

**CERTIFICATE OF AMENDMENT**

4010997 OR: 4221 PG: 2144

RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL  
05/01/2007 at 08:43AM DWIGHT H. BROCK, CLERK  
RRC FEE 375.50

Retn:  
SAMOUCHE MURRELL ET AL  
5405 PARK CENTRAL CT  
NAPLES FL 34109

THE UNDERSIGNED, being the duly and acting President of Enchanting Shores Co-Op, Inc., a Florida corporation for profit, hereby certifies that at a meeting of the members originally held on February 16, 2007 and continued on March 23, 2007, where a quorum was present, after due notice, the resolutions set forth below were approved by the votes indicated for the purpose of amending the Amended By-Laws of Enchanting Shores Co-Op, Inc., and the Articles of Incorporation and Master Form Exclusive Right of Possession, which are attached as exhibits to the original By-Laws of Enchanting Shoes Co-Op, Inc., which was recorded at O.R. Book 1818, Pages 852 et seq., of the Public Records of Collier County, Florida, and previously amended.

1. The following resolution was approved and adopted by the owners of not less than two-thirds of those voting in person and by mail and by proxy.

(for use by Clerk of Court)

RESOLVED: That the By-Laws of Enchanting Shores Co-Op, Inc., are hereby amended and the amendment is adopted in the form attached hereto, and made a part hereof.

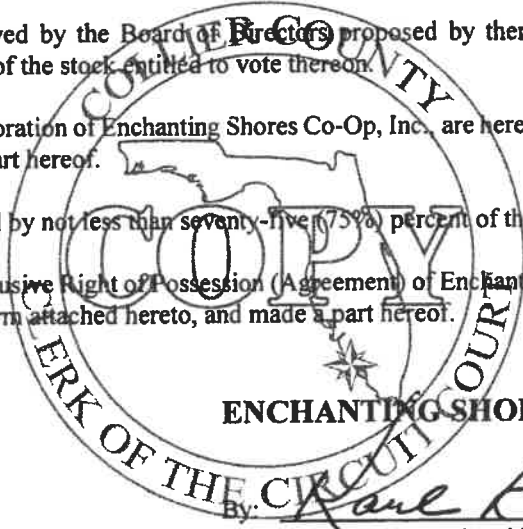
2. The following resolution was approved by the Board of Directors proposed by them to the stockholders, and approved at a stockholders' meeting by a majority vote of the stock entitled to vote thereon.

RESOLVED: That the Articles of Incorporation of Enchanting Shores Co-Op, Inc. are hereby amended and the amendment is adopted in the form attached hereto, and made a part hereof.

3. The following resolution was approved by not less than seventy-five (75%) percent of the Members of Corporation.

RESOLVED: That the Master Form Exclusive Right of Possession (Agreement) of Enchanting Shores Co-Op, Inc., is hereby amended and the amendments are adopted in the form attached hereto, and made a part hereof.

Date: March 30, 2007



ENCHANTING SHORES CO-OP, INC.

(1) [Signature]  
Witness  
Print Name CATINO MOLLO

By: [Signature]  
Karl Ristow, President  
26 Peridot Avenue  
Naples, FL 34114

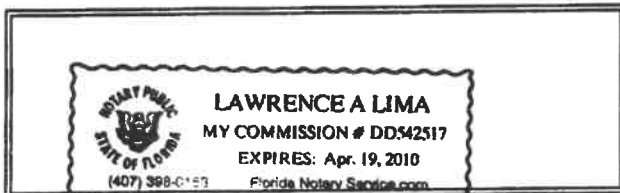
(2) [Signature]  
Witness  
Print Name SUSAN P. CARTER

(CORPORATE SEAL)

**STATE OF FLORIDA  
COUNTY OF COLLIER**

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of March, 2007, by Karl Ristow, as President of the aforementioned Corporation, on behalf of the Corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Signature of Notary Public



(Print, Type or Stamp Commissioned Name of Notary Public) (Affix Notarial Seal)

This instrument prepared by Robert C. Samouche, Esq., Samouche, Murrell & Gal, P. A., 5405 Park Central Court, Naples, FL 34109.

**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE BYLAWS. FOR PRESENT TEXT SEE  
EXISTING BYLAWS.**

**AMENDED AND RESTATED BYLAWS**

**OF**

**ENCHANTING SHORES CO-OP, INC.**

**1. GENERAL.** These are the Amended and Restated Bylaws of Enchanting Shores Co-op, Inc., hereinafter the "Association" or "ESC", a corporation for profit organized under the laws of Florida for the purpose of operating a cooperative pursuant to the Florida Cooperative Act. All prior Bylaws, including the original Bylaws recorded together with the Affidavit for the purpose of creating and managing the Cooperative at Book 1328 at Page 1686 *et seq.* of the Official Records of Collier County Florida, as amended including, but not limited, to the amended and restated Bylaws recorded at Book 1818 at Page 852 *et seq.* and the amended and restated Bylaws recorded at Book 2507 at Page 3076 *et seq.*, are hereby revoked and superseded in their entirety by these Bylaws.

**1.1 Principal Office.** The principal office of the Association is at 17 Turquoise Avenue, Naples, Florida, 34114-8240.

**1.2 Seal.** The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

**1.3 The Cooperative Property.** The property submitted to the cooperative form of ownership is the real property described on Exhibit "A" attached hereto.

**2. DEFINITIONS.** The terms used in these Bylaws shall have the meanings stated below and in Chapter 719, Florida Statutes, (The "Cooperative Act"), unless the context otherwise requires.

**2.1 "Assessment"** means a share of the funds required for the payment of common expenses which from time to time is assessed against the units.

**2.2 "Association"** means Enchanting Shores Co-op, Inc., a Florida corporation for profit, the entity responsible for the operation of this Cooperative, which is also referred to as "ESC" and "Corporation".

**2.3 "Board of Directors" or "Board"** means the representative body which is responsible for the administration of the Association's affairs, and is the same body referred to in the Cooperative Act at the "Board of Administration."

**2.4 "Common Areas"** means the portions of the cooperative property not included within the boundaries of the units.

**2.5 "Cooperative Documents"** means and includes the following, as amended from time to time:

1. The Articles of Incorporation.
2. These Bylaws.

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3. The Exclusive Right of Possession Agreements.
4. The rules and regulations.
5. The stock certificates evidencing the share of each member.

**2.6** “Exclusive Right of Possession Agreement” means the document, in the nature of a lease, documenting a unit owner’s right of possession of his unit. The first Board of Directors adopted a standard form of Exclusive Right of Possession Agreement to be entered into between the Corporation and each of its members. The form may hereafter be changed, altered or amended, to, among other purposes, conform to changes in the law, and as may be necessary to eliminate conflict with these Bylaws. For the purpose of uniformity, any changes to the form shall be binding and shall serve to amend the Exclusive Right of Possession Agreements already executed.

**2.7** “Family” or “Single Family” shall refer to any one of the following:

- (A) One natural person.
- (B) Two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage or adoption to each of the others.
- (C) Two or more natural persons meeting the requirements of (B) above, except that there is among them one person who is not related to some or all of the others.

**2.8** “Guest” means any person who is not a resident member or a sublessee, or spouse of a resident member or sublessee, who occupies the unit on a temporary basis at the invitation of the resident member or sublessee, without the payment of consideration.

**2.9** “Lessee” means the natural person entitled to occupancy rights as evidenced in the Exclusive Right of Possession Agreement between ESC and the owner.

**2.10** “Limited Common Areas” means those common areas which are reserved for the use of a certain cooperative unit or units to the exclusion of other units.

**2.11** “Member” has the same meaning as the term “unit owner” in the Cooperative Act, and as further described in Section 3. of these Bylaws.

**2.12** “Occupy”, when used in connection with a unit, means the act of staying overnight in a unit. “Occupant” is a person who occupies a unit.

**2.13** “Residence” means mobile home, manufactured home, recreational vehicle or other similar vehicle located upon a lot or any single family home that has been approved by Collier County Zoning and the Board of Directors of the Association.

**2.14** “Rules and Regulations” means those rules and regulations approved by the Board of Directors, governing the use of the common areas and the operation of the Association.

**2.15** “Sublease” means the grant by a resident member to another person of a temporary right to occupy the resident member’s unit, for which the member receives valuable consideration.

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2.16 **“Sublessee”** means a person renting or subleasing from a resident member on a temporary basis for valuable consideration.

2.17 **“Unit”** means a lot with a residence, if any, for the exclusive use of the person(s) entitled to occupancy rights.

2.18 **“Unit/Lot Boundaries”** The unit boundaries or lot boundaries are depicted in the Plot Plans being a part of Exhibit “B” attached hereto.

2.19 **“Unit Owner”** means the person holding a share in the Corporation and a proprietary lease of a unit in the form of an exclusive right of possession agreement granted by the Association.

2.20 **“Voting Interest”** means the total number of possible votes of the membership. There are three hundred sixty-five (365) units. Therefore, the total number of voting interests is three hundred sixty-five.

3. **MEMBERS.** Membership in the corporation shall be limited to owners of stock certificates issued by the corporation. A separate stock certificate shall be issued for each unit and each stock certificate shall constitute a separate membership and entitle the holder or holder(s) thereof to cast one vote as specified herein. Stock may be either “resident” or “equity”.

3.1 **Resident Members.**

(A) Any natural person owning a stock certificate under which the owner is currently entitled to occupancy rights, as evidenced by the existence of an Exclusive Right of Possession Agreement between ESC and the owner, shall be a resident member.

(B) Any resident member shall be entitled to have his stock certificate issued in the name of any other person, firm or corporation which he may select, and may also be entitled to have the stock certificate transferred to such a person, firm or corporation subsequent to its issue to the resident member, provided that the Exclusive Right of Possession Agreement shall be issued to and executed only in the name of the resident member. Both parties shall be jointly and severally responsible for the fulfillment of the obligations of the Lessee contained in the lease. Both shall further be jointly and severally responsible for the payment of any and all assessments assessed to the member by virtue of the Articles of Incorporation, these Bylaws and the Exclusive Right of Possession Agreement.

3.2 **Equity Members.** Any person, firm or corporation owning a stock certificate without occupancy rights having been granted by the Board of Directors shall be deemed an equity member; any person, firm or corporation owning a stock certificate whose occupancy rights have been divested or terminated by the Board of Directors shall likewise be deemed an equity member.

3.3 **Issuance.** Three hundred sixty-five (365) stock certificates may be issued by the Corporation. Three hundred sixty-five (365) Exclusive Right of Possession Agreements may be issued by the Corporation. One Exclusive Right of Possession Agreement shall be issued to each of the Owners of a unit in the cooperative.

3.4 **Execution.** All Exclusive Right of Possession Agreements shall be signed by the President or Vice President and shall have the corporate seal affixed thereto. Stock certificates shall be signed by the President and Secretary and shall have the corporate seal affixed thereto

**3.5 Exclusive Right of Possession Agreement Amendments.** Amendments of Exclusive Right of Possession Agreement from time to time must be approved by at least seventy-five percent (75%) of the voting interests (at least 274).

**3.6 Form of Stock Certificate.** The form of stock certificate shall be determined by the Board of Directors.

**3.7 Transfers.** Transfer of stock certificates shall be made only on the books of the Association. Transfer of Exclusive Right of Possession Agreements shall be recorded in the Public Records of the County. The old Exclusive Right of Possession Agreement and stock certificate properly endorsed, shall be surrendered and cancelled before a new Exclusive Right of Possession Agreement and stock certificate is issued. All transfers are subject to these Bylaws and the Master Exclusive Right of Possession Agreement, and a transfer fee not to exceed the maximum amount allowed by law.

**3.8 Votes.** Each stock certificate shall entitle the owner and holder to one vote in the meetings of the Association. There shall be a total of three hundred sixty-five (365) votes.

**3.9 Liens.** The association shall have a lien on all of the individual Exclusive Right of Possession Agreement and stock certificates in the name of each member for debts due the Association by such member.

**3.10 Memorandum of Exclusive Right of Possession Agreement.** In lieu of recording a complete and full Exclusive Right of Possession Agreement, a Memorandum of Exclusive Right Possession Agreement may be recorded.

**3.11 Voting Interests.** The members of the Association are entitled to one (1) vote for each stock certificate owned by them. No fractional votes may be cast. The right to vote may not be denied because of delinquent assessments.

**3.12 Change of Resident Membership.** Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established only as incident to the revocation of the stock certificate and Exclusive Right of Possession Agreement of the prior owner and the issuance of a new stock certificate and Exclusive Right of Possession Agreement to the new owner. At that time the membership of the prior member shall be terminated automatically for that unit.

**3.13 Termination of Membership.** The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Cooperative during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the obligations incident thereto.

**3.14 Transfer of Membership.** Membership in the corporation of either class may be transferred only as an incident to the issuance of a new stock certificate. With the approval of the Board of Directors, an equity member, who is a natural person, may become a resident member. Conversely, a resident member may be ordered transferred to equity membership by direction of the Board of Directors, on account of breach by the resident member of the provisions of the Exclusive Right of Possession Agreement or the obligations stated in these Bylaws.

#### **4. MEMBERS' MEETINGS; VOTING.**

**4.1 Annual Meeting.** There shall be an annual meeting of the members in each calendar year. The

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annual meeting shall be held in Collier County, Florida, each year during the first quarter of the calendar year at a day, place and time designated by the Board of Directors, for the purpose of transacting any business duly authorized to be transacted by the members. During the annual meeting any ballots cast in the annual election of Directors shall be counted and results announced.

**4.2 Special Members' Meetings.** Special members' meetings must be held whenever called by the President or by a majority of the Directors, and may also be called by members representing at least twenty five percent (25%) of the voting interests (at least 92). The business at any special meeting shall be limited to the items specified in the notice of meeting.

**4.3 Notice of Meetings; Waiver of Notice.** Notice of all members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice must be mailed to each member at the address which appears on the books of the Association, or may be furnished by personal delivery. The members are responsible for keeping the Association informed of their proper current addresses. The notice of all members' meetings must be mailed or delivered at least fourteen (14) days before the meeting. If ownership of a unit is transferred after notice has been mailed, no separate notice to the new owner is required. Attendance at any meeting by a member constitutes waiver of notice by that member unless the member objects to the lack of notice at the beginning of the meeting. A person entitled to receive such notice may waive notice of any meeting at any time, but only by written waiver.

**4.4 Notice of Annual Meeting; Special Requirements.** Notice of the annual meeting together with an agenda shall be posted in a conspicuous place on the cooperative property or association property for at least fourteen (14) continuous days prior to the annual meeting. The notice and agenda for the annual meeting shall also be sent by first class mail to each owner regardless of whether the second notice of election described in Section 6.3(B) below is required, and an affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Notice of the annual meeting may, alternatively, be delivered in person if a written waiver of mailing is obtained.

**4.5 Quorum.** A quorum at members' meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast at least a majority of the votes of the voting interests (at least 183).

**4.6 Vote Required.** The acts approved by a majority of the votes cast at a duly called meeting of the members at which a quorum has been attained shall be binding upon all unit owners for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the cooperative documents.

**4.7 Proxy Voting.** To the extent lawful, any person entitled to attend and vote at a members meeting may establish his presence and cast his vote by proxy. Proxies may not be used in electing Directors. Limited proxies shall be used for votes taken to waive reserves or financial statement requirements, to amend the cooperative documents, and for all other substantive matters for which the Cooperative Act requires or permits a vote of the members. General proxies may be used to establish a quorum, for procedural votes, and for non-substantive amendments to proposals for which a limited proxy is being used. A proxy may be given by any person entitled to vote, but shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid longer than ninety (90) days after the days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the unit, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Association at or before the appointed time of the meeting or reconvening thereof. Holders of proxies need not be members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

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**4.8 Adjourned Meetings.** Any duly called meeting of the members may be adjourned to be reconvened at a specific later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance.

**4.9 Order of Business.** The order of business at members' meetings shall be substantially, but not limited to, as follows:

- (A) Counting of ballots in annual election (if necessary).
- (B) Call of the roll or determination of quorum (at least 183).
- (C) Reading or disposal of minutes of last members meeting.
- (D) Reports of Officers.
- (E) Reports of Committees.
- (F) Unfinished Business.
- (G) New Business.
- (H) Adjournment.

**4.10 Minutes.** Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives and Board members at all reasonable times and for a period of seven (7) years after the meeting. Minutes must be reduced to written form within thirty (30) days after the meeting at which they were taken.

**4.11 Parliamentary Rules.** Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the law or with these Bylaws. The presiding officer may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

**4.12 Action by Members Without Meeting.** Except for the holding of the annual meeting, any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written ballots or other instruments indicating approval of the action proposed to be taken are signed and returned by members having not less than the minimum number of votes that would be necessary to take such action at a meeting, or by at least a majority of the total voting interests (at least 183), whichever is greater, unless a lesser vote is sufficient by law. If the requisite number of written expressions of approval are received by the Secretary within thirty (30) days after mailing notice of the proposed action to the members, a resolution passed by the Board of Directors on the action so authorized shall be of full force and effect as if the action had been approved by the vote of the members at a members meeting held on the date of the Board meeting. Within ten (10) days after adopting the resolution, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph shall be construed in derogation of members' rights to call a special meeting of the membership, as provided in Section 4.2 above. If the vote is taken by the method described in this Section, the list of unit owners on record with the Secretary at the time of mailing the voting material shall be the list of qualified voters.

**5. ASSOCIATION:** The operation of the Cooperative is by Enchanting Shores Co-op, Inc., a Florida corporation for profit, which shall perform its function pursuant to the following:

**5.1 Articles of Incorporation.** A copy of the Amended and Restated Articles of Incorporation of the Association is attached as Exhibit "C".

**5.2 Delegation of Management.** The Association may contract for the management and maintenance of the Cooperative property and employ a licensed manager or management company to assist the Association

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in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules and maintenance, repair and replacement of the common elements with funds made available by the Association for such purposes. The Association and its officers however, shall retain at all times the powers and duties provided in the Cooperative Act.

**5.3 Acts of the Association.** Unless the approval or affirmative vote of the unit owners is specifically made necessary by some provision of the Cooperative Act or these cooperative documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the members. The officers and Directors of the Association have a fiduciary relationship to the members. A member does not have the authority to act for the Association by reason of being a member.

**5.4 Powers and Duties.** The powers and duties of the Association include those set forth in the Cooperative Act and the cooperative documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the cooperative property. The Association may impose fees for the use of cooperative property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory or use interests in lands or facilities, regardless of whether the lands or facilities are contiguous to the lands of the Cooperative.

**5.5 Official Records.** The Association shall maintain its Official Records as required by law. The records shall be open to inspection by members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

**5.6 Acquisition of Property.** The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. The power to acquire ownership interests in real property shall be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests (at least 183).

**5.7 Disposition of Property.** Any property owned by the Association, whether real, personal or mixed, may be mortgaged, sold, leased or otherwise encumbered or disposed of by the same authority as would be required to acquire it under Section 5.6 above. However, the power to lease cooperative property shall be exercised solely by the Board of Directors.

**5.8 Roster.** The Association shall maintain a current roster of names and mailing addresses of unit owners, based upon information supplied by the unit owners. A copy of the roster shall be made available to any member upon request.

**5.9 Limitation on Liability.** Notwithstanding its duty to maintain and repair cooperative property, the Association shall not be liable to individual unit owners for personal injury or property damage caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or unit owners or other persons.

**6. BOARD OF DIRECTORS.** The administration of the affairs of the Association and the setting of policy for the Association shall be by the Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Bylaws or Articles of Incorporation shall be exercised by the Board, subject to approval or consent of the unit owners only when such is specifically required.

**6.1 Number and Terms of Service.** The number of Directors which shall constitute the whole Board

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of Directors shall be seven (7). All Directors shall be elected for two (2) year staggered terms with four (4) and three (3) Directors being elected in alternate years. A Director's term ends at the annual election at which his successor is to be duly elected. Directors shall be elected by the members as described in Section 6.3 below, or in the case of a vacancy between annual elections, as provided in Section 6.4 below.

**6.2 Qualifications.** Each Director must be a member or the spouse of a member. No more than one person per unit may be a Director at the same time.

**6.3 Annual Elections.** On the day of each annual election the members shall elect by written ballot as many Directors as there are regular terms of Directors expiring, unless the balloting is dispensed with as provided by law.

- (A) **First Notice: Candidates.** Not less than sixty (60) days before the election, the Association shall mail or deliver to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate may qualify as such by giving written notice to the Association not less than forty (40) days prior to the annual election. Candidates may also be nominated by any other method permitted by law.
- (B) **Second Notice: Candidate Information Sheets.** If there are more candidates than there are Directors to be elected, at least fourteen (14) days before the election, the Association shall mail or deliver a second notice of election to all unit owners entitled to vote in the contested election, together with a ballot which shall list all qualified candidates in alphabetical order, by surname. This notice may also include the notice of annual meeting required by Section 4.4 above. Upon timely request of a candidate, the Association shall include an information sheet (no larger than 8½ inches by 11 inches, furnished by the candidate) with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association.
- (C) **Balloting.** Where balloting is required, Directors shall be elected by a plurality of the votes cast, provided that at least twenty percent (20%) of the eligible voters cast ballots. Proxies may not be used in the election. In the election of Directors, there shall be appurtenant to each unit as many votes for Directors as there are Directors to be elected, but no unit may cast more than one vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Tie votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by lot or any other method required or permitted by law.

**6.4 Vacancies on the Board.** If the office of any Director becomes vacant between annual elections for any reason, a successor or successors to fill the remaining unexpired term or terms shall be appointed or elected as follows:

- (A) If a vacancy is caused by the death, disqualification or resignation of a Director, a majority of the remaining Directors, though less than a quorum, shall appoint a successor, who shall hold office for the remaining unexpired term, unless otherwise provided by law.
- (B) If a vacancy occurs as a result of a recall and less than a majority of the Directors are removed, the vacancy may be filled by appointment by a majority of the remaining Directors, though less than a quorum. If vacancies occur as a result of a recall in which a majority or more of the Directors are removed, the vacancies shall be filled as provided by law.

**6.5 Removal of Directors.** As provided in the Cooperative Act, any or all Directors may be removed with or without cause by at least a majority of the voting interests (at least 183), either by a written petition

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or at any meeting called for that purpose. If a meeting is held or a petition is filed for the removal of more than one Director, the question shall be determined separately as to each Director sought to be removed. If a special meeting is called by at least ten percent (10%) of the voting interests (at least 37) for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given.

**6.6 Organizational Meeting.** The organizational meeting of a new Board of Directors shall be held immediately upon the adjournment of the annual meeting at the same location, unless a quorum cannot be obtained, in which case the organizational meeting shall be held as soon as practicable thereafter.

**6.7 Other Meetings.** Meetings of the Board may be held at such time and place in Collier County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of each meeting shall be given to each Director, personally or by mail, telephone or telegram at least two (2) days prior to the day named for such meeting.

**6.8 Notice to Owners.** All meetings of the Board of Directors shall be open to attendance and participation by the members. A notice and agenda for each Board meeting shall be posted conspicuously on the cooperative property or association property for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. Notice of any Board meeting at which a non-emergency special assessment or a rule restricting the use of units is to be considered for any reason shall be mailed or delivered to each owner at least fourteen (14) days before the meeting, and an affidavit of mailing or delivery shall be retained as proof of mailing or delivery. Notice of any Board meeting at which a budget will be adopted or amended shall be given as stated in Section 8.2 below. The right of owners to attend Board meetings includes the right to speak on designated agenda items, subject to reasonable rules of the Association governing the manner, duration and frequency of doing so.

**6.9 Waiver of Notice.** Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

**6.10 Quorum of Directors.** A quorum at a Board meeting shall exist when at least a majority of all Directors are present in person at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

**6.11 Vote Required.** The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the cooperative documents or by applicable statutes. Directors may not vote or participate by proxy or by secret ballot at Board meetings, except that officers may be elected by secret ballot. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

**6.12 Adjourned Meetings.** The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting originally as called.

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**6.13 The Presiding Officer.** The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of the Directors present.

**6.14 Compensation of Directors and Officers.** Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

**6.15 Committees.** The Board of Directors may appoint from time to time such standing or temporary committees as the Board may deem necessary and convenient for the efficient and effective operation of the Cooperative. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. If a committee has delegated to it the authority to bind the Association or act for and in the place of the Board, including the power to authorize the expenditure of funds, the committee shall hold its meetings and give notice of such meetings with the same formalities as required for Board meetings.

## 7. OFFICERS.

**7.1 Officers and Elections.** The executive officers of the Association shall be a President, and a Vice-President or Vice-Presidents, who must be Directors, a Treasurer and a Secretary who usually are, but do not have to be Directors, all of whom shall be elected annually by a majority of the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person except the President may hold two or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

**7.2 President.** The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management and operation of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring the seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

**7.3 Vice-Presidents.** The Directors may elect, in addition to a Vice President, a Second and/or Third Vice President. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

**7.4 Secretary.** The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for that purpose, and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the cooperative documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

**7.5 Treasurer.** The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Association, and the

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deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an accounting of all transactions and the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

## 8. FISCAL MATTERS.

**8.1 Depository.** The Association shall maintain its funds in federally insured accounts in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board.

**8.2 Budget.** The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted shall be mailed to or served on the owner of each unit not less than fourteen (14) days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications.

**8.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance.** In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by law. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by a formula based upon estimated life and replacement cost of each item. These reserves shall be funded unless the members subsequently determine by majority vote of those present in person or by proxy at a duly called meeting to fund no reserves or less than adequate reserves for a fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been mailed to the unit owners as required in Section 8.2 above. Reserves funded under this paragraph, and all interest earned on such reserves, shall be used only for the purposes for which they were reserved, unless their use for other purposes is approved in advance by a majority of the voting interests present and voting at a members' meeting called for the purpose.

**8.4 Other Reserves.** In addition to the statutory reserves provided in Section 8.3 above, or in place of them if the members so vote, the Board may establish one or more additional reserve accounts for contingencies, operating expenses, repairs, minor improvements or deferred maintenance. The purpose of these reserves is to provide financial stability and to avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget each year. These funds may be spent for any purpose approved by the Board.

**8.5 Assessments.** Regular annual assessments based on the adopted budget shall be payable in quarterly installments, in advance, due on the first day of January, April, July and October of each year. Written notice of each quarterly installment shall be sent to the members at least fifteen (15) days prior to the due date. Failure to send or receive such notice shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first quarterly installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last quarterly payment, and shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage calculated shall be added or subtracted from each unit's next due quarterly installment.

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**8.6 Special Assessments.** Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unbudgeted, or non-recurring expenses. Special assessments are due on the day specified in the resolution of the Board approving such assessments. The notice of any Board meeting at which a special assessment will be considered shall be given as provided in Section 6.8 above; and the notice to the owners that the assessment has been levied must contain a statement of the purpose(s) of the assessment. The funds collected must be spent for the stated purpose(s) or returned to the members as provided by law.

**8.7 Fidelity Bonds.** The President, Secretary and Treasurer, and all persons who are authorized to sign checks, shall be bonded on such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a common expense.

**8.8 Financial Reports.** In accordance with Section 719.104(4) of the Cooperative Act, not later than ninety (90) days after the close of each fiscal year, the Board shall distribute to all owners a financial report showing in reasonable detail the financial condition of the Association as of the close of its fiscal year, and an income and expense statement for the year, detailed by accounts.

**8.9 Audits.** A formal, certified audit of the accounts of the Association, if required by law, by vote of at least a majority of the voting interests (at least 183), or by a majority of the Board of Directors, shall be made by a certified public accountant, and a copy of the audit report shall be available to all members.

**8.10 Fiscal Year.** The fiscal year for the Association shall begin on the first day of January of each calendar year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States of America.

**9. ASSESSMENTS AND LIENS.** The Association has the power to levy and collect assessments from members for their share of the common expenses, including both regular assessments for each unit's share of the common expenses as set forth in the annual budget and special assessments for the unusual, nonrecurring or unbudgeted common expenses. The Association may also levy special charges against any individual unit for any amounts, other than for common expenses, which are properly chargeable against such unit under these Bylaws. Assessments shall be levied and payment enforced as follows:

**9.1 Common Expenses.** Common expenses include the expenses of operation, maintenance, repair, replacement or insurance of the Cooperative property and association property, the expenses of operating the Association, and any other expenses properly incurred by the Association for the Cooperative, including amounts budgeted for the purpose of funding reserve accounts. The cost of water and sewer service to the units shall be a common expense.

**9.2 Share of Common Expenses.** Each owner of a stock certificate shall be liable for a one-three hundred sixty-fifth (1/365th) share of the common expenses.

**9.3 Ownership.** Assessments collected by or on behalf of the Association become the property of the Association; no unit owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his unit. No member can withdraw or receive distribution of his share of the common surplus, except as otherwise provided herein or by law.

**9.4 Who is Liable for Assessments.** Each member is liable for all assessments or installments thereon coming due while he is a member. Multiple owners are jointly and severally liable. Whenever title to a cooperative parcel is transferred for any reason, the transferee is jointly and severally liable with the

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transferor for all assessments which came due prior to the transfer and remain unpaid, without prejudice to any right the transferor may have to recover from the transferee any amounts paid by the transferor.

**9.5 No Waiver or Excuse from Payment.** The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any common areas, by abandonment of the unit on which the assessments are made, or by interruption in the availability of the unit or the common areas for any reason whatsoever. No member may be excused from payment of his share of the common expenses unless all members are likewise proportionately excused from payment.

**9.6 Application of Payments: Failure to Pay; Interest.** Assessments and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid. The Association may also impose a late payment fee (in addition to interest) to the extent permitted by law. Assessments and installments thereon shall become due, and the unit owner shall become liable for said assessments or installments, on the date established in the Bylaws or otherwise set by the Board of Directors for payment. All payments on account shall be applied first to interest, then to late payment fees, court costs and attorney's fees, and finally to delinquent assessments. No payment by check is deemed received until the check has cleared.

**9.7 Acceleration.** If any special assessment or installment of a regular assessment as to a unit is unpaid thirty (30) days after the due date, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the unit's assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the public records. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorneys' fees and costs as provided by law, and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent owner a notice of the exercise, which notice shall be sent by certified or registered mail to the owner's last known address, and shall be deemed given upon mailing of the notice, postpaid.

**9.8 Liens.** The Association has a lien on each cooperative parcel securing payment of past due assessments, including interest and attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. The lien is perfected upon recording a Claim of Lien in the Public Records of Collier County, Florida, stating the description of the cooperative, the name of the record owner, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

**9.9 Priority of Lien.** The Association's lien for unpaid assessments shall be subordinate and inferior to the lien of a recorded first mortgage, but only to the extent required by the Cooperative Act, as amended from time to time. The Association's lien shall be superior to, and take priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded, except as otherwise expressly provided by the Cooperative Act, as amended from time to time. Any sublease of a unit shall be subordinate and inferior to the Association's lien, regardless of when the sublease was executed.

**9.10 Foreclosure of Lien.** The Association may bring an action in its name to foreclose its lien for unpaid assessments in the manner provided in the Cooperative Act, and may also bring an action to recover a money judgment for the unpaid assessments without waiving any lien rights.

**9.11 Certificate As To Assessments.** Within fifteen (15) days after request by a unit owner or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating

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whether all assessments and other monies owed to the Association by the unit owner with respect to the cooperative parcel have been paid. Any person other than the owner who relies upon such certificate shall be protected thereby.

**10. "HOUSING FOR OLDER PERSONS" EXEMPTION.** It is hereby formally declared that the Association and its members desire and intend to provide that this Cooperative qualify for the "housing for older persons exemption" (a.k.a. "Age 55 exemption") from compliance with state and federal fair housing laws that prohibit discrimination on the basis of familial status. The Association is committed to doing whatever is necessary and sufficient under the Act and the Administrative Rules to publish its intentions, and to strictly adhere to policies and procedures that qualify it for the housing for older persons exemption as defined in the Act and the Administrative Rules. To the extent lawful, in the event of irreconcilable conflict, the provisions of this Section 10. shall supersede all other provisions of the cooperative documents.

**10.1 General Rule: Occupancy by Older Persons.** No unit shall be occupied, or be permitted to be occupied, at any given time unless at least one (1) of the occupants of the unit at that time has attained the age of fifty-five (55) years. This requirement, if met, is not intended to permit occupancy by other persons of ages otherwise prohibited in Section 11. below. In consideration of the grant of Association approval required for any lease or sublease of a unit, every lessee who subleases his unit, and every sublessee, shall be deemed to have covenanted with the Association to take all reasonable steps to ensure that the restrictions in this Section 10. are met at all times during the lease or sublease term with respect to the unit. Exceptions: The general rule stated in this Section 10.1 shall not apply to any unit occupied entirely by persons who are "excepted", as described in Section 10.2 below, or "grandfathered in", as provided for in Section 10.3 below.

**10.2 Persons Excepted.** The following occupancies of a unit shall be permitted, even if no occupants of the unit have attained the age of fifty-five (55) years.

- (A) Occupancy by a surviving spouse, or a surviving non-spouse companion, who resided with the deceased before and up to the time of the deceased's death.
- (B) Occupancy by a person who obtains ownership of a unit by devise, inheritance, or operation of law.
- (C) Occupancy of a unit by a person who was a record owner of legal title to that unit on September 13, 1988, and has owned it continuously since then.
- (D) Temporary guest occupancies by relatives of the owner in the absence of the owner, as further provided for in Section 11. below, but only if the occupancies have been approved in advance by the Board of Directors, which may be withheld unless the Board is reasonably satisfied that the occupancies will not result in failure to meet the requirements for the housing for older persons exemption.

**10.3 Persons Grandfathered.** The general rule stated in Section 10.1 above shall not apply to the following persons, who are "grandfathered" (i.e. are automatically entitled to "grandfather status" as described in the Act) and may continue to occupy a unit, even though they are under fifty-five (55) years of age, provided that they meet all other requirements for occupancy under Section 11. below, and they register with the Association as provided for in Section 10.5 below:

- (A) **Leases.** The lessee and all other occupants of a unit under a valid and approved written lease, provided that the lease was fully executed prior to the effective date of this amendment, shall obtain "grandfather" status. This grandfather status for the lessee(s) and

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other occupants shall apply for the duration of the lease; however, extensions of the lease may not be granted. Furthermore, this grandfather status applies beyond the duration of the lease only if the particular lessee and/or other occupants were validly occupying a unit under a lease in the cooperative on September 13, 1988 and have resided in the unit continuously since then.

(B) Occupancies Other Than Leases.

(1) Occupancy on September 13, 1988: Any owner or other person not mentioned above, who was validly occupying a unit as a residence on September 13, 1988, shall be accorded grandfather status.

(2) Occupancy as of the effective date: Any owner and other person not mentioned above, who was validly occupying a unit as a residence as of the effective date of this amendment, shall be accorded grandfather status.

**10.4 Remedies for Non-Compliance.** The Association concurrently shall have any one (1) or more of the following remedies for non-compliance, in addition to those provided elsewhere in the Bylaws, the Exclusive Right of Possession Agreement, or by law:

(A) Sublease of a Unit.

(1) If a unit is subleased, and the occupancy and other requirements of this Section 10. are not met, the Association shall be entitled to seek injunctive relief against the owner of the unit and the sublessee and/or other occupants in the unit.

(2) The Association shall also be entitled as agent for the owner to seek eviction of the unauthorized sublessee and/or other unauthorized occupants. This right of eviction by the Association shall apply only:

(a) After the expiration of fifteen (15) days from the date on which the Association mails notice to the owner at his last known address by certified or registered mail, return receipt requested, or provided proof of notice by hand delivery; and

(b) The unit owner then fails to commence eviction proceedings, and fails to so notify the Association within the fifteen (15) day period.

(B) Occupancies Other Than Subleases. In cases involving an existing ownership, use by guests, or a sale, gift, or other transfer of title, if the occupancy requirements of this Article are not met, the Association shall be entitled to file for and obtain an injunction against the owner(s) of the unit and any or all occupants in the unit, removing the unauthorized occupants (including the owners). If the Association prevails, the owner(s) shall be responsible for costs and attorneys' fees incurred by the Association in connection with its enforcement of this Section 10.

(C) Proof of Age. If any person fails or refuses to provide Proof of Age as required in Section 10.6 below, the Association shall be justified in assuming that person has not attained the age of fifty-five (55) years.



**10.5 Registration Required.**

(A) All present owners, sublessees and other occupants of units must register with the Association on or before the 90<sup>th</sup> day after the effective date of this Section, by delivery of the items referred to in this Paragraph (A). Furthermore, no person shall attain grandfather status under Section 10.3 above unless and until the person registers with the Association, by delivery of the items referred to below. These items are as follows:

- (1) A fully completed and signed registration form to be provided by the Association; and
- (2) Documentation demonstrating proof of age as provided for in Section 10.6 below; and
- (3) In the event of a sublease, a fully executed copy of the sublease must also be delivered (if not already on file with the Association).

The Association shall distribute a registration form to all owners within fifteen (15) days after the effective date of this amendment. It is the responsibility of the owners of each unit, not the Association, to provide the registration materials to any lessee or other occupants of the unit for them to complete and return to the Association.

(B) The fact that one (1) occupant of a unit is under the age of fifty-five (55) years, and is excepted under Section 10.2 above, or has grandfather status under Section 10.3, does not entitle any other person to occupy the unit unless:

- (1) At least one (1) person occupying the unit is actually fifty-five (55) years of age or older; or
- (2) That other person is also accorded grandfather status under Section 10.3 above; or
- (3) That other person has an exception under Section 10.2 above.

**10.6 Proof of Age.**

(A) As of the effective date of this provision: All persons occupying the units as of the effective date of this provision, and all persons referred to in Section 10.3 above, shall deliver to the Association documentation demonstrating proof of age, to include birth certificate, drivers license, and/or any other documentation required by the Association. This applies regardless of the age of the persons or whether they seek grandfather status under Section 10.3 above.

(B) After the effective date of this provision: Any owner who obtains title to a unit after the effective date of this provision, and all persons who occupy any unit after the effective date of this provision must deliver to the Association documentation demonstrating proof of age as provided above, prior to obtaining record title to the unit and/or taking occupancy and/or part of the approval process under Section 12. of these Bylaws.

**10.7 Non-Occupancy Status.** The Association is required to continuously keep records of occupied and unoccupied units. Each owner, and each lessee when the unit is rented, must notify the Association in

advance of any significant periods of time during which the unit will be unoccupied. This requirement applies only to an absence of all permanent residents from the unit for a period in excess of thirty (30) consecutive days. The Board shall adopt a form for use in connection with reporting under this Section.

**10.8 Records Related to the Age 55 Exemption.** The Association shall use its best efforts to maintain records showing the dates of occupancy of all units, and the proofs of age for residents, necessary and sufficient to meet the requirements of the Act and the Administrative Rules for the Age Fifty-Five (55) Exemption.

**11. USE RESTRICTIONS.** The use of the cooperative property shall be in accordance with the following provisions:

**11.1 Units.** Except as otherwise provided herein, each unit shall be occupied by only one (1) family at a time, as a residence for a single family and for no other purpose. No person who has not yet attained the age of eighteen (18) years is allowed to occupy a unit, except as expressly provided in Section 10. and this Section 11. No business or commercial activity shall be conducted in or from any unit, including, but not limited to visitation of the home by clients, customers, suppliers or other business invitees or door to door solicitation of residents. The use of a unit as a public lodging establishment shall be deemed a business or commercial use. Neither the address of the cooperative, nor of any unit, may be publicly advertised as being the address of any business or commercial activity. This restriction shall not be construed to prohibit any owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his unit, or from handling his personal, business or professional telephone calls or written correspondence in and from his unit. Such uses are expressly declared customarily incident to residential use.

**11.2 Minors.** When a unit is occupied by the owner or sublessee, a person under the age of eighteen (18) may occupy the unit for a period not to exceed thirty (30) days. The total number of occasions for this type of occupancy in any unit is limited to three (3) in any calendar year.

**11.3 Guest Occupancy in the absence of the Owner.** If the owner and the owner's family members who regularly reside in the unit with the owner are temporarily absent, and the unit has not been leased, the owner may permit guests to occupy the unit as follows with prior approval of the Association which approval will be withheld if the occupancies will result in the failure to meet the requirements for the housing for older persons exemption. Such guests may only occupy a unit in the absence of the owner or owner's family members for a period of not more than thirty (30) days.

**11.4 Subleasing of Units.** In order to foster a stable residential community and prevent a motel-like atmosphere, the subleasing of units by their owners shall be restricted as provided in this Section. All subleases of units must be in writing. A unit owner may sublease only his entire unit, and then only in accordance with this Section, after receiving the approval of the Board. The sublessee must be a natural person. Unless an exception is approved by the Board, at least one (1) person over age fifty-five (55) must occupy the Unit during the sublease term. A proposed sublease shall be disapproved only if a majority of the whole Board so votes, and in such case the sublease shall not be made.

Appropriate grounds for disapproval includes, without limitation, the fact that none of the proposed occupants under the lease is fifty-five (55) years of age or older, or any one (1) proposed occupant fails or refuses to provide adequate proof of age upon request.

**11.5 Ownership of Units.** In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the units, inhibiting transiency, and facilitating the development

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of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a unit shall be subject to disapproval if none of the proposed occupants would be age fifty-five (55) or older, or if the proposed purchaser fails to provide adequate proof of age upon request, if he is also to be the occupant.

**11.6 Exceptions.** Upon prior written application by the member, the Board of Directors may make such limited exceptions to the foregoing restrictions as may be deemed appropriate in the discretion of the Board, for the sole purpose of avoiding undue hardship or inequity. The making of one exception shall not be construed as a precedent for later exceptions.

**11.7 Pets.** The keeping of pets of any kind or description within the cooperative is prohibited.

**11.8 Nuisances.** No owner shall use his unit, or permit it to be used, in any manner which constitutes or causes an unreasonable amount of annoyance or nuisance to the occupant of another unit, or which would not be consistent with the maintenance of the highest standards for a first class residential cooperative, nor permit the premises to be used in a disorderly or unlawful way. The use of each unit shall be consistent with existing laws and the cooperative documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

**11.9 Signs.** "For Sale" or "For Rent" signs may only be placed at locations, at times and in manners as approved by the Board of Directors. All other signs are prohibited anywhere on the cooperative property.

**11.10 Vehicles.** All permitted vehicles as described in the Rules and Regulations of the Association must be properly licensed and registered at all times and may not be obnoxious to the eye.. No new RV storage is permitted in the Boat Storage Yard.

**12. TRANSFERS OF EQUITY RIGHTS AND OCCUPANCY RIGHTS.** The primary object of the Association is to operate and maintain its property on a mutual and cooperative basis for the housing needs of its members. Valuable equity rights arise from the purchase of a stock certificate. To the fullest degree, these equity rights are deemed transferable, either absolutely or by way of pledge. The right of the person owning equity rights to occupy a unit under a Proprietary Lease is, however, a matter of discretionary decision of the Board of Directors, and every transfer involving a change in the right of occupancy (as defined in the Proprietary Leases) is subject to prior approval of the Board of Directors. The prior approval of the Board of Directors is not required for a transfer of an interest in a unit, except in the case of a sale where the transferee desires occupancy rights. In order to maintain a community of congenial, financially responsible residents, with the objectives of protecting the value of the units, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of occupancy rights and subleasing of units shall be subject to the following provisions:

**12.1 Procedures.**

(A) Notice of Transaction.

- (1) Sale, Gift or Sublease. Except as otherwise provided in Section 12.4 below, a member intending to transfer his occupancy rights by sale, gift or sublease shall give to the Board of Directors or its designee written notice of such intention at least thirty (30) days before the intended closing date or beginning date of occupancy, together with the name and address of the proposed transferee or sublessee, an executed copy of the sublease or sales contract, if any, and such other information as the Board may reasonably require. The Board shall require a personal interview with any transferee or sublessee and his spouse, if any, and any

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other family member as defined in Section 2.7 hereof as a pre-condition to approval.

(2) Devise, Inheritance or Other Transfers. The transferee must notify the Board of Directors of his acquisition of equity rights and submit a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy or use rights until and unless approved by the Board, but may sell or sublease the unit following the procedures in this Section. The Board of Directors shall have no authority to disapprove a transfer to the surviving spouse of a deceased member.

(3) Demand. With the notice required in Subsection (A) (1) above, the owner or transferee seeking approval may make a written demand that if the transfer of occupancy rights is disapproved without good cause, the Association shall furnish an approved alternate purchaser who shall purchase the unit at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the unit determined as provided below.

(4) Failure to Give Notice. If no notice is given, the Board of Directors, at its election, may approve or disapprove at the time it learns of a purported sublease or transfer. If any owner fails to obtain the Association's approval prior to selling a purported occupancy right in a unit, such failure shall create a rebuttable presumption that the seller and the purchaser intended to violate these Bylaws, and shall constitute good cause for Association disapproval.

(B) Board Action. Within thirty (30) days after receipt of the required notice and all information or interviews requested, or not later than sixty (60) days after the notice required by paragraph (A) above is received, whichever occurs first, the Board shall approve or disapprove the transfer or sublease. If a transfer is approved, the approval shall be evidenced by the issuance of a new stock certificate executed by the President or Vice-President of the Association to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval.

(C) Disapproval of Transfers of Occupancy Rights.

(1) With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the whole Board so votes, after receiving a written opinion of counsel that good cause exists. Only failure to give proper notice as described in Section 12.1(A)(4) and the following may be deemed to constitute good cause for disapproval:

(a) The person seeking approval has been convicted of a felony involving violence to persons or property, a felony involving possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;

(b) The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;

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(c) The person seeking approval gives the Board reasonable cause to believe that person intends to conduct himself in a manner inconsistent with the occupancy restrictions applicable to the Cooperative;

(d) The person seeking occupancy rights has a history of disruptive behavior or disregard for the rights or property of others;

(e) The person seeking occupancy rights has evidenced an attitude of disregard for association rules by his conduct in this Cooperative as a sublessee, member or occupant of a unit; or

(f) The person seeking occupancy rights has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process.

(g) The transfer to the person seeking approval would result in that person owning legal or beneficial title to more than three (3) stock certificates and Exclusive Right of Possession Agreement.

(2) Without Good Cause. The Association's approval shall not be denied unless a majority of the whole Board so votes. If the Board disapproves without good cause, and if the owner or transferee has made the demand set forth in Section 12.1(A)(3), then within thirty (30) days after the Board meeting at which the disapproval took place, the Board shall deliver in writing to the owner (hereafter "the seller") the name of an approved purchaser who will purchase the unit at the same price, and upon substantially the same terms, as in the disapproved sales contract. If no sales contract was involved, or if the Association challenges the contract price as not being a good faith purchase price, then the purchase price shall be paid in cash, and the price to be paid shall be determined by agreement, or in the absence of agreement, shall be the fair market value determined by the arithmetic average of appraisals by two state-certified property appraisers, one selected by the seller and the other by the Association. The cost of the appraisals, and all other closing costs in cases where no sales contract is involved, shall be shared equally by the buyer and seller, except that the purchaser shall pay for his own title insurance, and all costs of mortgage financing. Real property taxes and cooperative assessments shall be prorated to the day of closing and the parties shall bear their own attorneys fees, if any. The closing shall take place not longer than sixty (60) days after the date of Board disapproval or thirty (30) days after determination of fair market value by appraisal, whichever occurs last. Failure or refusal to close by either party shall constitute a breach of contract and shall entitle the other party to seek specific performance or damages.

(3) If the Board fails to deliver the name of the approved purchaser within thirty (30) days as required above, then the original proposed purchaser shall be deemed to be approved, despite the Board's former disapproval, and upon demand a Certificate of Membership shall be issued.

(D) Disapproval. A proposed sublease shall be disapproved only if a majority of the whole Board so votes, and in such case the sublease shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, the following:

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- (1) the unit owner is delinquent in the payment of assessments at the time the application is considered;
- (2) the unit owner has a history of leasing his unit without obtaining approval, or leasing to troublesome sublessees and/or refusing to control or accept responsibility for the occupancy of his unit;
- (3) the real estate company or rental agent handling the leasing transaction on behalf of the unit owner has a history of screening sublessee applicants inadequately, recommending undesirable sublessees, or entering into subleases without prior Association approval;
- (4) the application on its face indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the cooperative documents;
- (5) the prospective sublessee has been convicted of a felony involving violence to persons or property, a felony involving sale or possession of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;
- (6) the prospective sublessee has a history of conduct which evidences disregard for the rights and property of others;
- (7) the prospective sublessee evidences a strong probability of financial irresponsibility;
- (8) the sublessee, during previous occupancy, has evidenced an attitude of disregard for Association rules; or
- (9) the prospective sublessee gives false or incomplete information to the Board as part of the application procedure, or the required transfer fees and/or security deposit is not paid.
- (10) the owner fails to give proper notice of his intention to sublease his unit to the Board of Directors.

- (E) Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board at its election may approve or disapprove the sublease. Any sublease entered into without approval may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the sublessee, without securing consent to such eviction from the unit owner.
- (F) Applications; Assessments. Applications for authority to sublease shall be made to the Board of Directors on such forms and include such terms as the Board may provide from time to time. The legal responsibility for paying assessments may not be delegated to the sublessee.
- (G) Committee Approval. To facilitate approval of subleases proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an *ad hoc* committee, which shall consist of up to three (3) members, as determined by the Board.

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**12.2 Unapproved Transfers.** Any sale, sublease or other transfer of occupancy rights which is not approved, or which is disapproved pursuant to the terms of these Bylaws shall be void unless subsequently approved in writing by the Board.

**12.3 Fees and Deposits Related to Approval to Occupy or Sublease.** Whenever herein the Board's approval is required to allow a sublease or the transfer of occupancy rights in a unit, the Association may charge the owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. The Association may also require any deposits that are authorized by the Cooperative Act as amended from time to time.

**12.4 Term of Sublease; Frequency of Subleasing.** The minimum sublease term is thirty (30) days and the maximum term is one (1) year. No option for the sublessee to extend or renew the sublease for any additional period shall be permitted. The sublessee must be one or more natural persons. The Board may, in its discretion, approve the same sublease from year to year. No assignment of sublease rights by the sublessee is allowed.

**12.5 Occupancy of Subleased Units.** No overnight guests are permitted in subleased units, unless the sublessee or the spouse of the sublessee or the lessee or spouse of the lessee is also occupying the unit.

**12.6 Use of Common Areas.** To prevent overloading the facilities, a unit owner whose unit is subleased may not also use the recreation, laundry or parking facilities simultaneously with the sublessee during the sublease term.

**12.7 Regulation by Association.** All of the provisions of the cooperative documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a unit as a sublessee or guest to the same extent as against the member. A covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the cooperative documents, designating the Association as the owner's agent with the authority to terminate any sublease agreement and evict the sublessees in the event of breach of such covenant, shall be deemed to be included in every sublease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

**13. EASEMENTS.** Each of the following easements is a covenant running with the land of the cooperative, to-wit:

**13.1 Utility Services; Drainage.** Easements are reserved under, through and over the cooperative property as may be required for utility services and drainage in order to serve the cooperative. A unit owner shall do nothing on or under the unit that interferes with or impairs the utility services using these easements. The Directors shall have a right of access to each unit to inspect same, to maintain, repair or replace the pipes, wires, cables, conduits and other utility service facilities contained in or under the unit or elsewhere in the cooperative property, and to remove any improvements interfering with or impairing the utility services or easements herein reserved; provided that such right of access shall not unreasonably interfere with the unit owner's permitted use of the unit, and entry shall be made on not less than one (1) day's notice except in the event of an emergency.

**13.2 Traffic.** An easement shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, other portions of the common areas as may be from time to time intended and designated for such purposes and use; and for vehicular and pedestrian traffic over, through and across such portions of the common areas. Such easements shall be for the use and benefit of stockholders, institutional mortgagees or sublessees, and those claiming by, through or under them.

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**13.3 Covenant.** All easements, of whatever kind or character, whether heretofore or thereafter created shall constitute a covenant running with the land, shall survive the termination of the cooperative, and notwithstanding any other provisions of these Bylaws, may not be substantially amended or revoked in a way which would unreasonably interfere with its proper and intended use and purpose.

**14. MAINTENANCE; LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS.** Responsibility for the protection, maintenance, repair and replacement of the cooperative property, and restrictions on its alteration and improvement shall be as follows:

**14.1 Association Maintenance.** The Association will maintain and manage the cooperative property as a first class cooperative keeping the common area lawns, landscaping, parking areas, gardens, walkways, pool area and all other common facilities in an attractive and sanitary condition for the use and benefit of the members. The cost is a common expense.

**14.2 Owner Maintenance.** The member with the exclusive right to each lot shall, at the member's expense, keep the lot in a first class condition, keep the residence, lawn, landscaping, driveways and all other facilities on the lot in an attractive and sanitary condition.

**14.3 Modifications and Alterations.** If a unit owner makes any modifications, installations or additions to his unit or the common areas with prior Board approval, the unit owner and his successors in title shall be financially responsible for the insurance, maintenance, repair and replacement of the modifications, installations or additions, as well as the cost of repairing any damage to the common areas or units resulting from such modifications, installations or additions.

**14.4 Alteration of Units or Common Areas by Unit Owners.** No owner shall make or permit the making of any material alterations or substantial additions to his unit or the common areas, or in any manner change the exterior appearance of any portion of the cooperative, without first obtaining the written approval of the Board of Directors, which approval may be denied if the Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the cooperative in part or in whole. Any glass, screen, curtain, blind, shutter, awning, or other modifications, additions or installations which may be installed where visible from outside the unit, are subject to regulation by the Board of Directors. Whenever a unit owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the unit or common areas, such owner shall be deemed to have warranted to the Association and its members that his contractor(s) are properly licensed and fully insured, and that the owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance. No owner may alter the landscaping of the common areas in any way without prior Board approval.

**14.5 Alterations and Additions to Common Areas and Association Property.** The protection, maintenance, repair, insurance and replacement of the common areas and association property is the responsibility of the Association and the cost is a common expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the common areas or the real property owned by the Association costing more than twenty five thousand dollars (\$25,000) in the aggregate in any calendar year without prior approval of at least a majority of the voting interests (at least 183). Alterations or additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace or insure the common areas or association property also constitutes a material alteration or substantial additions, no prior unit owner approval is required.

**14.6 Enforcement of Maintenance.** If after reasonable notice the owner of a unit fails to maintain the unit or its appurtenant limited common areas as required above, the Association may institute legal



proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including but not limited to, entering the unit, with or without notice to or consent of the sublessee or unit owner, to repair, replace, or maintain any item which in the reasonable judgment of the Board of Directors may constitute a health or safety hazard to other property or residents. Any expenses incurred by the Association in performing work within the unit as authorized by these Bylaws shall be charged to the unit owner, together with reasonable attorney's fees and other expenses or collection, if any.

**14.7 Negligence; Damage Caused by Condition in Unit.** The owner of each unit shall be liable for the expenses of any maintenance, repair or replacement of common areas, other units, or personal property made necessary by his act or negligence, or by that of any member of his family or his guests, employees, agents, or sublessees. Each unit owner has a duty to maintain his unit, any limited common area appurtenant to the unit (except those limited common areas required to be maintained by the Association, as provided in Section 14.1), and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other units, the common areas or the property of other owners and residents. If any condition, defect or malfunction, resulting from the owner's failure to perform this duty causes damage to other units, the common areas, association property or property within other units, the owner of the offending unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the units involved is not occupied at the time the damage is discovered, the Association may enter the unit without prior notice to the owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but is not obligated to, repair the damage with the prior consent of the owner.

**15. RULES AND REGULATIONS.** The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the use, maintenance, management and control of the common areas and the operation of the Association. Copies of such rules and regulations shall be furnished to each unit owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the unit owners and uniformly applied and enforced.

**16. COMPLIANCE AND DEFAULT; REMEDIES.** The following provisions shall apply:

**16.1 Duty to Comply; Right to Sue.** Each member and his sublessees, house guests and invitees, and the Association, shall be governed by and shall comply with the provisions of the Cooperative Act, these Bylaws, the Exclusive Right of Possession Agreement and the rules and regulations. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a unit owner against:

- (A) The Association;
- (B) A member;
- (C) Anyone who occupies or is a guest in an unit; or
- (D) Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

**16.2 Forfeiture of Occupancy Rights.** If any member or any assignee, sublessee, house guest, heir, or other person occupying or having possession of the member's unit with his direct or implied consent or as his successor in interest by operation of law, violates any of the provisions of the cooperative documents or of these Bylaws or the rules and regulations as now or hereafter promulgated by the Board of Directors, the

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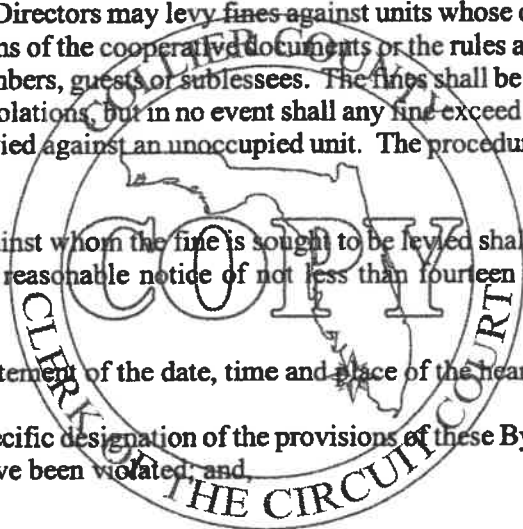
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Association may by resolution approved by a majority of its whole Board of Directors, terminate the member's occupancy rights upon five (5) days written notice to the member. Unless the default is cured within the five (5) day notice period aforesaid, the Association may declare the existing occupancy rights terminated under the Exclusive Right of Possession Agreement.

**16.3 Waiver of Rights.** The failure of the Association or of an Association member to enforce any right, provision, covenant or condition which may be granted by the cooperative documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future. A provision of the Cooperative Act may not be waived by a member if the waiver would adversely affect the rights of the member or defeat the purpose of the provision, except that unit owners or Directors may waive notice of specific meeting as provided in the Bylaws.

**16.4 Attorney' Fees.** In any legal proceeding arising out of an alleged failure of a guest, sublessee, unit owner or the Association to comply with the requirements of the Cooperative Act or the cooperative documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney's fees as may be awarded by the court, except as otherwise provided by law.

**16.5 Fines.** The Board of Directors may levy fines against units whose owners commit violations of the Cooperative Act, the provisions of the cooperative documents or the rules and regulations, or condone such violations by their family members, guests or sublessees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amounts allowed by law and no fine may be levied against an unoccupied unit. The procedure for imposing fines shall be as follows:

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- (A) 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 the notice shall include:
- (1) A statement of the date, time and place of the hearing; and
  - (2) A specific designation of the provisions of these Bylaws or rules which are alleged to have been violated; and
  - (3) A short and plain statement of the specific facts giving rise to the alleged violation(s); and
  - (4) The amount of any proposed fine.
- (B) At the hearing the party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony by the Association. The hearing shall be conducted before a panel of three (3) unit owners appointed by the Board, none of whom may then be serving as Directors. If the committee, by majority vote, does not agree with the fine, it may not be levied.

**16.6 Correction of Health and Safety Hazards.** Any conditions or violations which are deemed by the Board of Directors to present a hazard to the public or safety may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the member responsible for the condition or violation.

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**16.7 Mandatory Non-Binding Arbitration.** In the event of any "dispute" as defined in Section 719.1255 of the Cooperative Act, between a unit owner and the Association arising from the operation of the cooperative, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division of Florida Land Sales, Cooperatives and Mobile Homes prior to filing any lawsuit over the disputed matters. Nothing herein shall be construed to require arbitration of disputes related to the levy or collection of fees or assessments.

**16.8 Surrender of Premises.** In the event of termination of a Exclusive Right of Possession Agreement or loss of occupancy rights thereunder, the member in possession, or any other person or persons in possession by or through the right of the member, shall promptly quit and surrender the unit to the Association in good repair, ordinary wear and tear excepted. The member, for himself and any successor in interest, by operation of law or otherwise, shall be deemed to have waived any and all notice and demand for possession as required by the laws of the State of Florida.

**16.9 Availability of Remedies.** Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the cooperative property free from unreasonable restraint and annoyance.

**16.10 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 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.

**17. INSURANCE.** In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

**17.1 Association; Required Coverage.** The Association shall maintain adequate property insurance covering all of the common area buildings, the common areas and all Association property. The Association shall also provide adequate general liability insurance. The amounts of coverage shall be determined annually by the Board of Directors. The insurance carried by the Association shall afford at least the following protection:

(A) **Property.** Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by the standard "All Risk" property contract.

(B) **Liability.** Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the unit owners as a group to a parcel owner.

(C) **Automobile.** Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles when used for Association business, in such limits of protection and with such coverage as may be determined by the Board of Directors.

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**(D) Compensation.** The Association may maintain Workers' Compensation insurance and shall if required by law.

**17.2 Duty to Insure.** Each unit owner is responsible for insuring the real and personal property within his own lot and home. Each owner must recognize that he bears financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance liability including all risk, flood, liability, etc.

**17.3 Duty to Reconstruct.** Except as otherwise approved by the Board of Directors, if any residence or other improvements located on any residential lot is destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the owner of such improvements shall cause repair or replacement to be commenced within ninety (90) days from the date that such damage or destruction occurred, and to complete the repair or replacement within nine (9) months thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and condition, and shall utilize and conform with the original foundation and appearance of the original improvements.

**17.4 Failure to Reconstruct.** If the owner of any residence fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section 17.3 above, the Association shall give written notice to the owner of default. If after thirty (30) days the owner has not made satisfactory arrangements to meet its obligations, the Association shall be deemed to have been granted the right by the owner, as such owner's attorney-in-fact, to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Association exercises the rights afforded to it by this section, which shall be in the sole discretion of the Board of Directors, the owner of the residence shall be deemed to have assigned to the Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvements. The Association shall have the right to recover from the owner any costs not paid by insurance, and shall have a lien on the parcel and residence to secure payment.

**17.5 Association Insurance: Duty and Authority to Obtain.** The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under these Bylaws, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure.

**17.6 Optional Coverage.** The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and residential unit owners.

**17.7 Description of Coverages.** A detailed summary of the coverage included in the policies, and copies of the policies, shall be available for inspection by residential unit owners or their authorized representatives upon request.

**17.8 Waiver of Subrogation.** If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the Association parcel owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

**17.9 Insurance Proceeds.** All insurance policies purchased by the Association shall be for the benefit of the Association, the owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the owners and their respective mortgagees in the following shares:

(A) **Common Areas.** Proceeds on account of damage to common areas shall be held in as

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many undivided shares as there are residences, the shares of each owner being the same as his share in the common areas.

**(B) Mortgagee.** If a mortgagee endorsement has been issued as to a residence, the shares of the mortgagee and the owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against parcel or parcels, except to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

**17.10 Distribution of Proceeds.** Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the owners in the following manner: The proceeds shall be paid to defray the costs of reconstruction or repair by the Association. Any proceeds remaining after defraying costs shall be distributed to the beneficial owners, remittances to residence owners and their mortgagees being paid jointly to them.

**17.11 Association as Agent.** The Association is hereby irrevocably appointed as agent for each residence owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the common areas.

**17.12 Damage to Common Areas.** Where insured loss or damage occurs to the common areas or association property, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply unless at least seventy five percent (75%) of the voting interests vote not to repair (at least 274):

**(A)** The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction.

**(B)** If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the common areas, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all parcel owners for the deficiency. Such special assessments need not be approved by the parcel owners. The special assessments shall be added to the funds available for repair and restoration of the property.

**18. DISSOLUTION AND SALE OF CORPORATE PROPERTY.** The cooperative property may be sold and the Association dissolved at any time by the written agreement of at least ninety percent (90%) of the members having valid Membership Certificates then outstanding (at least 329). Upon the sale of the cooperative property, whether occasioned by voluntary disposition thereof, or as part of the dissolution or liquidation of the affairs of the corporation, all members having valid stock certificates then outstanding shall be entitled to share in the net proceeds of sale and in any other property assets authorized to be distributed. Each of such members shall be entitled to receive, as his share of the distributive assets, his pro-rata share, based on, and equal to, the member's one-three hundred sixty-fifth (1/365th) share, less any sums which the member may owe the corporation, including any arrearage of annual or special assessments. Unless otherwise voted by the members, the Directors then in office shall serve as Trustees for the Association and the members in the division of all distributable assets.

**19. AMENDMENT OF BYLAWS.** Amendments to these Bylaws shall be proposed and adopted in the following manner:

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**19.1 Proposal.** Amendments to these Bylaws may be proposed by a majority of the Board or upon written petition signed by at least one-fourth (1/4th) of the voting interests (at least 92).

**19.2 Procedure.** Upon any amendment or amendments to these Bylaws being proposed by said Board or members, such proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can still be given.

**19.3 Vote Required.** Except as otherwise provided by law, or by specific provision of the cooperative documents, a proposed amendment to these Bylaws shall be adopted if it is approved by at least two-thirds (2/3rds) of the voting interests present in person or by proxy at any annual or special meeting called for the purpose, provided that notice of the proposed amendment has been given to the members in accordance with law.

**19.4 Recording; Effective Date.** A copy of each amendment shall be attached to a certificate that the amendment was duly adopted, which certificate shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida. The certificate must identify the legal description of the cooperative property.

**20. MISCELLANEOUS.**

**20.1 Gender.** Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

**20.2 Severability.** Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

**20.3 Conflict.** If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Cooperative Act, the Cooperative Act shall control. If there is a conflict between these Bylaws and the Articles of Incorporation, the provisions of the Articles of Incorporation shall prevail over the provisions of these Bylaws. If the Exclusive Right of Possession Agreements, or the Association rules and regulations are in conflict with these Bylaws, these Bylaws shall control.

**20.4 Interpretation.** The Board of Directors is responsible for interpreting the provisions of these Bylaws. Such interpretation adopted by the Board shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

**EXHIBITS TO BYLAWS**

The exhibits listed below were recorded on February 17, 1988 together with the Affidavit for the purpose of creating and managing the Cooperative on the same date at Book 1328, Page 1686 *et seq.*, Public Records of Collier County, Florida.

- The following Exhibits, as previously amended to date, are hereby incorporated by reference as exhibits to the Bylaws herein.

EXHIBIT "A" - LEGAL DESCRIPTION  
EXHIBIT "B" - SURVEY, PLOT PLANS  
EXHIBIT "9" - PHYSICAL IMPROVEMENT INSPECTION REPORT" and renamed as EXHIBIT "E"

- In addition, the following Exhibits are completely amended and restated, and the Restatements are attached hereto and recorded herewith:

EXHIBIT "1" - ARTICLES OF INCORPORATION OF ASSOCIATION and renamed as EXHIBIT "C":

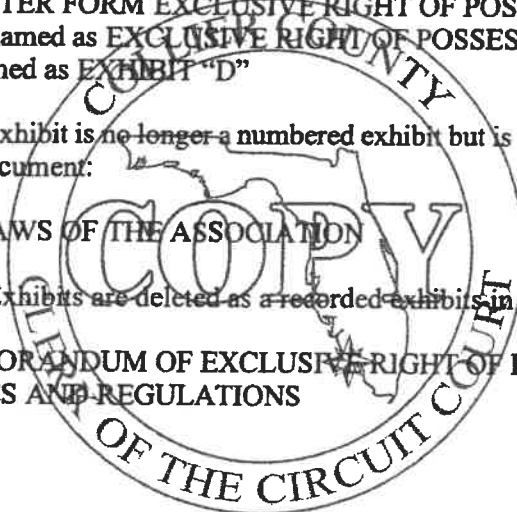
EXHIBIT "5" - MASTER FORM EXCLUSIVE RIGHT OF POSSESSION AGREEMENT  
is renamed as EXCLUSIVE RIGHT OF POSSESSION AGREEMENT and  
renamed as EXHIBIT "D"

- In addition, the following Exhibit is no longer a numbered exhibit but is completely amended and restated, and the Restatement is this document:

EXHIBIT "2" - BYLAWS OF THE ASSOCIATION

- In addition, the following Exhibits are deleted as a recorded exhibits in their entirety:

EXHIBIT "6" - MEMORANDUM OF EXCLUSIVE RIGHT OF POSSESSION  
EXHIBIT "8" - RULES AND REGULATIONS



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