

**BYLAWS**  
**OF**  
**GARDEN COVE RESIDENCE ASSOCIATION, INC.**  
FILED March 23, 2010  
Instrument No. 2010000073811, pages 87  
Lee County Clerk of Circuit Court  
(Updated with amendments enacted to 5/21/2024)

**ARTICLE 1**

**IDENTITY**

These are the Bylaws of Garden Cove Residence Association, Inc. (the “Association”), a Florida For Profit Corporation formed for the purpose of administering the Cooperative which is located in Lee County, Florida, upon the land described in the Garden Cove Master Occupancy Agreement (“Occupancy Agreement”).

**1.1 Office** – The office and principal place of business of the Association shall be at the Cooperative, or such other location within Lee County as may from time to time be determined by the Board of Directors.

**1.2 Fiscal Year** – The fiscal year of the Association shall be the calendar year, unless otherwise determined by the Board of Directors.

**1.3 Seal** – The Seal of the Association shall bear the name or abbreviated name of the Association, the word “Florida,” and the year of the incorporation.

**ARTICLE 2**

**DEFINITIONS**

The following terms when used in the Cooperative Documents and in their exhibits, and as it and they may hereafter be amended, shall have the respective meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

**2.1 “Act” or “Cooperative Act”** means the Cooperative Act, Chapter 719 of the Florida Statutes (2017) as same may be amended or renumbered from time to time. However, it is the intention of these Bylaws that the Association is permitted to operate pursuant to the version of

the Cooperative Act which existed when the Cooperative came into existence on May 6, 1988. Therefore, in the event of a variance between the provision of the Cooperative Documents and the Cooperative Act, the version of the Cooperative Act which existed when the Cooperative was created (i.e., May 6, 1988) shall be deemed controlling and supersede provisions of the current Cooperative Act.

**2.2 “Articles” or “Articles of Incorporation”** mean the Articles of Incorporation of the Association, as they may be amended from time to time.

**2.3 “Assessment”** means a share of the funds which are required for the payment of Common Expenses which from time to time is assessed against the Unit Owners. Assessments include Annual Assessments as provided by the budget adopted by the Board of Directors, and amendments thereof, as well as Special Assessments adopted by the Board.

**2.4 “Association”** means GARDEN COVE RESIDENCE ASSOCIATION, INC., a for profit Florida corporation, the entity responsible for the operation and maintenance of the Cooperative.

**2.5 “Association Property”** means real property other than the initial Cooperative Property in which title is held by the Association and is used for the use and benefit of its members.

**2.6 “Board” or “Board of Directors”** means the representative body which is responsible for administration of the Association, and which is the same body that is sometimes referred to in the Cooperative Act as the “Board of Administration.” Each Director must be a Unit Owner or the spouse of a Unit Owner. If a Unit is owned in trust, the Grantor or Settlor of the trust shall be eligible to serve on the Board, as shall any beneficiary of the trust who is an occupant of a Unit, and the spouses of such individuals shall also be eligible to serve.

**2.7 “Bylaws”** mean the Bylaws of the Association, as they may be amended from time to time.

**2.8 “Charge”** means any legal or equitable indebtedness to the Association incurred by, or on behalf of, a Unit Owner, other than Assessments for Common Expenses. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Cooperative Documents.

**2.9 “Common Areas”** means and includes the portions of the Cooperative Property which are not included in the Units, including, without limitation, the following items:

**2.9.1** Easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of Utility Services and/or heating, cooling, ventilation, or other services to more than one (1) Unit or to the Common Areas, together with related property and installations.

**2.9.2** The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Areas.

**2.9.3** Any other parts of the Cooperative Property designated as Common Areas in the Cooperative Documents or the Act.

**2.10 “Common Expenses”** means: (1) expenses of administration and management of the Cooperative Property; (2) expenses of maintenance, operation, protection, repair, or replacement of Common Areas; (3) expenses declared Common Expenses by the provisions of the Cooperative Documents or the Act; (4) any valid charge against the Cooperative as a whole; (5) expenses for the maintenance, protection, repair, or replacement of those portions of Units, if any, to be maintained by the Association; and (6) the costs of carrying out the powers and duties of the Association. Common Expenses also include reasonable transportation services, insurance for Directors and Officers, road maintenance and operation expenses, in-house communications, security services, and pest control services to the Units and Common Areas, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Areas or property of the Cooperative, and the cost of a master antenna and/or satellite television system or duly franchised cable television service obtained pursuant to a bulk contract approved by the Board.

**2.11 “Common Surplus”** means the excess of all receipts of the Association collected on behalf of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Areas, over the amount of Common Expenses.

**2.12 “Cooperative Documents”** means: (a) the documents that create and govern a cooperative, including, but not limited to, Articles of Incorporation of the Association, Bylaws, Rules and Regulations, and the Master Occupancy Agreement; and (b) the stock certificate evidencing a Unit Owner’s membership in the Association.

**2.13 “Cooperative Parcel”** means the share or other evidence of ownership in the Cooperative representing an undivided share in the assets of the Association, together with the rights conferred by the Master Occupancy Agreement or other muniment of title or possession.

**2.14 “Cooperative Property” or “Corporation Property”** means the lands initially acquired by the Association to form the Cooperative, and the personal property of the Association necessary to operate the Association.

**2.15 “Family,” “Single Family,” or words of similar import** shall refer to either of the following:

**2.15.1** Not more than two (2) unrelated persons living together as a single housekeeping Unit.

**2.15.2** Two (2) persons related by blood, marriage, or adoption and living together as a single housekeeping Unit.

**2.15.3** The reference to “person” herein means a natural person and not a corporation or other artificial entity.

**2.16 “Guest”** means any person who is not the Unit Owner, or a tenant, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the Unit Owner or other legally permitted occupant, without the payment of consideration.

**2.17 “Manufactured Home”** means a house built off-site, a prefabricated home, or a mobile home.

**2.18 “Rules and Regulations”** means those Rules and Regulations promulgated by the Board of Directors, governing the use, occupancy, alteration, maintenance, transfer and appearance of Units, Common Areas and Limited Common Areas, and the operation and administration of the Association, subject to any limits set forth in these Bylaws.

**2.19 “Unit”** means a part of the Cooperative Property which is subject to exclusive use and possession.

**2.20 “Unit Owner” or “Owner of a Unit” or “Owner”** means the owner of a Cooperative Parcel.

**2.21 “Utility Service”** means and is intended to include, but not be limited to, electric power, gas, telephone, heating, garbage, drainage, and sewage disposal.

**2.22 “Voting Interest”** means and refers to the one (1) vote appurtenant to each Unit.

### **ARTICLE 3**

#### **MEMBERS’ MEETINGS**

**3.1 Annual Meetings** – Annual members’ meetings shall be held at the Cooperative or at such other convenient location in the State of Florida as may be determined by the Board of Directors each year, but limited to the months of January through March, at a date and time determined by the Board of Directors, for the purpose of electing Directors and transacting any other business authorized to be transacted by the members. The Board may, from time to time, establish a different date and time for the annual meeting.

**3.2 Special Meetings** – Special members’ meetings shall be held whenever called by the President or by a majority of the Board of Directors and when requested by written notice from twenty-five percent (25%) of the Voting Interests. Such request must state the purpose of the proposed meeting. Members’ meetings to recall a member or members of the Board of Directors may be called by ten percent (10%) of the Association Voting Interests giving notice of the meeting and stating the purpose of the meeting pursuant to the Act. On the written request of any person or persons entitled to call a special meeting, the Secretary shall inform the Board of Directors as to such call and the Board shall fix a time and place for the meeting. If the Board fails to fix such a time and place, the meetings shall be held at the principal office of the Association at a time fixed by the Secretary.

**3.3 Notice Of General Members’ Meetings** – Notice of all members’ meetings shall be sent to each Unit Owner by the United States mail, or by hand delivery, unless waived in writing, at least fourteen (14) days prior to the meeting, provided however, that any members’ meetings or election at which one or more Directors are to be elected must be noticed as provided for in Section 3.4 next following. If mailed, such notice shall be deemed to have been delivered when deposited in the United States mail, addressed to the Unit Owners to receive it at his address as it then appears on the records of the Association. Electronic notice shall also be permitted, as prescribed by law.

**3.3.1** The person giving notice shall execute an affidavit of mailing per Section 719.106(1)(d) of the Act, which shall be retained in the official records of the Association as proof of such mailing. Notice of a meeting of members, stating the time and place and the purpose(s) for which the meeting is called, shall be given by the President or Secretary or other designee of the Board. The notice shall include an agenda for all known substantive matters to be discussed, or have such an agenda attached to it. A copy of the notice and agenda shall be posted at the Cooperative Clubhouse Bulletin Board (“Clubhouse”) not less than fourteen (14) days prior to the date of the meeting.

**3.4 Board Of Directors Election Meetings – Notice And Procedure** – The regular election shall occur on the date of the annual meeting.

**3.4.1** Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each Unit Owner entitled to vote, a first notice of the date of the election. Any Unit Owner desiring to be a candidate for the Board of Directors shall give written notice to the designee of the Association not less than forty (40) days before the scheduled election. Not less than fourteen (14) days before the election, the Association shall then mail or deliver a second notice of the election to all Unit Owners entitled to vote therein, together with a written ballot which shall include an information sheet, no larger than 8-1/2 inches by 11 inches if so furnished by the candidate, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. The election of Directors shall occur on the same day as the annual meeting. As to items to be considered at the meetings other than the election of Directors, the notice and agenda shall comply with Section 3.3 above.

**3.4.2** At the discretion of the Board of Directors, either ballots or a voting machine will be available at the annual meeting for use of owners in connection with the election of Directors. A Unit Owner who needs assistance in voting due to blindness, disability or inability to read or write may obtain assistance but no Unit Owner shall permit another person to cast his ballot for electing Directors and any such ballots improperly cast shall be deemed invalid.

**3.4.3** The quorum requirement necessary for election shall be ballots cast by twenty percent (20%) of the eligible voters, and elections shall be decided by plurality of those votes cast. Write-in candidates are not permitted.

**3.4.4** The Board of Directors may appoint a Committee to explain the role of the Board members, encourage eligible person to volunteer to serve the Board, and generally strive to ensure that a sufficient number of candidates will respond to the first election notice to allow all vacancies to be filled.

**3.4.5** It is the intention of this Article 3.4.5 to “opt out” of the statutory election procedure found at Section 719.106(1)(d)(1) of the Act, and related provisions of Florida Administrative Code, as amended from time to time. To this end, the Board may establish additional election rules as it deems appropriate to ensure a fair election process. Substantial compliance with these Bylaws relative to election procedures is sufficient.

**3.4.6 Eligibility.** A Unit Owner who has been suspended or removed by the Division under this Chapter, or who is delinquent in the payment of any monetary obligation due to the Association, is not eligible to be a candidate for board membership and may not be listed on the ballot. A director or officer charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property is suspended from office. The Board shall fill the vacancy according to general law until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. However, if the charges are resolved without a finding of guilt or without an acceptance of a plea of guilty or nolo contendere, the director or officer shall be reinstated for any remainder of his or her term of office. A Unit Owner who has such criminal charges pending may not be appointed or elected to a position as a director or officer. A Unit Owner who has been convicted of any felony in this state or in any United States District Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for Board membership unless such felon's civil rights have been restored for at least five years as of the date such Unit Owner seeks election to the Board. The validity of an action by the Board is not affected if it is later determined that a Board member is ineligible for Board membership due to having been convicted of a felony.

**3.4.7. Election Challenges.** Any challenge to the election process must be commenced within 60 days of the election.

**3.4.8. Certification.** Within 90 days after being elected or appointed to the Board, each new director shall certify in writing to the secretary of the Association that he or she has read the Association's bylaws, Articles of Incorporation, proprietary lease, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the Association's members. Within 90 days after being elected or appointed to the Board, in lieu of this written certification, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by an education provider as approved by the Division pursuant to the requirements established in Chapter 718 within 1 year before or 90 days after the date of election or appointment. The educational certificate is valid and does not have to be resubmitted as long as the director serves on the Board without interruption. A director who fails to timely file the written certification or education certificate is suspended from service on the Board until he or she complies with this sub-paragraph. The Board may temporarily fill the vacancy during the period of suspension. The secretary of the Association shall cause the Association to retain a director's written certification or educational certificate for inspection by the members for 5 years after a director's election or the duration of the director's uninterrupted tenure, whichever is longer. Failure to have such written certification or educational certificate on file does not affect the validity of any Board action.

**3.5 Quorum** – A quorum at the Annual Members' Meetings shall consist of persons entitled to cast fifty-one percent (51%) of the votes of the entire membership (i.e., 51 Voting Interests). Decisions made by a majority of the Voting Interests represented at a meeting at which a quorum is present in person or by proxy shall be binding and sufficient for all purposes except such decisions as may by the Act or the Cooperative Documents require a larger percentage in which case the percentage required in the Act or the Cooperative Documents shall govern.

**3.6 Indivisible Vote And Voting Certificates** – Each Unit shall be entitled to one indivisible vote. If a Unit is owned by multiple individuals, such as a husband and wife, any record owner may vote on behalf of the Unit. If a Unit is owned in trust, any grantor, trustee or beneficiary of a trust shall be entitled to vote if they occupy the Unit.

**3.7 Proxies** – Votes may be cast in person or by proxy. Proxies shall be in writing, signed and dated and shall be valid only for the particular meeting designated therein or an adjournment thereof, but in no event for more than ninety (90) days, and must be filed with the Association before or at the voter registration immediately preceding the meeting or adjournment thereof. Except as specifically otherwise provided by law, Unit Owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form approved by the Division. General proxies may be used to establish a quorum. Limited proxies shall be used for votes regarding reserves; for votes taken to waive financial statement requirements; for votes taken to amend the Cooperative Documents; and for any other matter which the Act requires or permits a vote of the Unit Owners. No proxy, limited or general, shall be used in the election of Board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given. An executed telegram or cablegram appearing to have been transmitted by the proxy giver, or a photographic, photostatic, facsimile or equivalent reproduction of a proxy is a sufficient proxy. Owners may retroactively cure any alleged defect in a proxy by signing a statement ratifying the owner's intent to cast a proxy vote. The use of proxies is to be liberally construed.

**3.8 Adjourned Meetings** – If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting from time to time, without need for further mailed or posted noticed, until a quorum is present. At such adjourned, continued or recessed meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting originally called.

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

- (a) Appointment of inspectors of election;
- (b) Election of Directors; (If there are only as many, or fewer, pre-qualified candidates as there are seats on the Board, the election need not be held and the pre-qualified candidates shall assume Board seats immediately upon conclusion of the annual meeting).
- (c) Call to order by the President;
- (d) At the discretion of the President, appointment by the President of a chairman of the meeting (who need not be a member or a Director);
- (e) Calling of the roll, certifying of proxies, and determination of a quorum; or in lieu thereof, certification and acceptance of registration procedures establishing the number of persons present in person or by proxy;

- (f) Proof of notice of the meeting or waiver of notice;
- (g) Reading or waiver of reading unapproved minutes;
- (h) Reports of Officers;
- (i) Reports of Committees;
- (j) Unfinished business;
- (k) New business;
- (l) Adjournment.

## **ARTICLE 4**

### **BOARD OF DIRECTORS**

Subject to other limitations of the Cooperative Documents, and the Florida General Corporation Act, and the Cooperative Act concerning action that must be authorized or approved by the Unit Owners of the Association, all corporate powers shall be exercised by or under the authority of the Board of Directors, and the business and affairs of the Association shall be controlled by the Board.

**4.1 Number, Term, And Qualifications** - The affairs of the Association shall be governed by a Board composed of seven (7) Directors. The qualifications for service on the Board shall be as set forth in Article 2.6 of the Bylaws. No more than one (1) natural person from each Unit shall be eligible to be a candidate for election to Board membership, or serve on the Board. Directors shall serve staggered terms of three (3) years. The term of each Director's service shall extend until their elected term is completed and thereafter until their successor is duly elected and qualified or until the Director is recalled or resigns. Resignations of Directors may be verbal or in writing and are effective when received by the Association or announced verbally, unless a later date is stated. A seat held by a Director who ceases to be a member of the Association shall thereby automatically become vacant. A person who has been convicted of any felony and who has not had his or her right to vote restored pursuant to law is not eligible and not qualified to be a Director.

**4.2 Board Vacancies** – Vacancies in the Board of Directors shall be filled by appointment by a majority of the remaining Directors for the remainder of the unexpired term, provided that a vacancy created by the recall of a Director by the membership shall be filled pursuant to the provisions of the Act. A Director may be removed by the vote of a majority of the total Voting Interests in the Association.

**4.2.1** A vacancy in the Board of Directors shall exist on the happening of any of the following events:

- (1) A Director dies, resigns, transfers title to his or her Unit (and is no longer the Owner of any other Unit) or is removed from office;



(2) The authorized number of Directors is increased without the simultaneous election of a Director or Directors to fill the newly authorized position;

(3) The Unit Owners at any annual, regular or special meeting at which the Directors are to be elected, elect less than the number of Directors authorized to be elected at that meeting.

**4.2.2** A reduction in the authorized number of Directors does not remove any Director from office prior to the expiration of this term of office.

**4.3 Organization Meeting** – The organizational meeting of each newly elected Board of Directors to elect Officers shall be held at such place and time as shall be fixed by the Directors, provided a quorum shall be present. Unless otherwise noticed, it shall be held immediately following each annual meeting of the Unit Owners.

**4.4 Regular Meetings** – Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings, unless fixed by Board resolution, shall be given to each Director personally or by mail, telephone, electronic mail, or facsimile at least forty-eight (48) hours prior to the date named for such meeting.

**4.5 Special Meetings** – Special meetings of the Board of Directors may be called by the President and must be called by the Secretary at the written request of any two (2) Directors. Not less than forty-eight (48) hours notice of the meeting (except in an emergency) shall be given personally or by mail, telephone, electronic mail or facsimile, which notice shall state the time, place and purpose of the meeting.

**4.6 Waiver Of Notice** – Any Director may waive notice of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving notice. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting, unless attendance is for the sole and express purpose of objecting to the meeting as being unlawfully called.

**4.7 Notice To Owners Of Board Meetings** – Notice of Board meetings, which shall specifically include an agenda, shall be posted on the Clubhouse Bulletin Board at least 48 continuous hours, in advance for the attention of Owners, except in an emergency.

**4.7.1** Written notice of any meeting at which non-emergency Special Assessments, or at which Rules, or amendments thereof, regarding Unit use will be considered shall be mailed or delivered to the owners and posted at the Clubhouse not less than fourteen (14) continuous days prior to the meeting. Evidence of compliance with this 14-day notice shall be by an affidavit executed by the person giving notice and filed among the official records of the Association. The specific location on the Cooperative property upon which all notices of Board meetings shall be posted shall be the Clubhouse Bulletin Board.

**4.7.2** Notice of any meeting in which Assessments against members are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such Assessments. Notice of such special meetings shall be in writing and mailed

or delivered to the owners at least fourteen (14) days prior to the date of this meeting. The business to be transacted at and the purpose of any such meeting must be specified in the notice.

**4.8 Owner Participation In Board Meetings** – Except for meeting with counsel to discuss pending or threatened litigation or meetings held to discuss personnel matters, meetings of the Board of Directors shall be open to all Unit Owners. The right to attend such meetings includes the right to speak with reference to all designated agenda items provided, however, the Association may adopt reasonable rules governing the frequency, duration and manner of Unit Owner statements. Members of the Board may participate in a meeting of the Board by means of a conference telephone or similar communications equipment by which all persons participating can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

**4.9 Board Meetings, Quorum And Voting** – A quorum at Directors’ meetings shall consist of a majority of the Directors. The acts approved by a majority of Directors present at a meeting shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot (except for the election of Officers) at Board meetings and a vote or abstention for each member present shall be recorded in the minutes. Directors may not abstain from voting except in the case of an asserted financial conflict of interest. If at any meeting of the Board there be less than a quorum present, the Director(s) present may adjourn the meeting from time to time, without need for further posting of notice, until a quorum is present. At any adjourned meeting, which must be properly noticed, any business which might have been transacted at the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum.

**4.10 Presiding Officer** – The presiding Officer at Directors’ meetings shall be the President and in his absence, then the Vice President shall preside. In the absence of the presiding Officer, the Directors present shall designate one of their members to preside.

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

**4.12. Recall of Directors** – The members have a right to recall any member of the Board of Directors. All recalls shall be governed by §719.301, *Florida Statutes*. The vote to effect a recall is a majority of the Unit Owners entitled to vote.

## ARTICLE 5

### POWERS AND DUTIES OF THE BOARD

All of the powers and duties of the Association existing under the Florida Corporation Statutes, the Cooperative Act, and the Cooperative Documents shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees subject only to the approval by owners when such is specifically required. Such powers and duties of the Directors shall include, but shall not be limited to, the following:

**5.1 To Adopt Budgets And Make And Collect Assessments** against Owners to defray the costs of the Association.

- 5.2 To Use The Proceeds Of Assessments** in the exercise of its powers and duties.
- 5.3 To Maintain, Repair, Replace And Operate** of the Cooperative Property.
- 5.4 To Enact And Amend Rules And Regulations** concerning the transfer, use, appearance, and occupancy of the Units, Common Areas, Association Property and the operation and administration of the Association. The Board of Directors may establish restrictions on, and requirements respecting, the placement, use and maintenance of manufactured homes located within the Cooperative, provided that such restrictions are not inconsistent with the Occupancy Agreement or applicable laws or ordinances.
- 5.5 To Reconstruct Common Area Improvements After Casualty** and further improve the Cooperative Property.
- 5.6 To Approve Or Disapprove Proposed Transactions** (sales, other conveyances and leases) in the manner provided by the Occupancy Agreement and to charge a preset fee, not to exceed the maximum permissible by law, in connection with such approval.
- 5.7 To Enforce** by legal means the provisions of applicable laws and the Cooperative Documents, and to interpret said Cooperative Documents, as the final arbiter of their meaning.
- 5.8. To Contract For Management** of the Cooperative and to delegate to the management agent or manager any powers and duties except those things which may not be delegated under the Cooperative Documents or applicable law.
- 5.9 To Carry Insurance** for the protection of the Common Areas and the Association.
- 5.10 To Pay The Cost Of All Utility Services** rendered to the Cooperative and not billed to owners of individual Units.
- 5.11 To Employ Personnel** and designate other Officers for reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.
- 5.12 To Bring And Defend Suits, Make And Execute Contracts, Deeds, Mortgages, Notes, And Other Evidence Of Indebtedness, Leases** and other instruments by its Officers and to purchase, own, lease, convey and encumber real and personal property. The Board may grant licenses over the Cooperative Property necessary or desirable for proper operation of the Cooperative. The Association shall have the authority, without the joinder of any Unit Owner to modify or move any easement for ingress and egress or for the purposes of utilities if the easement constitutes part of or crosses the Cooperative Property. The authority of the Association is limited in that it does not authorize the Association to modify or move any easement created in whole or in part for the use or benefit of anyone other than the Unit Owners without their consent or approval as required by law or the instrument creating the easement. This provision shall not be construed as affecting the rights of ingress or egress of any Unit Owner.
- 5.13 To Enter Into Contracts For Products And Services** – All contracts for the purchase, lease or renting of materials or equipment, or which are not to be fully performed within one year, and all contracts for services shall be in writing. As to any such contract which requires payment

exceeding 5% of the gross budget (including reserves) except for contracts with employees of the Association, attorneys, accountants, architects, engineers and landscape architects, the Association shall obtain competitive bids unless the products and services are needed as the result of any emergency or unless the desired supplier is the only source of supply within the County serving the Association. The Association need not accept the lowest bid. The Board of Directors may authorize any Officer or Officers, or any agent or agents of the Association to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

**5.14 To Levy Fines** – The Directors may, pursuant to Section 719.303 of the Act, impose fines against a Unit Owner not to exceed the maximum permissible by law, for failure of the Unit Owners or his or her licensee or invitee or the Unit occupants to comply with the provisions of the Cooperative Documents, including the Rules and Regulations. A fine may be imposed for each day of continuing violation with a single notice and opportunity for hearing, provided that no fine shall in the aggregate exceed \$1,000.00 per violation, or such maximum amount as is permissible by law.

**5.14.1** The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days and said notice shall include:

1. A statement of the date, time and place of the hearing;
2. A statement of the provisions of the Cooperative Documents which have allegedly been violated;
3. A short and plain statement of the matters asserted by the Association.

**5.14.2** The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have the opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The hearing shall be held before a Committee of Unit Owners who are not Directors or the spouses of Directors. If the Committee does not agree with the fine, the fine may not be levied. Should the Association be required to initiate legal proceedings to collect a duly levied fine, the prevailing party in an action to collect said fine shall be entitled to an award of costs, and a reasonable attorney's fee incurred before trial, at trial, and on appeal.

**5.15 To Establish Committees** – The Directors may appoint Committees. All Committees and Committee members shall serve at the pleasure of the Board. All Committees of the Association which are authorized to act on behalf of the Board or to make recommendations to the Board regarding the Association budget shall conduct their affairs in the same manner as provided in these Bylaws for Board of Director meetings. All other Committees may meet and conduct their affairs in private without prior notice or owner participation, if the Board has determined that it is in the best interests of the Association to do so, and such meetings and activities are lawful.

**5.16 To Maintain Association Funds** - To select depositories for Association funds and to determine the manner of receiving, depositing, and disbursing Association funds, and the form of check and the person or persons by whom checks shall be signed on behalf of the Association.

**5.16.1** All checks, drafts or other orders for the payment of money by or to the Association, and all notes and other evidence of indebtedness issued in the name of the Association shall be signed by such Officer or Officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

**5.16.2** All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

**5.17 To Keep Accounting Records** - The Association shall maintain accounting records in the county where the property is located, according to good accounting practices. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times, and written summaries of such reports shall be supplied at least annually to the Unit Owners or their authorized representatives. The records shall include, but shall not be limited to:

1. A record of all receipts and expenditures.
2. An account for each Unit Owner, designating the name and current mailing address of the Unit Owner, the amount of each Assessment, the dates and amounts in which the Assessments come due, the amount paid upon the account, and the balance due.

**5.18 To Borrow Money** - Borrowing money, executing promissory notes mortgages, notes, and other evidences of indebtedness and to give as security therefore mortgages and security interests on the Cooperative Property including intangible property such as receivables, provided that such actions are for the purpose of purchasing, acquiring, or leasing Common Areas or Association Property, or for the purpose of maintenance, repair, replacement, or protection of the Common Areas, the portions of the Units maintained by the Association, or Association Property, or for material alterations or substantial additions to the Common Areas.

**5.19 To Convey Property** - Conveying a portion of the Common Areas to a condemning authority for the purpose of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

**5.20 To Exercise Emergency Powers** - In the event of any “emergency” as defined in Section 5.20.8 below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by law.

**5.20.1** To accommodate the incapacity of any Officer during an emergency, the Board may name as Assistant Officers persons who are not Directors, which Assistant Officers shall have the same authority as the executive Officers they are assisting

**5.20.2** The Board may relocate the principal office or designate alternative principal offices or authorize the Officers to do so.

**5.20.3** During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any

practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

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

**5.20.5** The Board may use reserve funds to meet Association needs.

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

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

**5.20.8** For purposes of this Section only, an “emergency” exists only during a period of time that the Cooperative or the immediate geographic area in which the Cooperative is located, is subjected to:

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

**5.20.8.2** a hurricane warning;

**5.20.8.3** a partial or complete evacuation order;

**5.20.8.4** federal or state “disaster area” status;

**5.20.8.5** a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage any portion of the physical existence of the Cooperative Property, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism; or,

**5.20.8.6** an unanticipated set of circumstances, which, if not acted upon with immediacy, is likely to cause imminent and significant threat of physical, bodily, or financial harm to the Association, the Unit Owners, Cooperative Property, or Association Property.

## **ARTICLE 6**

### **OFFICERS**

The principal Officers of the Association shall be elected by the Board of Directors at its organizational meeting immediately following the annual meeting of Unit Owner, or as soon thereafter as is reasonably possible. Subordinate Officers may be elected from time to time as the Board may see fit. Each Officer shall hold office for one year, or until his resignation, death or removal, or his successor is duly elected.

**6.1** Any Officer may be removed from office at any time, with or without cause, on the affirmative vote or agreement in writing by a majority of the Board of Directors.

**6.2 Executive Officers** – The executive Officers of the Association shall be the President, one or more Vice President(s), a Secretary, and a Treasurer.

**6.3 President – Powers And Duties** – The President shall be the chief executive Officer of the Association, shall preside at all meetings of the Board of Directors and Association meetings. The President shall have general supervision over the affairs of the Association and shall have all of the powers and duties which are usually vested in the office of President of the Association. The President may appoint committees from among the members of the Association from time to time to assist in the conduct of the affairs of the Association. Such power shall not preclude the ability of the Board to designate or appoint committees from time to time. Powers of the President may include: supervise and direct generally all the business and affairs of the Association; preside at all meetings of Unit Owner at which he is present. The President may sign, with the Secretary or any other Officer of the Association so authorized by the Board of Directors, certificates for shares of the Association, and any deeds, mortgages, bonds, contracts or other instruments that the Board of Directors has authorized for execution, except when the signing and execution thereof has been expressly delegated by the Board of Directors to some other Officer or agent of the Association or is required by law to be otherwise signed or executed. The President shall also make reports to the Board of Directors and Unit Owners, and such other duties as may be prescribed from time to time by the Board of Directors.

**6.4 Vice President – Powers And Duties** – The Vice President shall in the absence or disability of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

**6.5 Secretary – Powers And Duties** – The Secretary shall keep the minutes of all proceedings of the Directors and the members; shall attend to the giving and serving of all notices to the members and Directors and other notices required by law; shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed; shall keep and have custody of the records of the Association, except those of the Treasurer; and shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President. Specific duties of the Secretary include:

**6.5.1** To keep the minutes for the meetings of Unit Owners and of the Board of Directors, in one or more books provided for that purpose.

**6.5.2** To see that all notices are duly given, in accordance with these Bylaws or as required by law.

**6.5.3** To be custodian of the corporate records and the seal of the Association.

**6.5.4** To see that the seal of the Association is affixed to all documents duly authorized for execution under seal on behalf of the Association.

**6.5.5** To keep a register of the post office address of each Unit Owner whose address shall be furnished to the Secretary by the Unit Owner.

**6.5.6** To sign with the President or Vice President certificates for corporate shares, the issuance of which have been authorized by resolution of the Board of Directors.

**6.5.7** To have general charge of the transfer books of the Association.

**6.5.8** To perform all duties incidental to the office of Secretary and such other duties as may be assigned to the Secretary, from time to time, by the President or the Board of Directors.

**6.6 Treasurer – Powers And Duties** – The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness; shall keep the Assessment rolls and accounts of the members; shall keep the books of the Association in accordance with good accounting practices; and shall perform all other duties incident to the office of the Treasurer of a Association. Powers and duties of the Treasurer shall include:

**6.6.1** To be custodian and take charge of and be responsible for all funds and securities of the Association.

**6.6.2** To receive and give receipts for money due and paid to the Association from any source whatsoever.

**6.6.3** To deposit all such monies paid to the Association in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these Bylaws.

**6.6.4** To perform all of the duties incidental to the office of Treasurer and such other duties as may be assigned to the Treasurer, from time to time, by the President and the Board of Directors.

**6.6.5** To give a bond for faithful discharge of his duties when required to do so by the Board of Directors.

**6.7 Officers Compensation** – Officers shall not be entitled to compensation for service as such, but shall be entitled to reimbursement of expenses reasonably incurred.

## **6.8 Indemnification**

**6.8.1 Indemnity** – The Association shall indemnify any Officer, Director or committee member who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, Officer or committee member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless (a) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest if the Association,



and, with respect to any criminal action or proceeding, that he has reasonable cause to believe his conduct was unlawful, and (b) such court determines specifically that indemnification should be denied. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their Officers, Directors and committee members as permitted by Florida law.

**6.8.2** To the extent that a Director, Officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 6.8.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

**6.8.3 Advances** – Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the affected Director, Officer, or committee member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article 6.8.

**6.8.4 Miscellaneous** – The indemnification provided by this Article 6.8 shall be in addition to the provisions of the Articles of Incorporation, and shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of members or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person.

**6.8.5 Insurance** – The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, committee member, employee or agent of the Association, as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article. The Association shall obtain and maintain adequate insurance to protect the Association and the park property. A copy of each policy of insurance in effect shall be made available for inspection by shareholders at reasonable times.

**6.8.6 Amendment** – Anything to the contrary herein notwithstanding, the provisions of this Article 6.8 may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

**6.9 Delegation** – To the extent permitted by law, the powers and duties of the Directors and Officers may be delegated for the purpose of management.

## ARTICLE 7

### MINUTES AND INSPECTION OF RECORDS

**7.1. Minutes.** - Minutes of all meetings of Unit Owners and of the Board of Directors shall be kept in a businesslike manner and shall be reduced to written form within thirty (30) days.

**7.2 Official Records** -- The official records of the Association must be maintained within the state for at least 7 years. The records of the Association shall be made available to a Unit Owner within 45 miles of the cooperative property or within the county in which the cooperative property is located within 5 working days after receipt of written request by the board or its designee. This paragraph may be complied with by having a copy of the official records of the Association available for inspection or copying on the cooperative property or the Association may offer the option of making the records available to a Unit Owner electronically via the Internet or by allowing the records to be viewed in an electronic format on a computer screen and printed upon request. The Association is not responsible for the use or misuse of the information provided to an Association member or his or her authorized representative pursuant to the compliance requirements of this chapter unless the Association has an affirmative duty not to disclose such information pursuant to this chapter

**7.2.1** The official records of the Association are open to inspection by any Association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the Association member. The Association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an Association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the Association willfully failed to comply with this paragraph. A Unit Owner who is denied access to official records is entitled to the actual damages or minimum damages for the Association's willful failure to comply. The minimum damages are \$50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the Association or one or more of its members, is personally subject to a civil penalty pursuant to s. 719.501(1)(d). The Association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 719.504 and year-end financial information required by the department, on the cooperative property to ensure their availability to Unit Owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. An Association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the Association providing the member or his or her authorized representative with a copy of such records. The Association may not charge

a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records shall not be accessible to Unit Owners:

**7.2.1.1.** Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including any record prepared by an Association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

**7.2.1.2.** Information obtained by an Association in connection with the approval of the lease, sale, or other transfer of a unit.

**7.2.1.3** Personnel records of Association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an Association employee or management company, or budgetary or financial records that indicate the compensation paid to an Association employee.

**7.2.1.4** Medical records of Unit Owners.

**7.2.1.5** Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a Unit Owner other than as provided to fulfill the Association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the Association to fulfill the Association's notice requirements. Notwithstanding the restrictions in this subparagraph, an Association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the Association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The Association is not liable for the inadvertent disclosure of information that is protected under this subparagraph if the information is included in an official record of the Association and is voluntarily provided by an owner and not requested by the Association.

**7.2.1.6** Electronic security measures that are used by the Association to safeguard data, including passwords.

**7.2.1.7** The software and operating system used by the Association which allow the manipulation of data, even if the owner owns a copy of the same software used by the Association. The data is part of the official records of the Association.

**7.2.1.8** Except for assessment records, the Association will destroy the unit owner's files for Unit Owners who sell their homes and move out of the community.

## ARTICLE 8

### FISCAL MANAGEMENT

Shall be in accordance with the following provisions:

**8.1 Budget** – A proposed annual budget of Common Expenses shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the Cooperative including insurance, management fees, if any, and which may include expenses of in-house communications and security, bulk cable television, and which shall include reserves per Section 719.106(1)(j) of the Act which may later be waived by the members in accordance with applicable Law.

**8.1.1** The Board may elect to submit the question of waiving reserves to a shareholder vote at the annual meeting or a special meeting of the members, in which case, such waiver may be retroactive to the beginning of the fiscal year. Reserve funds and any accrued interest on the funds shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the voting members present at a duly called meeting of the Association, or by the written approval of a majority of the voting members. Reserves and operating funds may be commingled for investment purposes. The budget may contain a reasonable allowance for contingencies and provide funds for all unpaid operating expense previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year, provided that notice of the Board meeting at which the revised budget will be considered along with a copy of the proposed revisions to the budget shall be mailed to each member as provided herein.

**8.1.2** The budget shall be adopted by the Board of Directors provided that the shareholders shall be given written notice of the time and place at which the meeting of the Board of Directors is to be held to consider the adoption of the budget, and a copy of the proposed budget. The budget meeting shall be open to all shareholders.

**8.1.3** The Board of Directors may, in its discretion, propose a budget to the shareholders at the annual meeting, or propose such budget in writing to the members, and elect a procedure whereby the budget or proposed budget is approved by the shareholders at the annual meeting or by a majority vote of their whole number in writing. If such procedure is elected by the Board of Directors then the budget shall not thereafter be examined by the shareholders.

**8.2 Mailing** – A copy of the proposed annual budget shall be mailed to the shareholders not less than fourteen (14) days prior to the meeting of the Directors at which the budget will be adopted together with a notice of the meeting.

**8.3 Assessments** – The shares of the owners of the Common Expenses may be made payable in installments due monthly or quarterly (as determined by the Board) in advance and shall become due on the first day of each such period and which shall become delinquent ten (10) days thereafter. The Association shall have the right to accelerate Assessments of an owner delinquent in the payment of Common Expenses. Accelerated Assessments shall be due and payable on the date a claim of lien is filed and may include the amounts due for the remainder of the fiscal year for which the claim of lien was filed.

**8.3.1** Assessments for managing and operating the Association shall at all times be equal and shall be established by the Board of Directors at its annual meeting or at a specially called meeting in which all Unit Owners receive proper notice under and pursuant to Article 3.4 of these Bylaws. Any Assessment shall be based upon the percentage one corporate share bears to the total number of shares outstanding of the Association, i.e. 1/100.

**8.3.1.1** Assessments by the Board of Directors shall not be made against the Unit Owners less frequently than quarterly in amounts no less than are required to provide funds in advance for payments of all the anticipated current operating expenses, and for all the unpaid operating expense previously incurred.

**8.3.1.2** No amendment to the Bylaws, and in particular this section, may change the proportion or percentage by which members share in the expense unless all of the members approve the amendment.

**8.4 Special Assessments** – Assessments for Common Expenses, which are not provided for and funded in the budget or an amendment to the budget, may be made by the Board of Directors, and the time of payment shall likewise be determined by them. Notice of the Board meeting at which such Assessments shall be considered shall be posted and mailed to each Unit Owner as provided in Article 4.7 hereof. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Unit Owners or applied as a credit towards future Assessments.

**8.5 Assessment Roll** – The Assessments for Common Expenses and Charges shall be set forth upon a roll of the shareholders which shall be available for inspection at all reasonable times by owners. Such roll shall indicate for each share the name and address of the owner, and the Assessments and Charges paid and unpaid. A certificate made by a duly authorized representative of or by the Board of Directors as to the status of a Unit's account may be relied upon for all purposes by any person for whom made.

**8.6 Liability For Assessments And Charges** – A Unit Owner shall be liable for all Assessments and Charges coming due while the owner of a share, and such owner and owner's grantees after a voluntary conveyance shall be jointly and severally liable for all unpaid Assessments and Charges due and payable up to the time of such voluntary conveyance. Liability may not be avoided by waiver of the use or enjoyment of any common elements or Association Property or by abandonment of the Unit for which the Assessments are made. Where an institutional mortgagee holding a first mortgage of record obtains title to a share by foreclosure, such mortgagee and its successors and assigns shall only be liable for such share's Assessments, Charges or share of the Common Expenses which became due prior to acquisition of title as provided in the Florida Cooperative Act, as amended from time to time.

**8.7 Liens For Assessments** – The unpaid portion of an Assessment, including an accelerated Assessment which is due, together with all expenses, costs, interest, late fees, and reasonable attorney's fees for collection, including appeals, shall be secured by a lien upon the Unit, and all

appurtenances thereto when a notice claiming the lien has been recorded by the Association in accordance with the requirements of Section 719.108 of the Act.

**8.8 Lien For Charges** – Unpaid Charges which are due together with costs, interest, late fees, and reasonable attorney’s fees including appeal, for collection shall be secured by a common law lien upon the Unit and appurtenances thereto when a notice claiming the lien has been recorded by the Association.

**8.9 Collection – Interest; Administrative Late Fee; Application Of Payments** – Assessments or Charges paid on or before ten (10) days after the date due shall not bear interest, but all sums not paid on or before ten (10) days shall bear interest at the highest lawful rate (now 18% per annum) from the date due until paid. In addition to such interest the Association may Charge an administrative late fee in an amount not to exceed the greater of \$25.00 or 5% of each installment of the Assessment or Charge for which payment is late, or the maximum late fee permissible by law. All payments upon account shall be first applied to interest, then the late fee, then to any expenses of collection and costs and reasonable attorney’s fees incurred and then to the Assessment or Charge payment first due.

**8.10 Collection – Suit** – The Association, at its option, may enforce collection of delinquent Assessments or Charges by suit at law, by foreclosure of the lien securing the Assessments or Charges, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment or decree, together with those which have become due by acceleration plus interest thereon and all costs incident to the collection and the proceedings, including reasonable attorneys’ fees, including appeals. The Association must deliver or mail by certified mail to the shareholder a written notice of its intention to foreclose the lien as provided by law.

**8.10.1(a)** If a Unit owner is more than 90 days delinquent in paying a monetary obligation due to the Association, the Association may suspend the right of the Unit owner or the Unit’s occupant, licensee, or invitee to use common elements, common facilities, or any other Association property until the monetary obligation is paid in full. This subsection does not apply to limited common elements intended to be used only by that Unit, common elements needed to access the Unit, utility services provided to the Unit or parking spaces. The Unit Owner is not entitled to a hearing in this context.

**8.10.1(b)** The Association may suspend the voting rights of a Unit Owner due to nonpayment of any monetary obligation due to the Association which is more than 90 days delinquent. A voting interest or consent right allocated to a Unit Owner which has been suspended by the Association may not be counted towards the total number of voting interests for any purpose, including, but not limited to, the number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action under this chapter or pursuant to the cooperative documents, articles of incorporation, or bylaws. The suspension ends upon full payment of all obligations currently due or overdue the Association.

**8.10.1(c)** All suspensions must be approved at a properly noticed board meeting. Upon approval, the Association must notify the Unit Owner and, if applicable, the Unit's occupant, licensee, or invitee by mail or hand delivery.

**8.11 Accounts** – All sums collected from Assessments or Charges shall be credited to accounts from which shall be paid the expenses for which the respective Assessments or Charges are made.

**8.12 Association Depository** – The depository of the Association shall be a bank or banks or state or federal savings and loan associations (or other financial institutions as defined in F.S. 655.005) with offices in Lee County, Florida, and other insured depositories as shall be designated from time to time by the Directors and in which the monies for the Association shall be deposited. Withdrawals of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors. The Board may require more than one signature on checks and bank drafts.

**8.13 Commingling Of Funds Prohibited** - All funds shall be maintained separately in the Association's name. No community association manager or business entity required to be licensed under F.S. 468.432, and no agent, employee, Officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other Cooperative association or community association as defined in F.S. 468.431, or with those of any other entity.

**8.14 Financial Reports** – A complete financial report of actual receipts and expenditures of the Association shall be made annually which shall comply with Rule 61B-76.006, Florida Administrative Code, or as amended, as determined in the Rule based upon the amount of the Association's budget from time to time. A copy of the report shall be furnished to each member of the Association and the Division as provided by law, as amended from time to time.

**8.15 Fidelity Bonding** – The Association shall obtain and maintain adequate fidelity bonding in the minimum principal sum set forth in F.S. 719.106(1)(k), and as the same is amended from time to time, for each person (whether or not a Director) who controls or disburses Association funds. The Association shall bear the cost of bonding. In the case of a licensed manager, the cost of bonding may be reimbursed by the Association as the parties may agree. All persons providing management services to the Association or otherwise having the authority to control or disburse Association funds shall provide the Association with a certificate of insurance evidencing compliance with this paragraph, naming the Association as an insured under said policy.

## ARTICLE 9

### PARLIAMENTARY RULES

Robert's Rules of Order (most recent edition) shall govern the conduct of corporate proceedings when not in conflict with the Association Documents, or with the laws of the State of Florida.

## ARTICLE 10

### BYLAW AMENDMENTS

Amendments to the Bylaws shall be adopted in the following manner:

**10.1 Notice** of the subject matter of a proposed amendment shall be included in the notice of any meeting or the text of any written agreement at which a proposed amendment is considered.

**10.2 Proposal Of Amendments** – An amendment may be proposed by a majority of the Directors or by petition of twenty-five percent (25%) of the Voting Interests.

**10.3 Adoption Of Amendments** – A proposed amendment may be approved by two-thirds (2/3) of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present. Amendments correcting errors or omissions may be adopted by the Board alone. No amendment to these Bylaws shall be passed which would operate to impair or prejudice the rights or liabilities of any Institutional Mortgagee without the consent of said Institutional Mortgagee.

**10.4 Effective Date** – Except for amendments to these bylaws that arise as a result of an amendment to Chapter 719 of the Florida Statutes, an amendment when adopted by the members shall become effective only after being recorded in the public records of Lee County, Florida. These bylaws shall be deemed amended by operation of law when Chapter 719 of the Florida Statutes is amended. The amendments take effect contemporaneously with the effective date of the statutory amendments.

**10.5 Proposed Amendment Format** – Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, “SUBSTANTIAL REWORDING OF BYLAW. SEE BYLAW NUMBER \_\_ FOR CURRENT TEXT OR AS RECORDED AT INSTRUMENT NO. \_\_\_\_\_ IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.”

## ARTICLE 11

### DISPUTE RESOLUTION

Dispute between shareholders and the Association shall be subject to the following:

**11.1 Mandatory Arbitration** – If unresolved, disputes between the Board and shareholders as defined in Section 719.1255 of the Act must be arbitrated in mandatory non-binding arbitration proceedings as provided in the Cooperative Act prior to commencing litigation, so long as the Cooperative Act requires such arbitration.

**11.2 Unit Owner Complaints** – When a Unit Owner submits a written inquiry by certified mail with the Board, the Board shall respond to the owner within thirty (30) days of receipt of said written inquiry. The Board shall give substantive response to the complainant, or notify the



complainant that legal advice has been requested from the Association's counsel or the Division. The failure of the Association to respond within said thirty (30) days and to notify the Unit Owner within the same thirty (30) days after receipt of the complaint shall preclude the Association from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the complaint.

**11.3 Other Remedies** – Nothing herein shall preclude the Association from pursuing any remedy for the violation of the Cooperative Documents or disputes with a shareholder or other party as may be available to the Association under the laws of the State of Florida or the Cooperative Documents.

## **ARTICLE 12**

### **ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY THE ASSOCIATION**

The Board of Directors has the authority, without Unit Owner consent, to make material alterations or substantial additions to the Common Areas or Association Property not costing more than \$5,000. Any material alterations or substantial additions costing in excess of \$5,000 shall require the consent of not less than a majority of the Voting Interests present, in person, by written consent, or by proxy, at a meeting at which a quorum is attained. The cost and expense of any such substantial additions or material alterations shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses.

## **ARTICLE 13**

### **COMPLIANCE AND DEFAULT**

Each Unit Owner, such Unit Owner's family, tenants, guests, licensees, invitees, agents and every occupant of a Unit shall be governed by and shall comply with the Cooperative Act and the terms of the Cooperative Documents, all as may be amended from time to time. The Association shall be entitled to the following relief in addition to the remedies provided by the Cooperative Act:

**13.1 Negligence** - A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement made necessary by the Owner's negligence, intentional misconduct, act or omission, or by that of any member of the Owner's Family or the Owner's or the Owner's Family's Guests, employees, agents, tenants, licensees, or invitees.

**13.2 Compliance** - In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Cooperative Act, Cooperative Documents, or any other agreement, document, or instrument affecting the Cooperative Property in the manner required, the Association shall have the right to proceed in court or bring other legal action to require performance and/or compliance, to impose any applicable fines, to sue for damages and to terminate the Membership Certificate and/or Proprietary Lease. In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained in accordance with the requirements set forth in the Cooperative Documents, or in the event a Unit Owner or occupant makes an alteration, modification, or change to the Unit, Limited Common Areas, or Common Areas that is prohibited by the Cooperative Documents or not approved by the Board, the Board shall have the right, but not the duty, to enter

upon the Unit, Limited Common Areas, or Common Areas and to maintain, repair, or replace the property in order to place it in good condition and in accordance with the maintenance standards set forth in the Cooperative Documents, or to remove the alteration, modification, or change to the property and restore it to its condition prior to such alteration, modification, or change, all at the sole cost and expense of the Unit Owner, which cost, including interest and attorney's fees, shall be secured by a lien against the and Unit, which lien shall relate back to the date the Association's Articles of Incorporation were filed with the Secretary of State.

**13.3 Fines** - In addition to the remedies available elsewhere in the Cooperative Documents, the Association may levy fines against a Unit for the failure of the Owner of the Unit or the Owner's Family, or the occupant, licensee, invitee, or Guest of any of the foregoing, to comply with any provision of the Cooperative Act or the Condominium Documents, all as same may be amended from time to time.

**13.4 Costs And Attorneys' Fees** - In any action, proceeding, or litigation arising out of or concerning an alleged failure of a Unit Owner, the Unit Owner's Family, occupants, Guests, tenants, invitees, licensees, agents, or servants to comply with the requirements of the Cooperative Act or the Cooperative Documents, all as may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees, whether or not suit be brought, through all appellate levels. The Association shall also recover attorney's fees it incurs in cases where no court action is filed including, but not limited to, arbitration and pre-arbitration or pre-litigation fees. Said costs and fees shall be secured by a lien for Charges, as provided in Section 10.8 hereof.

**13.5 No Waiver Of Rights** - The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Cooperative Act or the Cooperative Documents, all as may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

**13.6 No Election Of Remedies** - All rights, remedies and privileges granted to the Association or Unit Owners under any terms, provisions, covenants, or conditions of the Cooperative Documents or the Act 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 from exercising such other additional rights, remedies, or privileges as may be granted by the Cooperative Documents, or at law or in equity.

**13.7 Waiver** - The Association shall have the right to waive the application of one or more of the covenants or restrictions of the Cooperative Documents, or to permit a deviation from said covenants or restrictions, as to any Unit where, in the discretion of the Board, circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event the Association fails to enforce a violation of said covenants or restrictions, such actions or inactions shall not be deemed to prohibit nor restrict the right of the Association, or any other person having the right to enforce said covenants or restrictions, from insisting upon strict compliance with respect to all other Units, nor shall any such actions be deemed a waiver of any of the covenants or restrictions contained in the Cooperative Documents as same may be applied in the future.

### **13.8 Notice Of Lien Or Suit -**

**13.8.1 Notice Of Lien** - A Unit Owner shall give to the Association written notice of every lien upon his Membership Certificate, Proprietary Lease and/or Unit, including but not limited to permitted first mortgages, taxes and Special Assessments, within five (5) days after the Unit Owner receives actual notice of the attachment thereof.

**13.8.2 Notice Of Suit** - A Unit Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to the Membership Certificate, Proprietary Lease and/or Unit, such notice to be given five (5) days after the Unit Owner receives actual knowledge thereof.

**13.8.3 Failure To Comply** - Failure of an Owner to comply with this Section 13.8 will not affect the validity of any judicial suit; however, the failure may render the Owner liable to any party injured by such failure.

## **ARTICLE 14**

### **MISCELLANEOUS**

The following miscellaneous provisions shall apply to these Bylaws and the Cooperative Documents:

**14.1 Conflicts** – The term “Cooperative Documents,” as used in these Bylaws and elsewhere shall include the Occupancy Agreement of Cooperative, Articles of Incorporation, these Bylaws, the Rules and Regulations of the Association, the Plats, Surveys, Plot Plans and graphic descriptions of improvements of record. In the event of a conflict between the language in the Occupancy Agreement of Cooperative and the graphic descriptions of record, the language of the Occupancy Agreement shall control. In the event of conflict between language in any of the other Cooperative Documents, the following priorities shall control:

1. Occupancy Agreement;
2. Articles of Incorporation;
3. Bylaws; and
4. Rules and Regulations.

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

**14.3 SEVERABILITY** – In the event that any provisions of these Bylaws are deemed invalid, the remaining provisions shall be deemed in full force and affect.