

**BY-LAWS  
OF  
NAPLES RESERVE  
HOMEOWNERS ASSOCIATION, INC.**

NOT A  
CERTIFIED  
COPY

**Exhibit "D"**

**ARTICLE I  
IDENTITY**

**1. Name**

The name of the corporation is Naples Reserve Homeowners Association, Inc. (the "Association").

**2. Principal Office**

The initial principal office of the Association is at located at 4001 Tamiami Trail North, Suite 300, Naples, Florida 34103.

**3. Adoption**

These By-Laws have been adopted as the By-Laws of the Association.

**4. Definitions**

Terms used in these By-Laws which are defined in the Declaration of Covenants, Conditions and Restrictions for Naples Reserve (the "Declaration") shall have the same meaning in these By-Laws as in the Declaration.

**ARTICLE II  
POWERS AND DUTIES OF THE ASSOCIATION  
AND THE EXERCISE THEREOF**

The Association shall have all powers granted to it by Florida law, the Declaration, the Articles of Incorporation, and these By-Laws. All granted powers shall be exercised by the Board of Directors unless the exercise thereof is otherwise restricted in the Declaration, the Articles, these By-Laws or by applicable law.

**ARTICLE III  
MEMBERSHIP**

**1. Membership; Voting**

The Association shall have two (2) classes of membership, Class "A" Membership, and Class "B" Membership, as follows:

(a) Class "A" Membership. Class "A" Members shall be all Owners of fee title to Lots. Class "A" Members shall be entitled to one (1) vote for each Lot in which they hold fee title.

(b) Class "B" Membership. The Class "B" Member shall be Declarant. The Class "B" Member shall be entitled to five (5) votes for each Lot owned by Declarant. The Class "B" Member shall be entitled to appoint all of the members of the Board of Directors prior to the Turnover Date (as hereafter defined). On the Turnover Date, the Class "B" Membership shall

terminate and Declarant shall become a Class "A" Member and shall be entitled to one (1) vote for each Lot owned by Declarant.

Voting rights may be exercised by a Member or the Member's spouse. In any situation where more than one Person holds an interest in a Lot, the vote for the respective Lot shall be exercised by any such Person; provided, however, the Persons holding the interest in the Lot shall notify the Secretary of the Association, in writing, prior to or during any meeting of the manner in which the vote for the Lot is to be exercised and, in the absence of such notice, the Lot's vote shall be suspended if more than one Person seeks to exercise it. The voting rights of a Member that is a company or other form of entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary.

The Association may suspend the voting rights of any Member for nonpayment of regular annual or periodic assessments that are delinquent in excess of ninety (90) days.

**2. Turnover Date**

The Turnover Date shall occur on the earlier of the following conditions:

- (a) three months after the sale of ninety percent (90%) of the Lots permitted for the Property to Persons other than Declarant or Builders; or
- (b) such earlier date as determined by the Class "B" Member, in its sole and absolute discretion.

The Declarant shall continue to be able to appoint one member of the Board of Directors as long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots in all phases of Naples Reserve. After the Declarant relinquishes control of the Association, the Declarant may exercise the right to vote all of its voting interests in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors.

**ARTICLE IV  
MEMBERS' MEETINGS**

**1. Date and Place of Meetings**

Meetings of the Members shall be held on the date and at such place in Collier County, Florida or such other place as may be designated by the Board of Directors from time to time.

**2. Annual Meetings**

Each year after the Turnover Date, an annual meeting shall be held for the purpose of receiving reports of officers, committees, and others, to elect members of the Board of Directors and to conduct such other business as may be properly brought before the meeting.

**3. Special Meetings**

The President of the Association may call special meetings of the Members. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or, if after the Turnover Date, upon a petition signed by ten percent (10%) of the total votes of the Members of the Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**4. Notice of Meetings**

Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member, not more than fifty (50), nor less than ten (10), days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association.

Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting by a Member, either in person or by proxy, shall be deemed a waiver by such Member of notice of the time, date, place, and purpose thereof, unless such Member or his or her proxy, as the case may be, specifically objects to lack of proper notice at the time the meeting is called to order.

**5. Quorum**

Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of a majority of the votes eligible to be cast by Members shall constitute a quorum at any meeting of the Association.

**6. Adjournment of Meetings**

If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members entitled to vote who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed in Article IV, Section 4 hereof.

**7. Vote Required**

When a quorum is present at any meeting, a majority of the votes present, whether in person or by proxy, shall decide any question brought before the meeting, unless the Declaration, the Articles of Incorporation, these By-Laws or any applicable law provides otherwise.

**8. Proxies**

Members may vote by proxy. Proxies must be in writing, dated, signed and filed with the Secretary at the time of or before the appointed time of a meeting of the Owners. Every proxy shall be revocable and shall automatically cease upon conveyance by the Owner of his Lot, upon receipt by the Secretary of notice of the death or judicially declared incompetence of an Owner, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy. The Board of Directors, may from time to time, establish such other or additional requirements for proxies as it shall determine.

**9. Conduct of Meetings**

The President shall preside over all meetings of the Association. The Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted and all transactions and proceedings occurring at the meeting.

**10. Action Without a Meeting**

Any action which may be taken at a meeting of the Members may be taken without a meeting if written consent setting forth the action to be taken is signed by a majority of the Members entitled to vote on the subject matter thereof, unless a greater percentage is otherwise required by these By-Laws.

**ARTICLE V  
BOARD OF DIRECTORS**

**1. Number of Directors**

The governance and administration of the affairs of the Association shall be vested in a Board of Directors. The number of directors of the Association shall be not less than three (3) nor more than nine (9). The initial Board shall consist of the three (3) persons named in the Articles of Incorporation.

**2. Election or Appointment of Directors**

Prior to the Turnover Date, the Class "B" Member shall appoint all of the members of the Board of Directors. Subsequent to the Turnover Date, each Class "A" Member shall be entitled to cast one (1) vote for each Lot for each director to be elected. The Declarant shall continue to appoint one (1) member of the Board of Directors as long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots in all phases of the Community. Immediately prior to the Turnover Date, the Declarant shall call a Turnover Meeting at which the following shall occur: (a) all of the existing directors except one shall resign; (b) the Class "A"

Members shall elect eight (8) directors as described in Section 3; and (c) the Class "B" Membership shall terminate and be converted to a Class "A" Membership. The Declarant shall be considered a Member entitled to one (1) vote for each Lot owned by Declarant as a Class "A" Member. The Declarant may, in its sole and absolute discretion, permit the Members to elect directors earlier than the conditions set forth above.

### **3. Designation of Term**

Immediately prior to the Turnover Date, the Class "A" Members shall elect eight (8) directors to take office on the Turnover Date. Of the eight (8) directors elected, three (3) directors shall be designated to serve on the Board of Directors commencing on the Turnover Date for three (3) years, three (3) directors shall be designated to serve on the Board of Directors commencing on the Turnover Date for two (2) years and two (2) directors shall be designated to serve on the Board of Directors commencing on the Turnover Date for one (1) year. Each year after the Turnover Date, the Class "A" Members will elect directors to replace those whose terms are expiring. The newly elected directors will serve for three-year terms.

### **4. Qualifications for Election**

Except with respect to directors appointed by Declarant, all directors shall be Members.

### **5. Nomination of Directors**

Immediately prior to any election by the Members, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and at least three (3) Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than ninety (90) days prior to each annual meeting of the Members. The members of the Nominating Committee serve for a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it, in its sole discretion, determines appropriate, but in no event less than the number of positions to be filled. At least sixty (60) days prior to the annual meeting, the Nominating Committee shall recommend the names of Members selected by a majority vote of the Nominating Committee to be submitted to the Members for election to the Board of Directors.

Ten percent (10%) or more of the total votes eligible to be cast by Members who are not members of the Nominating Committee may also nominate candidates for election to the Board of Directors by petition signed by them and filed with the Secretary at least thirty (30) days prior to the annual meeting. The names of any nominees, after having been certified by the Secretary or any other officer, that they are qualified for election and have been nominated in accordance with the provisions of these By-Laws shall be included in any proxy mailing to the Members. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Nominations may also be made from the floor at the annual meeting of Members.

## 6. Removal of Directors and Vacancies

Any director appointed by Declarant may be removed, with or without cause, only by Declarant. Any director elected by the Class "A" Members at large may be removed, with or without cause, by the vote of the Class "A" Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be appointed by Declarant, or elected by the Class "A" Members, as the case may be, to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three (3) consecutive unexcused absences from Board meetings, as determined by the Board, or who is delinquent in the payment of any Assessment or other charges due the Association for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the remaining directors. In the event of the death, disability, removal, or resignation of a director, the members of the Board may elect a successor to fill the vacancy for the remainder of the term of such director.

## 7. Compensation

No director shall receive a salary or any other compensation whatsoever from the Association for acting as such, but shall be entitled to be reimbursed for expenses reasonably incurred on behalf of the Association.

## 8. Fiduciary Duty

The directors shall act in good faith in a manner they reasonably believe to be in the best interests of the development of the Naples Reserve residential community (the "Community") and the goals of the Association.

## 9. Powers and Duties

The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and as provided by law may do all acts other than those acts which may be done and exercised exclusively by the Members. In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted, the Board shall have the power to and be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making assessments to defray the Common Expenses and other assessments authorized by the Declaration, establishing the means and methods of collecting such assessments, and establishing the period of payment for assessments;
- (c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association as determined by the Board,

including maintenance or provision of services which are generally provided by a municipality, such as maintenance of grassed or landscaped areas along dedicated rights-of-way, maintenance of street lights and community signage, garbage pick-up and maintenance of roadways within the Community;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending use restrictions, rules and regulations, and design guidelines;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) enforcing by legal means the provisions of the Declaration, any Neighborhood Declaration, these By-Laws, and the use restrictions, rules and regulations, and design guidelines adopted pursuant to any of the foregoing, and bringing any proceedings which may be instituted on behalf of or against the Owners, their respective invitees or licensees concerning the Association;

(i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(j) providing services to all areas for which the Association is obligated to provide services;

(k) paying the cost of all services, if any, rendered to the Association or its Members which are not directly chargeable to Owners of particular Lots;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, and specifying the maintenance and repair expenses and any other expenses incurred;

(m) depositing Association funds into interest bearing accounts; and

(n) contracting with any Person for the performance of various duties and functions.

The Board shall have the power to enter into common management agreements and other agreements with trusts, condominium associations, Neighborhood Associations, Declarant and such other persons as it determines appropriate from time to time. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity. To the extent permitted by law, the Board shall have the power to delegate its functions to designees



of the Board, such as, without limitation, a management agent, committees established by the Board, and employees and independent contractors of the Association.

## **ARTICLE VI MEETINGS OF BOARD OF DIRECTORS**

### **1. Organizational Meeting**

The organizational meeting of the first elected Board of Directors shall be held within ten (10) days after the annual meeting of the Members at which the Directors were elected at such time and place as shall be fixed by the Board of Directors.

### **2. 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, but commencing with the Turnover Date. At least four (4) regular meetings shall be held during each fiscal year with at least one (1) meeting per quarter; provided, however, that the annual meeting shall constitute a regular meeting. Notice of the time and place of any meeting, other than an annual meeting, shall be communicated to the directors not less than ten (10) days prior to the meeting.

### **3. Special Meetings**

Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by any five (5) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by personal delivery, first class mail or telephone at least ten (10) days prior to the date of the meeting, unless the special business is of a nature which, in the President's discretion, requires more immediate action, and then a minimum of twenty-four (24) hours' notice shall be deemed sufficient.

### **4. Waiver of Notice**

Any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as when taken at a meeting duly held after regular call and notice if (a) a quorum is present and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

### **5. Quorum of Board of Directors and Required Vote**

At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors except as otherwise provided in the Declaration, the Articles of Incorporation or these By-Laws. If any meeting of the Board of Directors cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not

less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used for the election of officers.

#### **6. Conduct of Meetings**

The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

#### **7. Open Meetings**

All meetings of the Board shall be open to all Members, except for 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. Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested by a director and granted by the President. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board of Directors and reconvene in executive session, excluding Members, when such action is necessary in the reasonable judgment of the President.

#### **8. Notice to Members of Board Meetings**

Notices of all Board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of the meeting, except in an emergency. As an alternative to the posting of notice, notice of each Board meeting may be mailed or delivered to each Member of the Association at least seven days before the meeting, except in an emergency, or notice of the meeting may be published.

#### **9. Telephone Meetings**

Any regular or special meeting of the Board of Directors may be held by telephone conference, at which each participating director can hear and be heard by all other participating directors.

#### **10. Action Without a Meeting**

Any action to be taken at a meeting of the directors or any action that may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as an unanimous vote.

**ARTICLE VII  
OFFICERS**

**1. Officers**

The officers of the Association shall be a President, Vice President, Secretary, and Treasurer to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary or President and Treasurer may not be held by the same person.

**2. Appointment, Term of Office and Vacancies**

The officers of the Association shall be appointed annually by the Board of Directors at the first meeting of the Board of Directors during a fiscal year. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

**3. Removal**

Any officer may be removed by a majority vote of the Board of Directors in the sole discretion of the Board and the removal of a director who is also an officer shall automatically act as a removal from such director's position as an officer.

**4. Resignation**

Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified in the notice and unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective.

**ARTICLE VIII  
DUTIES OF OFFICERS**

The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as are from time to time specifically conferred or imposed by the Board of Directors.

**1. President**

The President shall be the chief executive officer of the Association and shall:

(a) act as presiding officer at all meetings of the Members and the Board of Directors;

(b) call special meetings of the Members and the Board of Directors;

(c) sign, with the Secretary or Treasurer if the Board of Directors so requires, all checks, contracts, promissory notes, leases, subleases and other instruments on behalf of the Association, except those which the Board of Directors specifies may be signed by other persons;

(d) perform all acts and duties usually required of a chief executive to ensure that all orders and resolutions of the Board of Directors are carried out; and

(e) act as an ex-officio member of all committees and render an annual report at the annual meeting of Members.

## 2. Vice President

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

## 3. Secretary

The Secretary shall have the following duties and responsibilities:

(a) attend all regular and special meetings of the Members and the Board of Directors and keep all records and minutes of proceedings thereof or cause the same to be done;

(b) have custody of the corporate seal, if any, and affix the same when necessary or required;

(c) attend to all correspondence on behalf of the Board of Directors, prepare and serve notice of meetings and keep membership books; and

(d) have custody of the minute book of the meetings of the Board of Directors and the meetings of the Members and act as agent for the transfer of the corporate books.

## 4. Treasurer

The Treasurer shall:

(a) receive monies as shall be paid into his hands for the account of the Association and disburse funds as may be ordered by the Board of Directors, taking proper vouchers for disbursements and be custodian of all contracts, leases and other important documents of the Association which he shall keep safely deposited;

(b) supervise the keeping of accounts of all financial transactions of the Association in books belonging to the Association and deliver the books to his successor;

(c) prepare and distribute to all of the members of the Board of Directors prior to each annual meeting and whenever else required a summary of the financial transactions and condition of the Association from the preceding year;

(d) make a full and accurate report on matters and business pertaining to his office to the Members at the annual meeting and make all reports required by law; and

(e) act as the chairman of the Finance Committee.

The Treasurer may have the assistance of an accountant or auditor, who shall be employed by the Association. In the event the Association enters into a management agreement, it shall be proper to delegate any or all of the Treasurer's functions to the management agent as is deemed appropriate by the Board of Directors.

## **ARTICLE IX COMMITTEES**

### **1. Standing Committees**

Each year after the Turnover Date, the President, subject to the approval of the Board of Directors, shall designate the chairman (who shall be a director) and members of each of the following committees:

(a) Grounds Committee. The Grounds Committee shall advise the Board of Directors on matters concerning maintenance of Common Area. No live trees shall be moved from Common Area nor shall any alteration or improvement be made to Common Area except with the approval of the Board of Directors and in accordance with the Declaration.

(b) Finance Committee. The Finance Committee shall in general supervise, direct and control all matters pertaining to Association finances including, but not limited to, the placing of insurance, the filing of tax returns, the payment of taxes, the preparation of the annual operating budget for approval by the Board of Directors, preparation of current reports for the Board of Directors and the Association's financial condition and the issuance to Members of a condensed quarterly operating statement. The Finance Committee shall have the power, with the approval of the Board of Directors, to direct the Association, to employ at the expense of the Association, such clerical aid and assistance as may be necessary to handle the accounts.

(c) Newsletter Committee. The Newsletter Committee shall supervise and control the preparation of a newsletter for distribution to all Members.

(d) Legal and By-Laws Committee. The Legal and By-Laws Committee shall be charged with the publication and interpretation of the rules and regulations, these By-Laws, and the Declaration and, in general, with all matters of a legal nature pertaining to the Association.

**2. Ad Hoc Committees**

The President, subject to the approval of the Board of Directors, may, from time to time, appoint such ad hoc committees, with such powers and composition as the President, with the approval of the Board of Directors, shall determine.

**3. Powers of Committees**

The several committees shall act only as committees and the individual members thereof shall have no power or authority to act on behalf of the Board or the Association.

**ARTICLE X  
DISCIPLINE**

**1. Enforcement**

The Board of Directors shall have the power to impose reasonable fines not to exceed One Hundred Dollars (\$100.00) per violation or such other maximum amount as may be permitted by the Florida Statutes currently in effect, which shall constitute an automatic and continuing lien upon a Lot of the violating Owner, to suspend an Owner's right to use the Common Area, and to preclude contractors, subcontractors, agents and other invitees of an Owner or occupant from the Community for violation of any duty imposed under the Declaration or these By-Laws; provided, however, that nothing herein shall authorize the Association or the Board of Directors to limit an Owner's or occupant's ingress and egress to or from a Lot. In the event that any occupant of a Lot violates the Declaration or these By-Laws, and a fine is imposed, the fine shall first be assessed against the occupant residing therein; provided, however, that if the fine is not paid by the occupant within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association. The failure of the Board of Directors to enforce any provision of the Declaration or By-Laws shall not be deemed a waiver of the right of the Board of Directors to do so thereafter.

**2. Notice**

Prior to imposition of any fine or sanction hereunder for any reason other than nonpayment of assessments or other charges, the Board of Directors or its delegate shall serve the accused with written notice describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, (c) a period of not less than fourteen (14) days within which the alleged violator may present a written request to the Board of Directors for a hearing affording the accused a reasonable opportunity to be heard; and (d) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge has been requested within fourteen (14) days of the notice. The requirements of this Section 2 do not apply to the imposition of sanctions or fines upon any Owner because of the failure of the Owner to pay assessments or other charges when due.

**3. Hearing**

If a hearing is requested within the allotted fourteen (14) day period, the hearing shall be before a committee of at least three Members appointed by the Board who are not officers,

directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee, or as otherwise provided by Florida Statutes. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the accused appears at the meeting. The committee shall decide by majority vote whether or not the proposed fine or suspension shall be imposed. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board of Directors may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fourteen (14) day period. Any suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions by any Person.

#### **4. Additional Enforcement Rights**

Notwithstanding anything to the contrary herein contained, the Association may elect to enforce any provisions of the Declaration or these By-Laws by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

### **ARTICLE XI FISCAL MANAGEMENT**

#### **1. Fiscal Year**

The fiscal year of the Association shall commence upon the first (1st) day of January and conclude on the thirty-first (31st) day of December.

#### **2. Depositories**

The funds of the Association shall be deposited in such accounts as may be selected by the Board of Directors, including checking and savings accounts in one (1) or more banks and/or savings and loan associations, Certificates of Deposit, U.S. Treasury Bills and money market accounts with an investment firm or firms, all in accordance with resolutions approved by the Board of Directors. The funds shall be used only for lawful purposes of the Association.

#### **3. Expenses**

The receipts and expenditures of the Association may be credited and charged to accounts as the Board of Directors may determine, in accordance with good accounting practices as set forth in Article XI, Section 7, below.

**4. Reserve Accounts**

The Association shall establish and maintain an adequate reserve account for the periodic maintenance, repair and replacement of Common Area.

**5. Budget**

The Board of Directors shall adopt a budget for each fiscal year that shall include the estimated funds required to defray the expenses of the Association for the fiscal year and to provide and maintain funds for the accounts established by the Board of Directors (including a capital replacement reserve), in accordance with good accounting practices as set forth in Article XI, Section 7, below.

**6. Fidelity Bonds**

The Association shall, if reasonably available, purchase blanket fidelity bonds for all directors, officers and employees of the Association and for any management agent who controls or disburses funds of the Association and any contractor handling or responsible for Association funds. The following provisions shall govern the Association's purchase of the bonds:

- (a) Each fidelity bond purchased by the Association shall name the Association as an obligee of the bond.
- (b) The premiums for bonds shall be paid by the Association.
- (c) The fidelity bonds shall be in the amount determined from time-to-time by the Board of Directors.
- (d) Each bond shall include a provision requiring ten (10) days' written notice to the Association before the bond can be canceled or substantially modified for any reason.

**7. Accounts and Reports**

The following standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual accounting (exclusive of depreciation and amortization), as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by any officer, director or employee of the Association from vendors, independent contractors, or others providing goods or services to



the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which any officer, director or employee of the Association may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and

(f) an annual report consisting of at least the following shall be distributed to all Members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. If determined by the Board of Directors, the annual report referred to above shall be prepared on an audited basis by a Certified Public Accountant selected by the Board of Directors. If unaudited financial statements are used, the unaudited financial statements will be certified by an officer of the Association.

#### **8. Agreements, Contracts, Deeds, Leases, Checks, Etc.**

All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by the President and Secretary or by such other members of the Board or officers of the Association as may be designated by resolution of the Board of Directors.

#### **9. Books and Records**

The Declaration, Articles of Incorporation, By-Laws, membership register, books of account and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any mortgagee, Owner or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as an Owner at the office of the Association. Such records shall include a record of receipts and expenditures and accounts for each Owner, which accounts shall designate the names and addresses of the Owners, the due dates and amount of each Assessment, the amounts paid upon the account and the balance due. Accounts of Owners shall only be available for inspection by the Board, the officers and the Owner or such Owner's mortgagee. Minutes of grievance hearings will not be released to any person other than the person subject to the disciplinary action. Books and records of the Association may be kept at the Association office at the Property or off-site at the office designated by Declarant.

The Board shall establish reasonable rules with respect to: (1) notice to be given to the custodian of the records; (2) hours and days of the week when an inspection may be made; and (3) payment of the cost of reproducing copies of documents requested.

Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

**10. Insurance**

The Association shall procure, maintain and keep in full force and effect insurance as may be required by the Declaration to protect the interests of the Association and the Owners.

**ARTICLE XII  
MISCELLANEOUS**

**1. Parliamentary Rules**

Robert's Rules of Order (then current edition) shall govern the conduct of Association proceedings when not in conflict with applicable law, the Articles of Incorporation, the Declaration, or these By-Laws.

**2. Construction**

If there are conflicts between the provisions of Florida law, the Articles of Incorporation, the Declaration and/or these By-Laws, the provisions of Florida law, the Declaration, the Articles of Incorporation, and these By-Laws (in that order) shall prevail.

**3. Validity**

If any By-Law or rule or regulation is adjudicated to be invalid, such fact shall not affect the validity of any other By-Law or rule or regulation.

**4. Notices**

Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first-class, postage prepaid: (a) if to an Owner or Member, at the address which the Owner or Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of the Owner or Member; or (b) if to the Association or the Board of Directors, then at the principal office of the Association or at such other address as shall be designated by the Association or the Board of Directors in writing and given to the Owners or Members in accordance with this Section.

**5. Amendments**

Until the Turnover Date, Declarant may amend these By-Laws in its sole and absolute discretion. After the Turnover Date, Declarant may amend these By-Laws at any time and from time to time, in its sole and absolute discretion, if such amendment is (a) necessary to bring any provisions hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on a Lot; (c) required by an institutional lender or a government mortgage agency or purchaser of mortgage loans to enable the same to make, insure or purchase mortgage loans on a Lot; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on a Lot subject to the Declaration; or (e) correct

any stenographic, scrivener's or surveyor's error or any error of a like nature; provided, however, any such amendment shall not adversely affect the title to a Lot, unless the Owner thereof shall consent thereto in writing.

After the Turnover Date and so long as it still owns any part of the Property or the Additional Property (as described in the Declaration) for development, Declarant may amend these By-Laws in its sole and absolute discretion for any other purpose; provided, however, that such amendment shall not materially and adversely affect the rights of any Owner of a Lot without the approval of such Owner.

After the Turnover Date, (a) any non-Declarant initiated amendment, or (b) any Declarant initiated amendment which has a materially adverse effect upon the rights of an Owner of a Lot, shall require the affirmative vote (in person or by proxy) or the written consent, or any combination thereof, of Members representing sixty-seven percent (67%) of the total votes in the Association (other than Declarant), and the consent of Declarant, so long as Declarant owns any portion of the Property or the Additional Property. However, the percentage of votes necessary to amend a specific clause shall be not less than the prescribed percentage of affirmative votes required for action to be taken under that clause.