

**AMENDED AND RESTATED
BYLAWS**

**ENCLAVES OF VENICE NORTH HOME OWNERS
ASSOCIATION, INC.**

ENCLAVES OF VENICE NORTH HOME OWNERS ASSOCIATION, INC.

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AMENDED AND RESTATED

**BYLAWS
OF
ENCLAVES OF VENICE NORTH HOME OWNERS ASSOCIATION, INC.
(A Non-Profit Florida Corporation)**

*[Substantial rewording of Bylaws.
See existing Bylaws and amendments thereto for present text.]*

The members of **ENCLAVES OF VENICE NORTH HOME OWNERS ASSOCIATION, INC.**, hereby adopt these AMENDED AND RESTATED BYLAWS. The Amended and Restated Bylaws supersede and replace all previous Bylaws and amendments thereto.

1. IDENTITY.

1.1 **Corporate Documents.** These are the Amended and Restated Bylaws (herein "Bylaws") of **ENCLAVES OF VENICE NORTH HOME OWNERS ASSOCIATION, INC.** (herein, the "Association"), a corporation not for profit under the laws of the State of Florida. The Articles of Incorporation of the Association were originally filed in the office of the Secretary of State on September 24, 2003. The Declaration of Restrictions and Covenants for Enclaves of Venice North Subdivision (herein "Declaration") is originally recorded in the Official Records of Sarasota County, Florida as Instrument #2004026748.

1.2 **Purpose.** The Association has been organized pursuant to Chapter 720, Florida Statutes (herein, the "Homeowners Association Act"), for the purpose of administering and operating **ENCLAVES OF VENICE NORTH SUBDIVISION** (herein, the "Subdivision"), located in Sarasota County, Florida. The subdivision plat of **ENCLAVES OF VENICE NORTH SUBDIVISION** is recorded at Plat Book 44, Pages 13, 13A and 13B of the Official Records of Sarasota County, Florida.

1.3 **Office.** The principal office of the Association is 810 B Pinebrook Road, Venice, FL 34285, and the mailing address of the Association is c/o Capri Property Management, 810 B Pinebrook Rd., Venice, Florida 34285. The Association's Board of Directors may change the location of the principal office from time to time.

1.4 **Fiscal Year.** The fiscal year of the Association is the calendar year, January 1 through December 31. The Association's Board of Directors is authorized to change the dates of the fiscal year as it determines appropriate.

1.5 **Seal.** The Corporate Seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation not for profit" and the year of incorporation.

1.6 **Definitions.** The terms used in these Bylaws shall have the same definition and meaning as those set forth in the Declaration or in Chapter 720, Florida Statutes, unless herein provided to the contrary, or unless the context otherwise requires.

2. MEMBERS' MEETINGS.

2.1 **Annual Meeting.** The Association shall hold its annual members' meeting at a date, time and place to be determined by the Board. There shall be an annual meeting every calendar year and not later than thirteen (13) months after the last preceding annual membership meeting. The purposes of the annual membership meeting shall be to elect directors and transact any other business authorized to be transacted by the members.

2.2 **Special Meetings.** The President, Vice-President or a majority of the Board may call a special membership meeting. A special membership meeting must be called by the President or Vice President upon receipt of a written request from members entitled to cast ten (10) of the Association's voting interests, which request shall state a valid purpose for the special meeting. The notice of a special meeting shall specifically state the purpose(s) of the meeting and business conducted at that meeting shall be limited to the stated purposes.

2.3 **Notice of Meetings.** The President, Vice-President, Secretary or Manager shall provide notice of all members' meetings. The notice shall state the meeting agenda, date, time and place for which the meeting is called. The notice shall be mailed, emailed (as provided in Section 2.4 below) or hand-delivered to each member at the member's address as it last appears on the books of the Association. The Association shall also provide notice of the meeting to all members not less than fourteen (14) days or more than sixty (60) days prior to the date of the membership meeting. The Association shall post in a conspicuous place on the Subdivision property the notice and agenda of the meeting at least fourteen (14) days prior to the membership meeting. The person providing the notice of the membership meeting shall provide proof of such mailing, delivery and posting by affidavit.

2.4 **Electronic Transmission and Broadcast Notice.** Notwithstanding any other provision herein, notice of meetings of the Board of Directors, membership meetings (except membership meetings to recall directors), and committee meetings may be given by electronic transmission to those members who consent to receive notice by electronic transmission. In lieu of or in addition to the physical posting of notice of any meeting on the Subdivision, the Board of Directors may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Subdivision. However, if broadcast notice is used in lieu of a notice posted physically on the Subdivision, the notice and agenda must be broadcast at least four (4) times every broadcast hour of each day that a posted notice is otherwise required under this Article. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as

to allow an average reader to observe the notice and read and comprehend the entire content of the notice and agenda.

2.5 Quorum and Voting. A quorum at members' meetings shall consist of at least thirty percent (30%) of the Association's total voting interests (that is, at least 10 of the 32 voting interests). Members may attend the membership meeting in person or by proxy. If a quorum is not obtained at a membership meeting, the members who are present, in person and by proxy, may adjourn the membership meeting from time to time until a quorum is otherwise present. The acts approved by a majority of the votes present at a membership meeting at which a quorum is present shall constitute the acts of the members, except when approval by a greater number of members is required by the Declaration, the Articles of Incorporation, these Bylaws, or the Homeowners Association Act.

2.6 Voting Rights. The members of the Association shall consist of all of the record owners of Lots in the Subdivision. In any meeting of the members, the owners of Lots shall be entitled to cast one (1) vote for each Lot owned.

2.7 Voting for Lots Jointly Owned. In the event a Lot is owned by a husband and wife, that Lot's vote may be cast by person or by proxy by either, provided that there shall be only one vote per Lot. If the spouses do not agree on how that vote shall be cast, the vote shall not be counted as to the matter under consideration in which the conflict arose, whether the conflict appears by vote in person or by proxy. Alternatively, the person entitled to cast the vote conferred by the Lot ownership shall be designated by a certificate signed by one or both spouses and filed with the Association Secretary. The certificate remains valid until revoked or superseded by a subsequent certificate or until a change in the ownership of the Lot concerned. A certificate designating the person entitled to cast the vote conferred by Lot ownership may be revoked by any Lot owner.

2.8 Voting for Lots Held by a Corporation, LLC, Trust or Partnership. If a Lot is owned by a corporation, LLC, partnership or trust, the person entitled to cast the vote for the Lot shall be designated by a voting certificate signed by the president or vice president of the corporation and attested by the secretary or assistant secretary of the corporation. If the Lot is owned by a LLC, the person entitled to cast the vote for the Lot shall be designated by a voting certificate signed by a managing member of the LLC. If the Lot is owned by a partnership, the person entitled to cast the vote for the Lot shall be designated by a voting certificate signed by any partner. If the Lot is owned by a trust, the person entitled to cast the vote for the Lot shall be designated by a voting certificate signed by the trustee of the trust. All such voting certificates must be filed with the Secretary of the Association. Such certificate shall be valid until revoked, until superseded by a subsequent certificate or until a change in the ownership of the Lot concerned. A certificate designating the person entitled to cast the vote conferred by Lot ownership may be revoked by any owner of a Lot.

2.9 Proxies. Votes may be cast in person or by proxy substantially meeting the requirements of the Homeowners Association Act. A proxy must be filed in writing and signed by the person or persons authorized to cast the vote for the Lot. A proxy may be made by any person entitled to vote, and must be filed with the Secretary of the Association before the appointed time of the meeting, or prior to the reconvening of an adjourned meeting. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjournment thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the owner executing it. Holders of proxies need not be Lot owners.

2.10 Waiver. Notice may be waived by a member before or after a membership meeting. A member waives any defect or lack of notice by attending a meeting, except when that attendance is for the expressed purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

2.11 Presiding Officer. The chairperson at all membership meetings shall be the President. The President may, however, designate any other person to preside. In the absence of the President or the President's designee, the members present (in person or by proxy) may designate any other person to preside as chairperson of the meeting.

2.12 Minutes of Meetings. The minutes of the membership meetings shall be kept in a business-like manner in a book available for inspection by the members or their authorized representatives at any reasonable time. The Association shall maintain these minutes for a period of not less than seven (7) years or as required by the Homeowners Association Act.

2.13 Action by Written Agreement. The members are authorize to take action by written agreement in lieu of a membership meeting in the manner provided in Section 617.0701(4), Florida Statutes.

2.14 Order of Business. Unless otherwise determined by the meeting chairman, the order of business at annual membership meetings, and as far as practical at all special membership meetings, shall be as follows:

- 2.14.1 Election of Chairman (if necessary).
- 2.14.2 Calling of the roll and certifying proxies.
- 2.14.3 Proof of meeting notice or waiver of notice.
- 2.14.4 Reading and disposal of unapproved minutes.
- 2.14.5 Reports of officers.
- 2.14.6 Reports of committees.
- 2.14.7 Election of inspectors of election
- 2.14.8 Election of directors.
- 2.14.9 Unfinished business.
- 2.14.10 New business.

2.14.11 Announcements.

2.14.12 Adjournment.

3. **BOARD OF DIRECTORS.**

3.1 **Number and Term of Office.** The affairs of the Association shall be managed by a Board of five (5) directors. The Association may change the number of directors to be elected at the next annual membership meeting by members' resolution pursuant to Section 2.13 above; however, such change must be made at least ninety (90) days prior to the date of the annual membership meeting. At the next annual membership meeting subsequent to the recording of the Amended and Restated Bylaws in the public records, all directors shall be elected to serve a two (2) year staggered term of office. At that election, the three (3) directors who receive the highest number of votes shall be elected to serve a two (2) year term of office and the two (2) directors who receive the next highest number of votes shall be elected to serve a one (1) year term of office. Thereafter, all directors shall be elected to serve a two (2) year term of office. The Board may temporarily assign a one (1) year term of office as necessary to re-implement the proper staggering of the Board. Directors shall serve a one (1) year term of office. Any director whose term is expiring may stand for re-election. All directors shall serve until their respective successors shall have been duly elected and qualified, or until their earlier resignation or removal.

3.2 **Director Qualifications.** A director must be a natural person who is at least eighteen (18) years of age or older. A director must be a Lot owner, a spouse, parent or adult child (at least 18 years of age) of a Lot owner or the designated voter of a Lot owner who is not a natural person (that is, a corporation, LLC or partnership, etc.). If a trust owns a Lot, a director may also be trust grantor or a trust beneficiary who occupies the Lot. A convicted felon whose civil rights have not been restored for at least five (5) years as of the date of election is not eligible to serve as a director. A person who is more than ninety (90) days delinquent in paying their regular assessments is not eligible to serve as a director.

3.3 **Election of Directors.** The election of directors shall be by secret written ballot and shall take place concurrent with the annual membership meeting, in the manner provided in the Homeowners Association Act. Director candidates may be nominated from the floor of the membership meeting. The election of directors shall take place concurrent with the annual membership meeting, as follows:

3.3.1 Not less than sixty (60) days before a scheduled election of directors, the Association shall mail or deliver to each Lot owner entitled to vote, a first notice of the date of the election along with a director nomination form. Any Lot owner or other eligible person desiring to be a candidate for the Board of Directors shall give written notice to the Association not less than forty (40) days before a scheduled election. Not less than fourteen (14) days before the membership meeting at which the election will occur, the Association shall mail or deliver a second notice of the meeting to all Lot owners entitled to vote, together with a written ballot which shall list all director candidates who were timely

nominated in alphabetical order by surname. Upon request of a director candidate, the Association shall include with the second mailing of the written ballot the completed director certification form and an information sheet, not larger than 8 ½ inches by 11 inches, furnished by the director candidate to the Association not less than thirty-five (35) days before the election. The costs of mailing and copying of the candidate information sheets shall be paid by the Association

3.3.2 Written ballots (with blank lines for director candidates who are nominated from the floor of the membership meeting) will be available for use by those Lot owners attending the meeting in person. A Lot owner who needs assistance in voting due to blindness, disability or inability to read or write may obtain assistance. No Lot owner shall permit another person to cast his or her written ballot, and any such improperly cast ballot shall be deemed invalid. Any Lot owner who violates this provision may be fined by the Association. Written director ballots shall be sealed in an inner, smaller envelope labeled "director ballot". The director ballot envelope shall be placed in a larger outer envelope. The larger outer envelope must be sealed and shall be signed by the Lot owner in the upper right hand corner, with the Lot owner's name and printed name stated thereon. It is the intent of the Association to follow the director election procedures of the Condominium Act (Chapter 718, Florida Statutes) to the extent those procedures are not in conflict with the Homeowners Association Act (Chapter 720, Florida Statutes). However, director certification forms shall not be required.

3.3.3. If more persons are nominated than there are vacancies to be filled, the election shall be by secret written ballot. Each person voting is entitled to cast his or her vote for each of as many director nominees as there are vacancies to be filled. The nominees receiving the greatest number of votes properly cast shall be elected. Elections shall be decided by a plurality of the votes cast. Tie votes shall be broken by agreement among the director candidates who are tied, or absent such an agreement, by chance, such as the flipping of a coin by a neutral third party or the drawing of straws. An election is not required unless more candidates file notices of intent to run or are nominated than director vacancies exist.

3.3.4 Any election dispute between a Lot owner and the Association shall be submitted to mandatory binding arbitration with the Division of Florida Condominiums, Timeshares and Mobile Homes in the manner provided by law.

3.4 **Organization Board Meeting.** The organization meeting of a newly-elected Board of Directors for the purpose of electing officers shall be held after the annual membership meeting or within ten (10) days of the election at such place and time as shall be fixed by the directors at the membership meeting at which they were elected. No further notice of the Board's organization meeting shall be necessary unless business in addition to the election of officers is to be considered at that meeting.

3.5 **Notice of Board Meetings.** Except as otherwise provided by Chapter 720, Florida Statutes and herein, meetings of the Board of Directors shall be open to all members and may be held at such date, time and place as shall be determined from time

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to time, by a majority of the directors. Notice of meetings shall be given to each director personally or by mail, email, telephone, facsimile transmission or telegraph, and posted conspicuously forty-eight (48) hours in advance for the attention of the Lot owners, prior to the day named for such meetings, except in the case of an emergency. Emergency meetings of the Board may be called by the President and must be called by the President at the request of two (2) of the directors. In the case of an emergency, not less than twenty four (24) hours notice shall be given to each director personally, by mail, telephone or email. Any director may waive notice to that director of a Board meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice. A director may attend a Board meeting via telephone conference call if a telephone speaker is used so that the conversation of directors attending by telephone may be heard by all persons attending the meeting in person. Any director so attending a Board meeting may be counted toward obtaining a quorum and may vote by telephone. If at least seven (7) of the voting interests deliver a written request to the Board to address an item of business, the Board shall at its next regular meeting, or at a special meeting of the Board, but not later than sixty (60) days after the receipt of the request, place the item on the Board's meeting agenda.

3.6 Notice of Special Board Meetings. In addition to the notice required by Section 3.5, not less than fourteen (14) days notice shall be mailed or delivered to the Lot owners and posted conspicuously on the Subdivision property of any Board meeting to discuss or adopt the annual budget, consider the levy of a non-emergency special assessment or a proposed rule regarding Lot use. Notice of any meeting in which assessments against owners are to be considered for any reasons shall specially contain a statement that assessments will be considered and the nature of any such assessments. Any item that is an emergency and is not included on the notice may be taken up on an emergency basis by at least a majority plus one (1) of the members of the Board. Such emergency action shall be noticed and ratified at the next regular Board meeting.

3.7 Quorum. A quorum at Board of Directors' meetings shall consist of a majority of the Board of Directors. The acts approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of directors is required by the Declaration, the Articles of Incorporation or these Bylaws. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time, until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

3.8 Voting. A director who is present at a Board meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless the Director votes against the action or abstains from voting. A vote or abstention shall be recorded in the minutes. Directors may not vote by proxy. Directors may vote by secret ballot only for the election of officers.

3.9 **Vacancies.** Except as to vacancies caused by removal of a majority of the directors by members (which vacancies shall be filled in the manner provided in the Homeowners Association Act), vacancies in the Board of Directors occurring between annual membership meetings shall be filled by a majority of the remaining directors (even if less than a quorum) to serve for the remainder of the director's unexpired term of office, unless otherwise provided by law.

3.10 **Presiding Officer.** The President shall preside over all Board and membership meetings. In the absence of the President, the directors present may designate any other person to preside as chairperson of the meeting.

3.11 **Directors' Fees.** Directors shall receive no fee or compensation. Directors may be reimbursed for any expenses or mileage charges incurred in their official capacity upon written request and after obtaining approval from the Board of Directors.

3.12 **Powers and Duties of the Board of Directors.** All of the powers and duties of the Association existing under the Homeowners Association Act, Declarations, Articles of Incorporation and these Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Lot owners when such is specifically required. The Board may delegate its authority to its agents, contracts or employees, except where prohibited by law.

3.13 **Removal.** Directors may be removed or recalled from office with or without cause by a written petition signed by at least a majority of all the Association's voting interests (that is, by at least 17 voting interests), in the manner provided in the Homeowners Association Act.

3.14 **Delegation.** The Board of Directors may delegate any or all of the functions of the Secretary or Treasurer to a management agent or employee, provided that the Secretary or Treasurer shall in such instance generally supervise the agent or employee in the performance of such functions.

3.15 **Minutes of Meetings.** The minutes of all Board meeting shall be kept in a business-like manner in a book available for inspection by Lot owners or their authorized representatives at any reasonable time. The Association shall maintain these minutes for a period of not less than seven (7) years or as otherwise required by the Homeowners Association Act.

3.16 **Resignation.** A director or officer may resign at any time by delivering written notice to the Board of Directors or the Association President. A resignation is effective when the notice is delivered unless the notice specified a later date. If the resignation is made effective at a later date, the members of the Board of Directors (including the director whose resignation is not yet effective) may vote to fill the pending vacancy before the effective date if the Board provides that the successor does not take office until the effective date.

3.17 Open Board Meetings. Except for meetings with the Association's attorney to seek or render legal advice regarding proposed or pending litigation or personnel matters, all Board meetings shall be open to members. The right to attend such Board meetings includes the right to speak at such meetings with reference to all designated agenda items. Any Lot owner may tape record or videotape Board meetings subject to reasonable rules adopted by the Board.

3.18 Order of Business. Unless otherwise determined by the meeting chairman, the order of business at Board of Directors' meetings shall be as follows:

- 3.18.1 Roll call.
- 3.18.2 Proof of meeting notice or waiver of notice.
- 3.18.3 Reading and disposal of unapproved minutes.
- 3.18.4 Reports of officers and committees.
- 3.18.5 Election of officers, if any.
- 3.18.6 Unfinished business.
- 3.18.7 New business.
- 3.18.8 Announcements.
- 3.18.9 Adjournment.

4. OFFICERS.

4.1 Designation, Election and Removal. The executive officers of the Association shall be a President, a Vice President, a Treasurer, a Secretary and/or an Assistant Secretary. All executive officers shall be elected annually by the Board of Directors. All officers may be peremptorily removed by a majority vote of the Board of Directors at any duly-noticed Board meeting. Any person may hold two or more offices, except that the President shall not also be the Secretary or an Assistant Secretary. The Board of Directors from time to time shall elect such other officers and assistant officers and may designate their powers and duties as the Board shall find to be required, to manage the affairs of the Association.

4.2 President. The President shall be the chief executive officer of the Association. The President shall be a director. He shall have all the powers and duties usually vested in the office of President of an Association, including but not limited to chairing meetings of the Board and the membership and the appointment of committees from time to time as he in his discretion may determine appropriate, to assist in the conduct of the affairs and operation of the Association. The President shall be a director.

4.3 Vice President. In the absence or disability of the President, the Vice President shall exercise the powers and perform the duties of the President. He also shall assist the President generally and exercise such other powers and perform such other duties as shall be prescribed by the Board of Directors or the President.

4.4 Secretary and Assistant Secretary. The Secretary shall attend to the proper taking of the minutes of all proceedings of the Board of 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 corporate seal, if any, and affix it to instruments requiring a seal when duly signed. He shall attend to the proper keeping of 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 the President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent. The duties of a Secretary may be fulfilled by a manager or other agent of the Association under the supervision of the Secretary.

4.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall attend to the keeping of the books of the Association in accordance with good accounting practices and shall perform all other duties incident to the office of Treasurer.

4.6 Compensation. Officers shall receive no fee or compensation. Officers may be reimbursed for any expenses or mileage charges incurred in their official capacity upon written request and after obtaining approval from the Board of Directors. The compensation of all contractors, managers, agents and employees of the Association shall be fixed by the Board of Directors.

5. COMMITTEES.

5.1 Appointment. The President shall have the authority, with the confirmation of the Board of Directors, to create committees and to appoint and remove (with or without cause) persons to such committees, from time to time, as the President determines appropriate to assist in the conduct of the affairs and operation of the Association.

5.2 Term of Office. A person appointed to serve on a committee shall continue as such until the next annual membership meeting and until his or her successor is appointed, unless the committee be terminated sooner or the person be removed from the committee by the President, with the confirmation of the Board of Directors, the person resigns, or unless such person shall cease to qualify as a member on the committee.

5.3 Quorum and Procedures. A committee may act only when a quorum (a simple majority) is present. The act of a majority of the members present at a committee meeting shall be the act of the committee. Any committee or other body with authority to make a final decision with regard to the expenditure of Association funds or with the power to approve or disapprove architectural decisions with respect to a Lot shall follow the same procedures as the Board of Directors with regard to posting or mailing of meeting notices for members, agendas, attendance and participation by members, as required by the Homeowners Association Act. All other Association committees and similar bodies are exempt from the procedural meeting and notice requirements of Homeowners Association

Act and these Bylaws. Such committees shall adopt their own procedural rules and requirements.

5.4 **Scope and Rules.** Each committee shall abide by the scope and stated purpose of the committee as defined by the President and as confirmed by the Board of Directors, and may adopt rules for its operation consistent with these Bylaws and with rules adopted by the Board of Directors.

5.5 **Reports and Action.** Every committee shall report its findings directly to the President, the Board of Directors or to the Board of Directors' designee. A committee may not take any action on behalf of the Association unless the Board of Directors adopts a written resolution specifically empowering the committee to take such action.

6. **FISCAL MANAGEMENT.** The provisions for fiscal management of the Association set forth in the Homeowners Association Act, the Declaration and Articles of Incorporation shall be supplemented by the following provisions:

6.1 **Assessment Roll.** The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot. Such an account shall designate the name and address of the owner or owners of each Lot, the amount of each assessment against the owners, the dates and amounts in which the assessments come due, and the amounts paid upon the account, and the balance due upon assessments.

6.2 **Annual Budget.** The Board of Directors shall, upon advance written notice to the members of the Association as required by the Homeowners Association Act and as provided in Section 3.6 hereof, adopt in advance an annual budget for each fiscal year that shall include the estimated funds required to defray the common expenses and to provide and maintain funds for the common expenses of the Association.

6.3 **Annual Budget Assessment.** The annual assessment, to fund the Association's annual budget, shall be paid by the Lot owners in one annual payment, as provided in Article 10 of the Declaration of Restrictions. If an annual budget is not adopted or notice is not provided to the Lot owners, the preceding budget and annual assessment shall continue until such budget is adopted or such notice is provided, as applicable. In the event the annual assessment proves to be insufficient, the budget and the assessment may be amended at any time by the Board of Directors. The unpaid assessment for the remaining portion of the fiscal year, for which the amended assessment is made, shall be due as provided by the Board of Directors. The Board may elect to allow owners to pay the annual assessment in installments due not less frequently than monthly.

6.4 **Reserve Funds.** If the Association budget includes reserves, such reserves shall be determined, maintained, and waived in compliance with this subsection and according to the requirements of Section 720.303(6), Florida Statutes, as amended from time to time, including the following:

6.4.1 If the annual budget of the Association does not provide for reserve accounts and the Association is responsible for the repair and maintenance of capital improvements that may result in a special assessment if reserves are not provided, each financial report for the preceding fiscal year shall contain the following statement in conspicuous type: **THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO THE PROVISIONS OF SECTION 720.303(6), FLORIDA STATUTES, UPON THE APPROVAL OF NOT LESS THAN A MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION.**

6.4.2 The amount to be reserved shall be computed by a formula that is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve assessments annually to take into account any changes in estimates of cost or useful life of a reserve item. Funding formulas for reserves shall be based on either a separate analysis of each of the required assets or a pooled analysis of two or more of the required assets.

6.4.3 Once a reserve account or reserve accounts are established, the membership of the Association, upon a majority vote at a meeting at which a quorum is present, may provide for no reserves or less reserves than required by Section 720.303(6), Florida Statutes, as amended from time to time. If a meeting of the owners has been called to determine whether to waive or reduce the funding of reserves and a majority of the members present do not affirmatively vote to waive or reduce reserves, the reserves as included in the budget shall go into effect. Any vote taken pursuant to this subsection to waive or reduce reserves shall be applicable only to one budget year.

6.4.4 Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a meeting at which a quorum is present.

6.5 **Acceleration of Assessment.** In the event any special or regular assessment is delinquent by more than thirty (30) days, the Board of Directors shall have the right to accelerate the due date of the entire unpaid balance of the Lot's annual and all special assessments for that fiscal year upon notice to the Lot owner, and then the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery of the notice to the apartment owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

6.6 **Special Assessments.** The Board of Directors may levy special assessments as needed from time to time. Such Board meetings shall be noticed as provided in Section 3.6 hereof.

6.7 Interest and Late Charge, Application of Payments. Assessments paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due may bear interest at the highest rate allowed by law from the date when due until paid and shall incur a late charge equal to the greater of twenty-five dollars (\$25.00) or five percent (5%) of the delinquent payment. All payments upon account shall be first credited to accrued interest, then to late charges, then to collection costs, then to the Association's reasonable attorney's fees incurred incident to the collection effort and then to the assessment payments first due. All interest and late charges collected shall be credited to the Association's operating account. Interest shall accrue on judgments obtained by the Association at the rate of eighteen percent (18%) per annum.

6.8 Depository. The funds of the Association may be kept in such banks, savings and loan associations or other federally insured depository or depositories as shall be designated from time to time by the Board of Directors. Withdrawal of monies from such accounts shall be only by checks or other appropriate instruments signed by such persons as are authorized by the Board of Directors.

6.9 Financial Reports. A financial report shall be prepared annually by the Association and completed, or its preparation and completion shall be contracted for with a third party within ninety (90) days after the close of the fiscal year. Within twenty-one (21) days after the final financial report is completed by the Association or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall either: (a) furnish a copy of the report to each member, or (b) provide a written notice to each member that a copy of the report is available upon request at no charge to the member. Any copy requested by a member shall be furnished within ten (10) business days after receipt of the request. Financial reports shall be prepared according to the requirements of Section 720.303(7), Florida Statutes and in accordance with generally accepted accounting principles. If not less than twenty percent (20%) of the members petition the Board for a level of financial reporting higher than that required by Section 720.303(7), Florida Statutes, the Association shall duly notice and hold a meeting of members within thirty (30) days of receipt of the petition for the purpose of voting on raising the level of reporting for that fiscal year. Upon approval of a majority of the total voting interests of the members, the Association shall prepare or cause to be prepared, shall amend the budget or adopt a special assessment to pay for the financial report regardless of any provision to the contrary contained in the governing documents and shall provide the required financial statements within ninety (90) days of the meeting or the end of the fiscal year, whichever occurs later.

6.10 Fidelity Bonds. The Association shall obtain and maintain adequate insurance or fidelity bonding on all persons who control or disburse Association funds, including without limitation those individuals who are authorized to sign checks and the Association President, Secretary and Treasurer. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management

agent at any one time. The premiums on such bonds shall be paid by the Association as a common expense.

6.11 Nonpayment of Assessments; Voting Rights. The Association may suspend the voting rights of a member for the nonpayment of regular annual assessments that are delinquent in excess of ninety (90) days. Such voting rights shall be automatically restored for future voting upon receipt of cleared funds for full payment of the delinquent assessments, accrued interest, late fees, costs and attorneys fees incurred in collection, if any.

7. PARLIAMENTARY RULES.

Robert's Rules of Order (latest edition) shall guide the conduct of the Association meetings when not in conflict with the Homeowners Association Act, the Florida Not For Profit Corporation Act, the Declaration of Restrictions, the Articles of Incorporation or these Bylaws.

8. AMENDMENTS.

These Bylaws may be amended in the following manner:

8.1 Notice. Notice of a proposed amendment shall be included in or with the notice of any Board meeting at which a proposed amendment is considered. Such notice shall contain either a summary of the changes or the full text of the Bylaws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language:

"Substantial rewording of Bylaw. See Bylaw...for present text."

Non-material errors or omissions in the Bylaw process shall not invalidate an otherwise properly promulgated amendment.

8.2 Proposal and Adoption. An amendment may be proposed by either the Board of Directors of the Association or by not less than ten (10) of the voting interests of the membership. Except as elsewhere provided, approval of an amendment must be by an affirmative vote of not less sixteen (16) of the voting interests present (in person or by limited proxy), and voting at a membership meeting called in whole or in part for that purpose.

8.3 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the

Bylaws, which certificate shall recite the Official Records Book and Page of the original recorded Declaration and shall be executed by the appropriate officers of the Association, with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the Public Records of Sarasota County, Florida.

9. ENFORCEMENT FINES.

In addition to all other remedies provided for in the Declaration, the Association may impose a fine on a violator and an owner for failure of such owner, his family members, guests, invitees, tenants and licensees to comply with any provisions of the Declaration, the Articles of Incorporation, Bylaws or Rules. The Board shall appoint a Fining Committee, which shall be composed of at least three (3) members who are not officers, directors, or employees of the Association, or the spouse, parent, child, or sibling of an officer, director, or employee of the Association. Prior to levying a fine, the Association shall provide written notice to the owner and alleged violator (if not the same person) by personal delivery, process server, or by certified or registered mail, return receipt requested, which notice may include the following:

9.1 **Notice.** A short plain statement of the matters asserted by the Association to constitute the violation(s), including but not limited to the specific violation alleged, the date, time and location of each alleged violation for which a fine may be imposed and a brief description of the conduct involved, as best as can be reasonably determined.

9.2 **Hearing.** A statement that the Association may provide a hearing before the Fining Committee upon fourteen (14) days advanced notice. The date, time and place of the hearing may be stated in the notice.

9.3 **Due Process.** A statement that the owner and the alleged violator (if not the same person) will have an opportunity at such hearing to respond to the alleged violation(s), present evidence and provide written and verbal argument on all pertinent issues, as well as to review, challenge and respond to any material considered by the Fining Committee.

9.4 **Fining Committee.** The Fining Committee shall consider all evidence and testimony presented at the hearing prior to the determination whether there was a violation and whether and in what amount to impose a fine. In the event a violation is proven to the satisfaction of the Fining Committee, the Committee shall determine the amount of the fine, if any, which shall be levied. If the Fining Committee, by a majority vote, does not approve a proposed fine, it may not be imposed. The Fining Committee's determination shall be transmitted to the Board, which may approve and levy the fine provided by that determination. The Board may also reject the determination of the Fining Committee, in which event no fine shall be levied by the Association. After a fine is levied, the Association shall provide a written demand for payment to the owner and violator. Fines shall be payable within thirty (30) days.

9.5 **Limits on Fine Amounts.** The Fining Committee may levy a reasonable fine not to exceed the amount of One Hundred Dollars (\$100.00) per violation, or \$100 per day in the case of a continuing violation with a single notice and opportunity for a hearing. No fine for a continuing violation shall exceed in the aggregate the amount of Five Thousand Dollars (\$5,000.00).

9.6 **Enforcement and Collection.** In the event a person refuses or otherwise fails to pay a fine, the Association may mediate if and as required by law and proceed with legal action in a court of competent jurisdiction to collect the sum. The prevailing party in such litigation shall be awarded its reasonable costs and reasonable attorneys' fees incurred incident to such collection action. A fine shall not be a lien against a Lot unless otherwise provided by the Homeowners Association Act. Fines not paid within thirty (30) days shall accrue interest at the highest rate allowed by law (currently eighteen percent (18%) per annum) and a late fee of Twenty-Five (\$25) Dollars. Any judgment obtained by the Association shall be recorded in the public records and filed with the Florida Secretary of State.

9.7 **Suspension of Use Rights.** In the event of any noncompliance with this Declaration, subsequent to written notice and hearing pursuant to this Section 9, the Association may suspend, for a reasonable period of time, the rights of a member or member's tenants, guests or invitees, or both to use the common areas and facilities.

10 RECORDS AND ROSTER.

10.1 **Official Records.** The Association shall maintain the official records of the Association within the State of Florida. Such records shall be made available for the inspection and copying of any of the Association members or their designated agents during regular business hours within ten (10) business days after receipt of a written request for access. The Association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected and manner of inspection. The Association may impose fees to cover the costs of providing copies of the official records, including without limitation the costs of copying.

10.2 **Reasonable Fee.** The Association may charge a reasonable fee to the prospective purchaser or lienholder or the current Lot owner or member for providing good faith responses to requests for information regarding its official records by or on behalf of a prospective purchaser or lienholder, other than that required by law, if the fee does not exceed \$150 plus the reasonable cost of photocopying and any attorney's fees incurred by the Association in connection with the response.

10.3 **Official Roster.** The Association shall maintain a current roster of all members and their mailing addresses and Lot identifications. The Association shall also maintain the electronic mailing addresses and the numbers designated by members consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by owners to receive notice by electronic transmission shall be

removed from Association records when consent to receive notice by electronic transmission is revoked. However, the Association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

11. MISCELLANEOUS PROVISIONS.

11.1 Enforcement of Documents. The Association shall have the duty to enforce and require compliance with the Declaration and any Rules and Regulations authorized hereby against owners, their tenants, invitees, contractors, vendors and guest on behalf of the Association membership. Enforcement shall be by proceedings for injunctive relief, declaratory relief and/or damages. The prevailing party in any such action shall be entitled to recover their reasonable attorney's fees and costs from the non-prevailing party.

11.2 Attorney's Fees and Waiver. The Association may also charge a Lot for any reasonable attorney's fees and costs incurred in obtaining compliance by the owner or tenant thereof and such charge shall be payable and collectible in the same manner as an assessment by the Association as provided in the Declaration. The failure to enforce any provision of the Declaration or Rules and Regulations shall in no event be deemed a waiver of the right to enforce as aforesaid thereafter as to the same breach or violation occurring prior or subsequent thereto. Failure to enforce same shall not give rise to any liability on the part of the Association with respect to parties aggrieved by such failure. If one or more demand letters from the Association or its agents are not successful in obtaining enforcement of any provision of the Declaration, the Rules and Regulations or the Association Bylaws, then the cost of demand letters and other services of an attorney seeking that enforcement prior to legal action shall be reimbursed to the Association by the owner against who enforcement is sought and may be collected in the same manner as an assessment as provided in the Declaration.

11.3. Cumulative Rights. All rights, remedies and privileges granted to the Association hereunder 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 rights, remedies, or privileges as may be granted to such other party by the Association's governing documents, or at law or in equity.

11.4. Priority of Governing Documents and Construction. The Bylaws shall be construed together with the Declaration and the Articles of Incorporation. In the event of a conflict, the governing documents shall control in the following order: (1) Declaration, (2) Articles of Incorporation, and (3) Bylaws. The provisions hereof shall be liberally construed to grant to the Association and the Board sufficient practical authority to implement the duties and authorities under the Declaration and the Homeowners Association Act. Whenever the context so requires, the use of any gender herein shall be deemed to include all genders, and the use of the singular shall include the plural and the plural shall include the singular.