the Bylaws of Oak Hollow Property Owners' Association, Inc., a not-for-profit Florida Corporation formed for the purpose of administering Oak Hollow (hereinafter "the Property") which is located at Port Charlotte, Charlotte County, Florida, upon the lands described in the Declaration of Covenants and Restrictions recorded in O.R. Book 617, commencing at Page 735 of the Public Records of Charlotte County, Florida as same is amended and supplemented from time to time. (The corporation shall hereafter be referred to as the "Association.")
  - 1.1 **Office.** The office of the Association shall at 1111 Forrest Nelson Blvd., Port Charlotte, Charlotte County, Florida 33952, or such other location within Charlotte County as may from time to time be determined by the Board of Directors.
  - 1.2 **Fiscal Year.** The fiscal year of the Association shall be the calendar year, unless otherwise determined by the Board of Directors.
  - 1.3 **Seal.** A seal of the Association may be adopted by the Board of Directors. If adopted, it may be changed by the Board of Directors and shall bear the name or abbreviated name of the Association, the word "Florida," the year of establishment, and shall identify the Association as a not-for-profit corporation.
  - 1.4 **Definitions.** All terms used in those Bylaws shall have the same meaning to the extent applicable, as set forth in the Declaration of Covenants and Restrictions for the property, the Articles of Incorporation for the Association, and the Florida Homeowners Association Act (Chapter 720, Florida Statutes, 2000), all as amended from time to time.
  - 1.5 **Governing Documents.** The term Governing Documents shall mean the Declaration of Covenants and Restrictions, the Articles of Incorporation, these Bylaws, and the Rules and Regulations of the Association, and any other document referenced in the Declaration of Covenants and Restrictions as constituting part of the Governing Documents, all as amended from time to time.
2. **MEMBERS' MEETINGS.**
  - 2.1 **Annual Meetings.** Annual members' meetings shall be held at the office of the Association or at such other convenient location as may be determined by the Board of Directors on the date and time determined by

the Board for the purpose of transacting any business authorized to be transacted by the members.

**2.2 Special Meetings.** Special members' meetings shall be held whenever called by the President or by a majority of the Board of Directors and shall be called by the President when requested by written notice from twenty percent (20%) of the voting interests of the Association. Notice of special meetings must include a description of the purpose or purposes for which a meeting is called.

**2.3 Notice of Members' Meetings.** Notice of all annual members' meetings, starting the time and place of the meeting, shall be sent to each owner by United States mail or hand delivery, at least (14) days prior to the annual meeting. Unless otherwise provided in the Declaration, notice of all special members' meetings, starting time, place, and purpose(s) of the meeting, shall be sent to each owner by United States mail or hand delivery, unless waived in writing, at least fourteen (14) days prior to the special meeting.

Notice of specific meetings may be waived before or after the meeting and the attendance of any member (or person authorized to vote for such member) shall constitute such member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the sole and express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

**2.4 Adjournment.** Adjournment of an annual or special meeting to a different date, time or place must be announced at that meeting before an adjournment is taken, or additional notice must be given of the new date, time, or place pursuant to Section 720.306(5) Florida Statutes (2000), as amended from time to time, and Article 2.3 of these Bylaws. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting.

**2.5 Board of Directors Election Meetings – Notice and Procedure.** The regular election of Directors shall occur at the annual meeting.

**2.5.1 Qualifications.** Every director must be a member of the Association.

**2.5.2 Election of Directors.** The election of directors shall occur at the annual meeting.

**2.5.2.1** The ballot prepared for the annual meeting shall list all pre-nominated Director candidates in alphabetical order. Ballots shall be mailed to all members with notice of the annual meeting

and may be returned to the Association prior to the meeting, or cast at the meeting.

**2.5.2.2** The Board of Directors may appoint a nominating committee to nominate or recommend specific persons for election to the Board, and shall generally recruit and encourage eligible persons to run as candidates for election to the Board. Any eligible person desiring to be a candidate may nominate themselves at the annual meeting.

**2.5.2.3** Directors shall be elected by a plurality of the votes cast.

**2.5.2.4** Tie votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by lot, such as the flipping of a coin by a neutral party.

**2.5.3** The Board of Directors may adopt additional procedures to ensure a fair election.

**2.6 Quorum.** A quorum at members' meetings shall consist of persons entitled to cast thirty (30%) percent of the voting interests of the entire membership. Decisions made by the majority of the voting present and voting in person or by proxy at a meeting at which a quorum is present shall be binding and sufficient for all purposes except such decisions that require a larger percentage in which case the percentage required in F.S. 720 or the Governing Documents shall govern.

**2.7 Indivisible Vote/Suspension of Voting Rights.** Each dwelling unit shall have one indivisible vote. If multiple owners of a unit cannot agree on a vote, the vote shall not be counted as to the issue upon which disagreement exists. Voting certificates are not required. The Association may suspend the voting rights of a member for the non-payment of regular assessments that are delinquent in excess of ninety (90) days.

**2.8 Proxies.** Votes may be cast in person or by proxy for any matter. Proxies shall be in writing, signed and dated, and shall be valid only for the particular meeting designated therein or an adjournment thereof, but in no event for more than 90 days, and must be filed with the Association before or at the voter registration immediately preceding the meeting, or adjournment thereof. Owners may retroactively cure any alleged defect in a proxy by signing a statement ratifying the owner's intent to cast a proxy vote. The use of proxies is to be liberally construed.

**2.9 No Quorum.** If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by

proxy, may adjourn the meeting from time to time until a quorum is present, according set forth in Bylaw Section 2.4.

**2.10 Order of Business.** The order of business at annual members' meetings and, as far as applicable at all other members' meetings, shall be:

**2.10.1** Election of Chairman of the meeting, unless the President or Vice-President of the Association is present then he (or she) shall preside. The Chairman may appoint a parliamentarian to assist in the conduct of the Association meetings.

**2.10.2** Calling of the roll, certifying of proxies or other means of establishing a quorum.

**2.10.3** Proof of Notice of meeting or waiver of notice.

**2.10.4** Reading and disposing of any unapproved minutes.

**2.10.5** Reports of Directors.

**2.10.6** Reports of Committees.

**2.10.7** Election of Directors.

**2.10.8** Unfinished business.

**2.10.9** New business.

**2.10.10** Adjournment.

**2.11 Action Without a Meeting.** Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any annual or special meeting of members, or any action which may be taken by the Association, may be taken without a meeting, without prior notice, and without a vote if a consent in writing setting forth the action so taken shall be signed by the requisite number of voting interests to approve the action. Members may also consent in writing to action taken at a meeting, before or after the meeting, by providing a written statement to that effect and their vote shall be fully counted as though they had attended the meeting.

### **3. BOARD OF DIRECTORS.**

**3.1 Number, Term, and Qualifications.** The affairs of the Association shall be governed by a Board composed of not less than five (5) nor more than nine (9) Directors, the exact number to be determined from time to time by Board resolution. All Directors, shall be members. All officers of a

corporation, trust, partnership, or other such owner shall be deemed to be members so as to be eligible for Board membership. Directors shall be elected by the voting interests on the date of the annual membership meeting for a one-year term. The term of each Director's service shall extend until their elected term is completed and thereafter until their successor is duly elected and qualified or until the Director resigns. A seat held by a Director who ceases to be an owner shall thereby automatically become vacant.

- 3.2 **Board Vacancies.** Vacancies in the Board of Directors shall be filled by appointment by a majority vote of the remaining Directors for the remainder of the unexpired term as provided in Article 3.1; provided that when a Director has been recalled by the membership, the vacancy created by his removal cannot be filled with the same person as has been removed from the Board.
- 3.3 **Organizational Meeting.** The organizational meeting of each newly-elected Board of Directors shall be held immediately following the annual meeting for the purpose of electing officers, unless otherwise noticed.
- 3.4 **Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings, unless fixed by Board resolution, shall be given to each Director personally or by mail, telephone or telecopier at least two (2) days (48 hours) prior to the day named for such meeting.
- 3.5 **Special Meetings.** Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of any three (3) Directors. Not less than two days (48 hours) notice of the meeting (except in an emergency) shall be given to each Director personally or by mail, electronic mail, telephone, or telecopier, which notice shall state the time, place, and purpose of the meeting.
- 3.6 **Waiver of Notice.** Any Director may waive notice of a meeting before, at, or after the meeting and such waiver shall be equivalent to the giving of notice. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting.
- 3.7 **Notice to Owners of Board Meetings.** All meetings of the Board shall be open to all members except meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all board meetings shall be posted in a conspicuous place in the community at least 48 hours in advance of the meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous

place in the community, notice of each board meeting shall be mailed or delivered to each member at least seven days before the meeting, except in an emergency. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments.

- 3.8 **Board Meetings, Quorum, and Voting.** A quorum of Directors' Meetings shall consist of a majority of the Directors. The acts approved by a majority of Directors present at a meeting shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings (except that Directors may vote by secret ballot when electing Officers) and a vote or abstention for each member present shall be recorded in the minutes. Directors may not abstain from voting except in the case of an asserted conflict of interest. If at any meeting of the Board there be less than a quorum present, the Director(s) present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum.
- 3.9 **Minutes of Meetings.** The minutes of all meetings of the Board shall be kept in a book available for inspection by the members of the Association, or their authorized representative, and the directors at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years. A vote or abstention from voting on each matter voted upon for each director present at a Board meeting must be recorded in the minutes.
- 3.10 **Committees.** The Board may, by resolution duly adopted, appoint committees. Any committee shall have and may exercise such powers, duties, and functions as may be determined by the Board from time to time, which may include any powers which may be exercised by a committee. If required by law, the notice requirements of Section 3.7 shall apply to the meetings of any such committee.
- 3.11 **Removal of Directors.** Any director may be removed with or without cause by the vote of the majority of the members of the Association at a special meeting of the members called by not less than ten percent (10%) of the members of the Association expressly for that purpose. Alternatively, any director may be removed with or without cause by the agreement in writing by majority of the members of the Association. The vacancy on the Board caused by any such removal shall be filled by the remaining members of the Board, as in the case of any other vacancy on the Boards.

3.12 **Presiding Officer.** The presiding officer at Directors' meetings shall be the President, and in his absence, the Vice President. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

3.13 **Director Compensation.** Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred.

**4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.** All of the powers and duties of the Association existing under Chapters 617 and 720, Florida Statutes (2000), the Declaration of Covenants and Restrictions, the Articles of Incorporation, these Amended and Restated Bylaws, and the Rules and Regulations of the Association, all as amended from time to time, shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees subject only to the approval of unit owners where such is specifically required. Such powers and duties of the Directors shall include, but shall be limited to, the following:

4.1 **Assess.** To adopt budgets and make and collect assessments against owners to defray the costs of the Association, subject to any limitations in the Declaration of Covenants and Restrictions.

4.2 **Spend Money.** To use the proceeds of assessments in the exercise of its' power and duties.

4.3 **Maintenance.** To maintain, repair, replace, and operate the Property, as provided in the Declaration of Covenants and Restrictions.

4.4 **Rules.** To enact Rules and Regulations concerning the transfer, use, appearance, and occupancy of the Property and administration or operation of the Association, subject to any limitations contained in the Declaration of Covenants and Restrictions.

4.5 **Casualty Repair.** To reconstruct any association property improvements after casualty and to further improve the Property.

4.6 **Approval of Transfers.** To approve or disapprove proposed transactions or transfers of title in the manner provided by the Declaration of Covenants and Restrictions, and to charge a preset fee in connection with such right of approval.

4.7 **Enforcement.** To enforce by legal means the provisions of applicable laws and the Governing Documents, and to interpret said Governing Documents, as the final arbiter of their meaning.

4.8 **Management.** To contract for management of the Property.

- 4.9 **Insurance.** To carry insurance for the protection of the common area and Association against casualty and liabilities.
- 4.10 **Utilities.** To pay the cost of all utility services rendered to the Common Area and not billed to owners of individual dwelling units.
- 4.11 **Hire and Fire.** To employ personnel to be paid a reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.
- 4.12 **Sue, Execute Documents.** To bring and defend suits, make and execute contracts, deeds, mortgages, notes, and other evidence of indebtedness, leases, and other instruments by its officers and to purchase, own, lease, convey, and encumber real and personal property. To grant easements and licenses over the Property necessary or desirable for proper operation of the Homeowners' Association.
- 4.13 **Suspend Use Rights and Levy Fines.** The Directors may, pursuant to F.S. 720.305, suspend, for a reasonable period of time, the rights of a member or a member's tenants, guest, or invitees or both, to use the common areas and facilities, and may levy reasonable fines as set forth in the Declaration of Covenants and Restrictions.

## 5. OFFICERS.

- 5.1 **Executive Officers.** The executive officers of the Association shall be the President, one or more Vice Presidents, a Secretary, a Treasurer, and such assistant officers as may be peremptorily removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that the President may not also be the Secretary.
- 5.2 **President Powers and Duties.** The President shall be the chief executive officer of the Association. The President shall have general supervision over the affairs of the Association and shall have all of the powers and duties which are usually vested in the office of President of a corporation.
- 5.3 **Vice-President Powers and Duties.** The Vice-President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.
- 5.4 **Secretary Powers and Duties.** The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the



giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep and have custody of the records of the Association, except those of the Treasurer. He shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President.

**5.5 Treasurer Powers and Duties.** The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the assessment rolls and accounts of the members. He shall keep the books of the Association in accordance with good accounting practices and shall perform all other duties incident to the office of the Treasurer of a corporation.

**5.6 Officers' Compensation.** Officers shall not be entitled to compensation for service as such, but shall be entitled to reimbursement of expenses reasonably incurred. This provision shall not preclude the Board of Directors from employing an Officer or Director as an agent or employee of the Association.

**5.7 Indemnification.**

**5.7.1 Indemnity.** The Association shall indemnify any officer, director, or committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, officer, or committee member of the Association, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (a) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the

adoption of this provision, to provide the most comprehensive indemnification possible to their officers, directors, and committee members as permitted by Florida law.

**5.7.2 Defense.** To the extent that a director, officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 5.7.1 above, or in defense of any action, suit, or proceeding referred to in Section 5.7.1 above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees), actually and reasonably incurred by him in connection therewith.

**5.7.3 Advances.** Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected director, officer, or committee member to repay such amount if it shall ultimately be determined that he is not indemnified by the Association as authorized by this Article 5.7.

**5.7.4 Miscellaneous.** The indemnification provided by this Article 5.7 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members, or otherwise, and shall continue as to be a person who has ceased to be a director, officer, or committee members and shall inure to the benefit of the heirs and personal representative of such person.

**5.7.5 Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, or agent of the Association, or a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the duty to indemnify him against such liability under the provisions of this Article.

**5.7.6 Amendment.** Anything to the contrary herein notwithstanding, the provision of this Article 5.7 may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

**5.8 Delegation.** To the extent permitted by law, the powers and duties of the directors and officers may be delegated for the purpose of management.

## **6. MINUTES AND INSPECTION OF RECORDS.**

- 6.1 Minutes of all meetings of the members of the Association and of the Board of Directors of an association must be maintained in written form or in another form that can be converted into written form within a reasonable time.
- 6.2 The official records shall be maintained within the State of Florida and shall be open to inspection and available for photocopying by members of their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access. The Association shall be required to make available to prospective purchasers of Lots current copies of the Declaration, Articles and Bylaws, and the most recent annual financial statement of the Association. The Association shall maintain each of the following items which constitute the official records of the Association.
  - 6.2.1 Copies of any plans, specification, permits, and warranties related to improvements constructed on the common areas or other property that the Association is obligated to maintain, repair, or replace.
  - 6.2.2 A copy of the Bylaws of the Association and of each amendment to the Bylaws.
  - 6.2.3 A copy of the Articles of Incorporation of the Association and of each amendment thereto.
  - 6.2.4 A copy of the Declaration of Covenants and Restrictions and a copy of each amendment thereto.
  - 6.2.5 A copy of the current rules of the Homeowners' Association.
  - 6.2.6 The minutes of all meetings of the board of directors and of the members which minutes must be retained for at least seven (7) years.
  - 6.2.7 A current roster of all members and their mailing addresses and parcel identification.
  - 6.2.8 All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years.
  - 6.2.9 A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility. Bids received by the Association for work to be performed must also be considered official records and must be kept for a period of one (1) year.

6.2.10 The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and accounting records must include:

6.2.10.1 Accurate, itemized, and detailed records of all receipts and expenditures.

6.2.10.2 A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.

6.2.10.3 All tax returns, financial statements, and financial reports of the Association.

6.2.10.4 Any other records that identify, measure, record, or communicate financial information.

6.3 The association may adopt reasonable written rules governing the frequency, time location, notice, and manner of inspections, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying.

**7. FISCAL MANAGEMENT.** Shall be in accordance with the following provisions and subject to any limitations contained in the Declaration of Covenants and Restrictions.

7.1 **Budget.** The Board shall adopt an annual budget. The proposed budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The Board meeting at which the budget is to be discussed and/or adopted must be posted or mailed as set forth in Section 3.7, and the notice must include a statement that the budget will be considered. Copies of the proposed budget will be made available to members at the meeting. The association shall provide each member with a copy of the annual budget or written notice that a copy of the budget is available upon request at no charge to the member. If requested, the copy must be provided to the member within the time limits set forth in Article 6 of these Bylaws. If the Board adopts a budget which requires assessments against unit owners that are more than fifteen (15%) percent greater than the last year's assessments, the members may petition for a special meeting to consider a substitute budget. The petition must be signed by at least 10% of the

owners and delivered to the Board within twenty-one (21) days of adoption of the budget for that fiscal year. The special meeting shall be held within sixty (60) days of receipt of the petition and the Board shall provide each owner with notice of the meeting (by mail or hand delivery) at least fourteen (14) days in advance. A substitute budget requires approval of the majority of the entire membership of the Association. If the vote fails or there is no meeting due to lack of quorum, the budget previously adopted by the Board shall take effect as scheduled. Any determination of whether assessments are more than fifteen (15%) percent greater than the previous year shall exclude reserves, expenses that are not anticipated to be incurred on a regular or annual basis or assessments for capital improvements.

7.2 **Financial Reporting.** The association shall prepare an annual financial report within 60 days after the close of the fiscal year. The association shall, within the time limits set forth in Article 6 of these Bylaws, provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report must consist of either:

7.2.1 Financial statements presented in conformity with generally accepted accounting principles, or

7.2.2 A financial report of actual receipts and expenditures, cash basis, which report must show:

7.2.2.1 The amount of receipts and expenditures by classification;

and

7.2.2.2 The beginning and ending cash balances of the association.

7.3 **Assessments.** The annual shares of the Members of the common expenses shall be made payable in installments due quarterly in advance and shall become due on the first day of each such period and shall become delinquent thirty (30) days thereafter. The Association shall have the right to accelerate assessments of an owner delinquent in the payment of assessments. Accelerated assessments shall be due and payable on the date a claim is filed and may include the amounts due for the remainder of the fiscal year for which the claim of lien was filed.

7.4 **Special Assessments.** Assessments for Association expenses which are not provided for and funded in the budget or an amendment to the budget may be made by the Board of Directors, and the time of payment shall likewise be determined by them. Any non-emergency special assessment in an amount of more than Ten Thousand Dollars (\$10,000) requires the approval of two-thirds (2/3rds) of the members voting (in person or by

proxy) at any regular or special meeting of the membership or the written agreement of 230 members.

- 7.5 **Assessment Roll.** The assessments for Association expenses and charges shall be set forth upon a roll of the Dwelling Units which shall be available for inspection at all reasonable times by Members. Such roll shall indicate for each Dwelling Unit the name and address of the owner, and the assessments and charges paid and unpaid. A certificate made by a duly authorized representative of the Association or by the Board of Directors as to the status of a Dwelling Unit's account may be relied upon for all purposes by any person for whom made.
- 7.6 **Liability for Assessments and Charges.** A Member shall be liable for all assessments and charges coming due while the owner of a Dwelling Unit, and except as otherwise provided in the Declaration with respect to Institutional First Mortgagees, such Member and Member's grantees or successors after a conveyance or other acquisition of title shall be jointly and severally liable for all unpaid assessments and charges due and payable up to the time of such conveyance. Liability may not be avoided by waiver of the use or enjoyment of any Association property or by abandonment of the Dwelling Unit for which the assessments are due.
- 7.7 **Lien for Assessments.** The unpaid portion of an assessment, including an accelerated assessment which is due, together with all costs, interest, late fees, and reasonable attorney's fees for collection (including those incurred prior to lien preparation), shall be secured by a continuing lien upon the unit, and any tangible personal property located in the unit. The effective date of the lien shall relate back to the filing of the Original Declaration, and shall be superior to all other liens, except first mortgages, taxes, and any lien afforded priority by law.
- 7.8 **Lien for Charges.** Unpaid charges and fines due to the Association together with costs, interest, late fees, and reasonable attorney's fees shall be secured by a common law and contractual lien upon the Dwelling Unit and all appurtenances thereto when a notice claiming the lien has been recorded by the Association.
- 7.9 **Collection Interest; Administrative Late Fee; Application of Payments.** Assessments or charges paid on or before thirty (30) days after the date due shall not bear interest, but all sums not paid on or before thirty (30) days shall bear interest at the highest lawful rate from the date due until paid. In addition to such interest the Association may charge an administrative late fee. All payments upon account shall be first applied to interest, then the late fee, then to any costs and reasonable attorney's fees incurred, and then to the assessment payment first due.

- 7.10 **Collection Suit.** The Association, at its option, may enforce collection of delinquent assessments or charges by suit at law, by foreclosure of the lien securing the assessments or charges, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment, or decree, together with those which have become due by acceleration or which have thereafter become due, plus interest thereon, and all costs incident to the collection and the proceedings, including reasonable attorney's fees, incurred before trial, at trial, and on appeal. The Association may attach rental income for delinquent Dwelling Units and may withhold approval for the sale, lease, or other transfer of a unit, or any interest therein, until all past due assessments, interest, late fees, costs, and attorney's fees have been paid in full.
- 7.11 **Association Depository.** The depository of the Association shall be a bank or banks or state or federal savings and loan associations with offices in Florida and other insured depositories as shall be designated from time to time by the Directors and in which the monies for 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.
- 7.12 **Commingling of Funds Prohibited.** All funds shall be maintained separately in the Association's name. No community association manager or business entity required to be licensed or registered under F.S. 468.432, and no agent, employee, officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other homeowners' association or community association as defined in F.S. 468.431, or with those of any other entity.
- 7.13 **Fidelity Bonds.** Fidelity bonds may be obtained by the Board of Directors for all officers and Directors of the Association who control or disburse Association funds. The amount of such bonds shall be determined by the Directors.
8. **PARLIAMENTARY RULES.** Robert's Rules of Order (latest edition) shall be used a guide to ensure fairness, impartiality, and respect for minority views without unduly burdening majority rights. The meetings of the Members shall be conducted in accordance with these Amended and Restated Bylaws and the procedures established by the Board from time to time, including the form of voting documents to be used. The ruling of the Chairman of the Members' meetings, who shall be the President of the Association unless he or the Board of Directors designates a third person, shall be binding unless contrary to law.

**9. BYLAW AMENDMENTS.** Amendments to the Bylaws shall be proposed in the following manner:

**9.1 Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

**9.2 Initiation.** An amendment may be proposed by either a majority of the Board of Directors or by twenty-five percent (25%) of the voting interests of the Association.

**9.3 Percentage Vote.** A resolution adopting a proposed amendment must receive approval of two-thirds (2/3) of the voting interests of the Association present (in person or by proxy) and voting at a duly called meeting at which a quorum is present so long as at least 230 members vote in favor of the amendment. Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing. Alternatively, amendments to these Bylaws may be adopted in writing, without a meeting, with the approval of at least 230 of the voting interests.

**9.4 Effective Date.** An amendment to the Bylaws shall become effective only after being recorded in the Public Records of Charlotte County, Florida.

**10. DISPUTE RESOLUTION.** Nothing herein shall preclude the Association from pursuing any remedy for the violation of the Governing Documents or disputes with a unit owner or other party as may be available to the Association under the laws of the State of Florida or the governing Documents. All remedies are cumulative.

**11. MISCELLANEOUS.** The following miscellaneous provisions shall apply to these Bylaws and the Homeowners' Governing Documents.

**11.1 Conflicts.** The term "Governing Documents," as used in these Bylaws and elsewhere shall include the Declaration of Covenants and Restrictions for the Property, the Articles of Incorporation, these Bylaws, the Rules and Regulations of the Association, the Plats, Surveys, Plot Plans, and graphic descriptions of improvements of record, and all other exhibits to the original Declaration of Covenants and Restrictions. In the event of a conflict between the language in the Declaration of Covenants and Restrictions and the graphic descriptions of record, the graphic description of record shall control. In the event of a conflict between language in any of the other Governing Documents, the following priorities shall control:

1. Declaration of Covenants and Restrictions;
2. Articles of Incorporation;



3. Bylaws; and
4. Rules and Regulations

11.2 **Gender.** The use of the term “he,” “she,” “his,” “hers,” “their,” “theirs” and all other similar pronouns should be construed to include all genders and encompass the plural as well as the singular.

11.3 **Severability.** In the event that any provisions of these Bylaws is deemed invalid, the remaining provisions shall be deemed in full force and effect.

12. **EMERGENCY BOARD POWERS.** In the event of any “emergency” as defined in Section 12.7 below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes, as amended from time to time.

12.1 The Board may name as assistant officers who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.

12.2 The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

12.3 During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

12.4 Corporation action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

12.5 Any officer, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

12.6 These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

12.7 For purpose of this Section only, an “emergency” exists only during a period of time that the Properties or the immediate geographic area in which the Properties are located, is subjected to:

12.7.1 a state of emergency declared by local civil or law enforcement authorities;

12.7.2 a hurricane warning;

12.7.3 a partial or complete evacuation order;

12.7.4 federal or state “disaster area” status; or

12.7.5 a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the Properties, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism.

An “emergency” also exists for purposes of this Section during the time when a quorum of the board cannot readily be assembled because of the occurrence of a catastrophic event, such as a hurricane, earthquake, act of terrorism, or other similar event. A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive quality.