

EXHIBIT "D"

**NOTE: SUBSTANTIAL AMENDMENTS OF ENTIRE BYLAWS. FOR ORIGINAL TEXT SEE ORIGINAL BYLAWS.**

**AMENDED AND RESTATED BYLAWS  
OF  
GATEWAY GREENS COMMUNITY ASSOCIATION, INC.**

**1. GENERAL.** These are Bylaws of Gateway Greens Community Association, Inc., hereinafter the "Master Association" or "Association", a corporation not for profit organized under the laws of Florida for the purpose of maintaining common parcels and providing services to homeowners in the master planned community known as "Gateway Greens". All prior Bylaws, if any, are hereby revoked and superseded in their entirety. Terms in these Bylaws shall have the same meaning as set forth in Declaration of Master Covenants, Conditions and Restrictions (whether capitalized or not).

**1.1 Principal Office.** The principal office of the Association shall be c/o Alliant Property Management, LLC, 13831 Vector Avenue, Fort Myers, Florida 33907.

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**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 "corporation not 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.

**2. MEMBERS.** The members of the Association are the record owners of legal title to the lots, homes and units. In the case of a residential lot, home or unit subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the residential lot, home or unit solely for purposes of determining use rights.

**2.1 Change of Membership.** A change of membership shall become effective after all the following events have occurred.

(A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the lot, home or unit of the member.

(B) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

(C) Designation, in writing, of a primary occupant, which is required when title to a home or unit is held in the name of two (2) or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person.

**2.2 Voting Interests.** The members of the Association are entitled to one (1) vote for each

residential lot, home or unit owned by them. The total number of possible votes (the voting interests) of the Association is the total number of residential lots, homes and units in the Association, in addition to eight (8) votes entitled to be cast by the Golf Course Owner. The vote for such lot, home or unit shall be exercised as such members will determine among themselves, but in no event shall more than one vote be cast with respect to any lot, home or unit. The vote of a residential lot, home or unit is not divisible. The Association may suspend the voting rights of a member for the nonpayment of any monetary obligation due to the Association that is more than ninety (90) days delinquent. If a residential lot, home or unit is owned by one (1) natural person, the right to vote shall be established by the record title to the residential lot, home or unit. If a residential lot, home or unit is owned jointly by two (2) or more natural persons, that residential lot, home or unit's vote may be cast by any one (1) of the record owners. If two (2) or more owners of a residential lot, home or unit do not agree among themselves how their one (1) vote shall be cast on any issue, that vote shall not be counted for any purpose. If the owner of a residential lot, home or unit is other than a natural person, the vote of that residential lot, home or unit shall be cast by the residential home or unit's primary occupant. All votes must be cast by an owner or primary occupant.

**2.3 Approval or Disapproval of Matters.** Matters coming before the Association for consideration shall fall into two (2) categories. General matters relating to the affairs of the Association which are subject to the approval of the members will be voted on at a meeting of the Association through votes cast by Representatives holding irrevocable proxies pursuant to sections 2.3 of the Amended and Restated Declaration for Gateway Greens recorded of even date herewith (hereafter, the "Declaration"). Matters requiring approval of the members and relating to amendment of the Governing Documents, approval of additional property being added to the lands subject to the Declaration, approval of material alteration or addition that cannot be approved by the Board on its own pursuant to section 5.1 of the Declaration, election of Governors, and any other matter where direct voting is requested by the Board, will require the direct vote of the members of the Association at a meeting where a quorum is present.

**2.4 Change of Membership.** A change of membership in the Association shall be established by the new member's membership becoming effective as provided for in Section 2.1 above. At that time the membership of the prior owner shall be terminated automatically.

**2.5 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 Association during the period of his membership, nor does it impair any rights or remedies 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 covenants and obligations incident thereto.

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

**3.1 Annual Meeting.** There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Lee County, Florida during the month of March, at a date, time and place designated by the Board of Governors, for the purpose of electing Governors and transacting any other business duly authorized to be transacted by the members.

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

**3.3 Notice Meetings; Waiver of Notice.** Notices of all members' meetings must state the date, time and place of the meeting. Notice of special meetings must include a description of the purpose or purposes for which the meeting is called. The notice must be mailed to each member at the member's address as it appears on the books of the Association, or may be furnished by personal delivery or electronic transmission. The members are responsible for providing the Association with any change of address. The notice must be mailed, transmitted or delivered not less than fourteen (14) nor more than thirty (30) days prior to the date of the meeting. If ownership of a residential home or unit is transferred after notice has been mailed or transmitted, 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 member may also waive notice of any meeting at any time by written waiver.

**3.4 Quorum.** A quorum at members' meeting shall be attained by the presence, either in person or by proxy, of persons entitled to cast at least ~~twenty-five percent (25%)~~thirty percent (30%) of the votes entitled to be cast as determined in the manner set forth in the Declaration or in these Bylaws.

**3.5 Vote Required.** The acts approved by a majority of the votes cast by eligible voters at a meeting of the members at which a quorum has been attained shall be binding upon all owners for all purposes, except where a different number of votes are expressly required by law or by any provision of the governing documents.

**3.6 Proxy Voting.** Members may cast their votes at a meeting in person or by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. No proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at 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 residential unit, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. No proxy shall be valid if it names more than one (1) 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. Holders of proxies must be members. Limited proxies may be used in the election of Governors.

**3.7 Participation at Meeting By Remote Communication.** Unless prohibited by the Chapter 720, F.S., if authorized by the Board of Governors as provided in Section 617.0721 F.S., and subject to such guidelines and procedures as the Board of Governors may adopt, members and

proxy holders who are not physically present at a meeting may, by means of remote communication:

(A) Participate in the meeting.

(B) Be deemed to be present in person and vote at the meeting if:

1. The Association implements reasonable means to verify that each person deemed present and authorized to vote by means of remote communication is a member or proxy holder; and

2. The Association implements reasonable measures to provide such members or proxy holders with a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate and to read or hear the proceedings of the meeting substantially concurrent with the proceedings.

**3.8 Electronic Notice and Online Voting.** To the extent permitted by applicable law, the Association may adopt procedures and implement technology that allows members who consent in writing to receive official notices by electronic mail and vote in elections and other matters by secure internet-based online voting system that complies with applicable law.

**3.9 Adjourned Meetings.** Any duly called meeting of the members may be adjourned to be reconvened at a later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. When a meeting is so adjourned it shall not be necessary to give further notice of the time and place of its continuance if such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted when the meeting is reconvened, but only if a quorum is present.

**3.10 Order of Business.** The order of business at members' meetings shall be substantially as follows:

(A) Call of the roll or determination of quorum

(B) Proof of notice of the meeting or waiver of notice

(C) Reading or disposal of minutes of last members' meeting

(D) Reports of Officers

(E) Reports of Committees

(F) Appointment by President of inspectors of election (if annual meeting)

(G) Election of Governors (if annual meeting)

(H) Unfinished Business

(I) New Business

(J) Adjournment

**3.11 Minutes.** Minutes of all meetings of the members and of the Board of Governors shall be kept in a businesslike manner, available for inspection by members or their authorized representatives at all reasonable times. Minutes must be reduced to written form within thirty (30) days after the meeting.

**3.12 Parliamentary Rules.** Robert's Rules of Order (latest edition) shall guide the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with the Articles or 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. BOARD OF GOVERNORS.** The administration of the affairs of the Association shall be by a Board of Governors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles and Bylaws, shall be exercised by the Board, subject to approval or consent of the residential owners only when such is specifically required. The Board of Governors is empowered to establish policies to facilitate the operations required to maintain the buildings and grounds of the Association, provided that all such policies are consistent with and in compliance with these documents and applicable federal and state statutes.

**4.1 Number of Governors.** The affairs of the Association shall be managed by a Board of Governors consisting of five (5) Governors. A majority of the Board of Governors shall constitute a quorum to transact business at any meeting of the Board, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the Board of Governors.

**4.2 Term.** The term of each Governor's service shall extend to the next annual meeting at which the Governor's term is scheduled to expire, and, then until the successor Governor is duly elected and qualified, or until the Governor is recalled in the manner provided below. Terms shall expire as provided in section 5.2 below.

**4.3 Recall or Removal.** Any Governor may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all votes entitled to be cast for Governors. Voting for recall shall be only by direct vote of the Members. A special meeting of the members to recall a member or members of the Board of Governors may be called by the holders of ten percent (10%) of the votes entitled to be cast for Governors, giving notice of the meeting as required by these By-Laws. The notice shall state the purpose of the meeting. Any vacancy on the Board of Governors thus created shall be filled by the members of the Association at the same meeting.

- A. If the recall is approved by a majority of all votes entitled to be cast for Governors, the recall is effective immediately, and the recalled member or members of the Board of Governors shall turn over to the Board any and all records of the Association in their possession, within 72 hours after the meeting.
- B. If the proposed recall is by an agreement in writing by a majority of all votes entitled to be cast for Governors, the agreement shall be served on the Association by certified mail. The Board of Governors shall call a meeting of the Board within five (5) days after receipt of the agreement and shall either certify the agreement to recall a member or members of the Board, in which case such member or members shall be recalled effective immediately and shall turn over to the Board within 72 hours, any and all records of the Association in their possession, or in writing challenge such recall setting forth the facts and legal basis for not certifying such recall.
- C. During a meeting of members to recall one or more members of a Board of Administration, the members shall select and announce the name and address of a representative to receive pleadings, notices, or other papers on behalf of the petitioning members in the event that the vote at the meeting is disputed and a petition for arbitration is filed as provided in Florida Statutes Chapter 682. If a proposed recall is sought by written agreement, the agreement shall also designate a representative to receive pleadings, notices, or other papers on behalf of the members executing the agreement in the event the Board of Governors determines not to certify the agreement to recall and files a petition for binding arbitration.
- D. Unless otherwise provided in the Declaration or Bylaws, the proposed recall of more than one member of the Board of Governors shall require a separate vote for each member sought to be recalled or, where recall is attempted by written agreement, a separate agreement is required for each member of the Board being recalled.

**4.4 Qualifications.** Each Governor must be a Member of the Association, or primary occupant, or the spouse of a Member or primary occupant. If a lot, home or unit is held in trust, the trustee, grantor or settlor of the trust, or any one of the beneficial owners residing in the home or unit is eligible to be elected to the Board of Governors. Any person who is more than ninety (90) days delinquent in the payment of any monetary obligation is not eligible to serve on the Board. Convicted felons are not permitted to serve on the Board unless their civil rights have been fully restored by the State of Florida for at least five (5) years. Co-owners are not eligible to serve together on the Board unless they own multiple homes or units.

**4.5 Resignation; Vacancies on the Board.** Any Governor may resign at any time by giving written notice to the Association, and unless otherwise specified therein, the resignation shall become effective upon receipt. Should the seat of any Governor become vacant during the term

of a Governor's service due to death, resignation, or otherwise except recall, the remaining members of the Board of Governors shall fill the vacancy by appointment. The appointed Governor shall fill the vacancy for the remainder of the unexpired term. If for any reason there shall arise circumstances in which no Governors are serving and the entire Board is vacant, the members shall elect successors at a special meeting in accordance with the procedures set forth herein.

**4.6 Organizational Meeting.** The organizational meeting of a new Board of Governors shall be held within ten (10) days after the election of new Governors, at such place and time as may be fixed and announced by the Governors at the annual meeting at which they were elected.

**4.7 Other Meetings.** Meetings of the Board may be held at such time and place in Lee County, Florida as shall be determined from time to time by the President or by a majority of the Governors. Notice of meetings shall be given to each Governor, personally or by mail, telephone, or electronic transmission at least forty-eight (48) hours before the meeting.

**4.8 Notice to Owners.** Meetings of the Board of Governors shall be open to members except for meetings between the Board and its attorney with respect to a) proposed or pending litigation where the discussion would otherwise be governed by the attorney-client privilege; or b) personnel matters, and notices of all Board meetings, together with an agenda, shall be posted conspicuously in the community at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. Notice of any Board meeting at which rules affecting the use of a parcel shall be considered shall specifically contain a statement that rules are to be considered and contain a copy of the proposed rule. Notice of any Board Meeting at which special assessments are to be considered for any reason shall specifically contain a statement that special assessments will be considered and the nature of the assessments. Notice of any Board Meeting at which rules or special assessments shall be considered shall be mailed, delivered or electronically transmitted and posted at least 14 days in advance of the meeting.

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

**4.10 Quorum of Governors.** A quorum at a Board meeting shall be attained by the presence in person of a majority of all Governors. Governors may participate in any meeting of the Board, or meeting of an executive or other committee, by means of 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.

**4.11 Vote Required.** The acts approved by a majority of those Governors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board of Governors, except when approval by a greater number of Governors is required by the Governing Documents or by applicable statutes. A Governor who is present at a meeting of the Board is deemed to have voted in favor of every 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 Governor present on each issue voted upon shall be recorded in the minutes of each meeting. Governors may not vote by proxy or secret ballot at Board meetings, except that secret ballots may be used in the election or removal of officers.

**4.12 Adjourned Meetings.** A majority of the Governors present at any meeting of the Board of Governors, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specified later time. When the meeting is reconvened, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted.

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

**4.14 Governors' Fees and Reimbursement of Expenses.** Neither Governors nor officers shall receive compensation for their services as such. Governors and officers may be reimbursed for all actual and proper out-of-pocket expenses related to the proper discharge of their respective duties.

**4.15 Emergency Powers.** In the event of any "emergency" as defined in Section 4.16(G) below, the Board of Governors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes, as amended from time to time.

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

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

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

(D) Corporate action taken in good faith during what is reasonably believed to be an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttal presumption of being reasonable and necessary.

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

(F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of



the Bylaws during the period of the emergency.

(G) An "emergency" exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence or imminent occurrence of a catastrophic event, such as a hurricane, act of war, civil unrest or terrorism, or other similar event. An "emergency" also exists during the period of time that civil authorities have declared that a state of emergency exists in, or have ordered the evacuation of, the area in which Gateway Greens is located, or have declared that area a "disaster area". A determination by any two (2) Governors, or by the President, that an emergency exists shall have presumptive validity.

## **5. ELECTION OF GOVERNORS.**

**5.1 Election Procedure.** Governors shall be elected and take office at the annual meeting of Members by a plurality of the votes entitled to be cast for Governors, which are present in person or by proxy. Each eligible voter shall be entitled to cast votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting. Not less than sixty (60) days before the annual meeting of the members, a nominating committee of three (3) members shall be appointed by the Board of Governors and the committee shall nominate at least one person for each Governorship to be filled. Any other nominations from the membership shall be accompanied by a signed petition from at least ten percent (10%) of the total voting interests in the Association and delivered in writing to the Association no later than thirty (30) days before the date of the election. Only candidates nominated by the nominating committee and by the members as permitted by this section are eligible for the election ballot. No nominations shall be made from the floor. Voting for Governors by limited proxy is permitted.

**5.2 Staggered Terms.** Turnover of control of the Board from the developer of Gateway Greens occurred on March 1, 2016, at which time the Bylaws provided that the member-appointed Governors serving on the Board prior to turnover of control would remain on the Board until the annual meeting date that is not fewer than twelve (12) months after the special turnover election meeting. Governors who filled the vacated seats of the developer-appointed Governors were elected to two (2) year terms at the special turnover election meeting. In order to permanently implement a system of two-year staggered terms for Governors, beginning with the first annual meeting that follows the March 1, 2016 turnover election and for all subsequent annual meetings, Governors who are elected shall serve a two (2) year term. Governors shall not serve more than three (3) consecutive terms on the Board.

## **6. OFFICERS.**

**6.1 Officers and Elections.** The executive officers of the Association shall be a President, and a Vice-President, a Treasurer and a Secretary, all of whom shall be Governors and elected by a majority vote of the Board of Governors. Any officer may be removed with or without cause at any meeting by vote of a majority of the Governors. Any officer so removed shall return all books, records and property of the Association to the Association within seventy-two (72) hours of their removal. Any person except the President may hold two (2) 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 (1) Vice-President.

**6.2 President.** The President shall be the chief executive officer of the Association; shall preside at all meetings of the members and Governors; shall be *ex-officio* a member of all standing and ad-hoc committees; shall oversee the business of the Association; and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages and other contracts and documents 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 Governors to some other officer or agent of the Association.

**6.3 Vice-Presidents.** The Vice-President 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 Governors shall assign.

**6.4 Secretary.** The Secretary shall attend meetings of the Board of Governors 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 the purpose, and shall perform like duties for standing committees when required. The Secretary shall give, or cause to be given, proper notice of all meetings of the members, and of the Board of Governors, and shall perform such other duties as may be prescribed by the Board or the President. The Secretary 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 governing documents. At the discretion of the Board, any of the foregoing duties may be delegated to and performed by the Association's property management office.

**6.5 Treasurer.** The Treasurer shall serve as chairman of the Finance Committee. The Treasurer and the Finance Committee will review the staff prepared budget for accuracy and reasonableness, determine funding for the long term reserves based on the needs of the community, review the committee requests and recommend the final budget to the Board. The Board may accept or modify the final budget. The Treasurer will review the periodic financial reports provided by the staff or Management Company and report to the Board and the community. The Treasurer and the Finance Committee will review the cash depositories primarily to determine that they are in accordance with Association's governing documents. The Treasurer and Finance Committee may perform other financial or audit functions as requested by the board.

**6.6 Compensation of Officers.** No compensation shall be paid to any officer for services as an officer of the Association. This provision does not preclude the Board of Governors from employing officers as employees of the Association.

## **7. COMMITTEES**

**7.1 Standing Committees.** The standing committees of the Association shall be:

- (a) The Nominating Committee;

- (b) Access Control Committee;
- (c) Finance Committee;
- (d) Design Review Committee; and
- (e) HOA Presidents Committee

Unless otherwise provided herein, each committee shall consist of a minimum of three (3) members who shall be appointed by the Board of Governors within thirty (30) days after each annual meeting of the Board of Governors, and the members of each committee shall serve until the succeeding committee members have been appointed. The HOA Presidents Committee shall be chaired by a Association Board member.

**7.2** The Nominating Committee shall have the duties and function pertaining to the nomination of members to the Board of Governors as prescribed in Article 5 of these Bylaws.

**7.3** The other standing committees shall have the duties and function as determined by the Board of Governors from time to time. The Board of Governors may appoint such other committees from time to time as it deems desirable.

**7.4** The committees appointed by the Board of Governors shall have power to appoint sub-committees from among their membership and may delegate to any such sub-committees from among their membership and may delegate to any such sub-committee any powers, duties, and functions.

**7.5** It is the duty of each committee to receive complaints from members on any matter involving Association functions, duties and activities within its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such other committee, Governor or officer of the Association which is further concerned with the matter presented.

**8. FISCAL MATTERS.** The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions.

**8.1 Depository.** The Association shall maintain its funds in such federally insured accounts at financial institutions 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. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities and other similar investment vehicles.

**8.2 Accounts of the Master Association.** The Association shall maintain its accounting books and records according to generally accepted accounting principles. There shall be an account for each residential home or unit. Such accounts shall designate the name and mailing address of each residential home or unit, the amount and due date of each assessment or charge against the residential home or unit, amounts paid, date of payment and the balance due.

**8.3 Budget.** The Association's Management Company, with assistance from the Finance Committee, shall prepare and the Board of Governors shall adopt a budget of Association

estimated revenues and expenses for each coming fiscal year. Once adopted, the Association shall provide to each member a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and revenue and expense classifications. The estimated surplus or deficit as of the end of the current year shall be shown and all fees or charges for recreational amenities shall be set out separately. Copies of the adopted budget and assessments for the ensuing fiscal year shall be transmitted to each Member at least thirty (30) days prior to the beginning of the fiscal year for which the budget is made. The budget shall be adopted by the Board of Governors not later than November 15th of the calendar year preceding the calendar year for which the budget is being adopted.

**8.4 Reserves.** The Board of Governors shall establish in the budget one (1) or more restricted reserve accounts for capital expenditures and deferred maintenance. These reserve accounts may be pooled at the election of the Board of Governors. Contingency reserves for unanticipated operating expenses shall be included, if at all, in the operating portion of the budget. These contingency reserve funds may be spent for any purpose approved by the Board. The purpose of reserves is to provide financial stability and to minimize the need for special assessments. The annual amounts proposed to be so reserved shall be shown in the annual budget.

**8.5 Assessments; Installments.** The regular annual assessment based on an adopted budget shall be paid in quarterly installments, in advance, due on the first day of each quarter of each year. Written notice of the annual assessment shall be sent to the owners of each unit prior to the first quarterly installment being due, but failure to send (or receive) such notice does not excuse the obligation to pay. If an annual budget for a new fiscal year has not been adopted, or if notice of any increase has not been made at the time the payment for the first quarterly installment is due, it shall be presumed that the amount of such installment is the same as the last quarterly installment, and payments shall be continued at such rate until a budget is adopted and new annual assessments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each unit's next due quarterly installment. Any assessments which are not paid when due shall be delinquent. Any assessment that is not paid within sixty (60) days after the due date shall accrue interest from the due date at the highest rate allowed by law and shall incur a late fee of \$25.00 or 5% of the assessment, whichever is greater.

**8.6 Special Assessments.** Special assessments may be imposed by the Board of Governors when necessary to meet unusual, unexpected, unbudgeted or non-recurring expenses, or for such other purposes as are authorized by the Declaration and these Bylaws. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The notice of any Board meeting at which a special assessment will be considered shall be given as provided in these Bylaws; 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 Individual Assessments.** The Association shall also have the right to levy assessments against individual Members and their home or unit, which may include but is not limited to monetary fines assessed against an owner pursuant to the Governing Documents, or any expense

or charge of the Association attributable to or on behalf of an individual owner pursuant to the Governing Documents, which may include legal expenses incurred to correct violations or conduct in violation of the Governing Documents. These charges shall be an Individual Assessment and shall become a lien against such owner's home or unit which may be foreclosed or otherwise collected as provided herein to the extent authorized by law.

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

**8.9 Financial Reports.** Not later than ninety (90) days after the close of each fiscal year, the Board shall cause to be prepared a financial report as prescribed by the Florida Statutes. The Association shall provide each member with a copy of the financial report or a written notice that a copy of the financial report is available upon request at no charge to the member.

**8.10 Application of Payments and Co-Mingling of Funds.** All monies collected by the Association may be co-mingled in a single fund or divided into two (2) or more funds, as determined by the Board of Governors. Regardless of any restrictive endorsement all payments on account by an owner shall first be applied to interest, late fees, costs, attorney fees, other charges, fines and then to the oldest regular or special assessments.

**8.11 Fiscal Year.** The fiscal year for the Association shall begin on the first day of January of each calendar year and end on December 31 that same calendar year.

**9. RULES AND REGULATIONS; USE RESTRICTIONS.** The Board of Governors may, from time to time, adopt and amend administrative rules and regulations governing the use, maintenance, management and control of the Common Areas, the homes and units and the operation of the Association. Copies of such rules and regulations shall be furnished to each residential unit owner.

**10. COMPLIANCE AND DEFAULT; REMEDIES.** In addition to the remedies provided in the Declaration, the following shall apply.

**10.1 Fines; Suspensions.** The Board of Governors may levy fines and/or suspensions against members, or members' tenants or guests, or both, who commit violations of applicable laws or ordinances, the provisions of the Governing Documents, or the rules and regulations, or who condone such violations by their family members, guests or lessees. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any fine exceed \$100.00 per day for a continuing violation and \$3,000.00 in the aggregate. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. Suspensions of the use of common areas and facilities may be imposed for a reasonable period of time to deter future violations. The procedure for imposing fines or suspending use rights shall be as follows:

(A) **Notice.** The party against whom the fine and/or suspension is sought to be levied or

imposed 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;
- (2) a short and plain statement of the specific facts giving rise to the alleged violation(s); and
- (3) the possible amounts of any proposed fine and/or possible use rights of common areas or facilities to be suspended.

**(B) Hearing.** At the hearing the party against whom the fine and/or suspensions 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 presented by the Association. The hearing shall be conducted before a panel of three (3) members appointed by the Board, none of whom may then be serving as Governors or officers, or who are employees of the Association, or the spouse, parent, child, brother or sister of an officer, Governor or employee. If the committee, by majority vote, does not agree with the proposed fine and/or suspension, it may not be levied or imposed. If the committee agrees with the proposed fine and/or suspensions, the Board of Governors shall levy same.

**(C) Collection of Fines.** Any fine greater than or equal to \$1,000.00 not paid within thirty (30) days shall become a lien on the home or unit of the owner or member who owes the fine. Said lien may be foreclosed in the same manner as a lien for assessments as provided for in the Declaration. The fine shall also be a personal obligation of the person fined.

**10.2 Correction of Health and Safety Hazards.** Any violations of the Association rules which creates conditions of the property which are deemed by the Board of Governors to be a hazard to the public health or safety may be dealt with immediately as an emergency matter by the Association, and the cost thereof shall be charged to the unit owner as an Individual Assessment secured by a lien.

**10.3 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 property free from unreasonable restraint and annoyance.

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

**11.1 Proposal.** Amendments to these Bylaws shall be proposed by a majority of the Board or upon petition of ten percent (10%) of the Voting Interests, and shall be submitted to a vote of the members not later than the next annual meeting.

**11.2 Vote Required.** Except as otherwise required by Florida law or as provided elsewhere in these Bylaws, these Bylaws may be amended if the proposed amendment is approved by the affirmative vote of at least ~~two-thirds (2/3) of the Voting Interests, present and voting in person or by proxy at a members' meeting noticed for that purpose and at which a quorum is present~~ a majority of the total voting interests in the Association.

**11.3 Effective Date.** An amendment shall become effective upon the recording of a copy in the Public Records of Lee County, Florida with the same formalities as are required in the Declaration for recording amendments to the Declaration.

## **12. MISCELLANEOUS.**

**12.1 Gender; Number.** 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.

**12.2 Severability.** If any portion of these Bylaws is void or becomes unenforceable, the remaining provisions shall remain in full force and effect.

**12.3 Conflict.** If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration, or the Association's Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws.