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TO BY-LAWS  
OF  
INDIAN RIVER LANDINGS HOMEOWNERS ASSOCIATION, INC.

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**BY-LAWS OF**  
**INDIAN RIVER LANDINGS HOMEOWNERS ASSOCIATION, INC.**  
**a Florida corporation, not for profit**

**Article 1**

**GENERAL**

**Section 1. Organization and Purpose.** The provisions which follow are the By-Laws of INDIAN RIVER LANDINGS HOMEOWNERS ASSOCIATION, INC. (the "Association"), a Florida corporation not for profit organized for the purposes set forth in Article II of its Articles of Incorporation.

**Section 2. Location of Principal Office.** The Association's principal office shall be located at any place in Brevard County, Florida designated by the Developer prior to transfer of control of the Association to lot owners other than the Developer and thereafter at what other place on or within a thirty (30) mile radius of, INDIAN RIVER LANDINGS that the Board of Directors may designate.

**Article 2**

**TERMINOLOGY**

For the sake of brevity, the Association's Articles of Incorporation are referred to in these By-Laws as the "Articles", the Association's members (including members other than Voting Members), officers and directors as "Members", "Officers" and "Directors" respectively and the Association's Board of Directors occasionally as just the "Board". "Hereof", "herein" and words of similar import refer to these By-Laws as from time to time properly amended. The other capitalized terms used in these By-Laws shall have the same meanings they have in the Declaration of Covenants, Conditions and Restrictions for INDIAN RIVER LANDINGS which has been or will be recorded in the Brevard County, Florida Public Records (the "Declaration") unless another meaning is expressly assigned to them in these By-Laws or is clearly indicated by the context in which they are used.

**Article 3**

**MEMBERS; VOTING MEMBERS; AND VOTING RIGHTS**

**Section 1. Voting Rights.** The Association shall have one class of Voting Members, as provided in the Articles. The Developer shall transfer control of this Association to Lot Owners other than the Developer three (3) months after ninety (90%) percent of the Lots have been conveyed to Owners other than the Developer or five (5) years from the date of the closing of the first sale of a Lot Owner to a third party, whichever shall occur first. The Association may suspend the voting rights of a Lot Owner or Member for the nonpayment of any monetary obligation due to the Association that is more than ninety (90) days delinquent. The voting interest or consent right allocated to the Lot or Member which has been suspended by the Association may not be counted

toward the total number of voting interests for any purpose, including, but not limited to, the number of voting interests necessary to constitute a quorum, the number of voting interests to required to conduct an election, or the number of voting interests required to approve an action under Chapters 617 or 720, Florida Statutes, or pursuant to the governing documents. All suspensions imposed pursuant to this Section must be approved at a properly noticed Board meeting. Upon approval, the Association must notified the Lot Owner and, if applicable, the Lot occupant, licensee or invitee by mail or hand delivery.

**Section 2. Majority of Quorum.** Unless a higher percentage is required expressly in the By-Laws or in the Declaration or the Articles, any action which is required to be taken by Voting Members of the Association may be so taken by a vote of a majority of a quorum of the votes of Voting Members of the Association.

**Section 3. Quorum.** Except as otherwise provided in these By-Laws, the presence in person or by proxy of at least thirty (30%) percent of the total votes of the Voting Membership of the Association shall constitute a quorum of the Voting Membership. Such Voting Members present at a duly called or held meeting at which a quorum thereof is present may continue to accomplish the business of the meeting until adjournment, notwithstanding the withdrawal during the meeting of enough Voting Members to leave less than such quorum. In the event, however, the required quorum is not present, the meeting may be rescheduled subject to the notice requirements set forth herein.

**Section 4. Proxy Voting.** The Members have the right to vote in person or by proxy as follows:

(a) Members voting by limited proxy must use a form substantially conforming to a limited proxy form adopted by the Division of Florida Condominiums, Homeowners Associations, Timeshares and Mobile Homes (the "Division"). Limited proxies must be used for:

1. Votes taken to waive or reduce reserves in accordance with Section 720.303(6), Florida Statutes;
2. Votes taken to waive the financial reporting requirements of Section 720.303(7), Florida Statutes;
3. Votes taken to amend the Declaration;
4. Votes taken to amend the Articles of Incorporation or By-Laws pursuant to this subsection; and
5. Any other matter for which the Homeowners Act, Chapter 720, Florida Statutes, requires or permits a vote of the Lot Owners.

(b) General proxies may be used for other matters for which limited proxies are not required and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given.

- (c) Limited proxies and general proxies may be used to establish a quorum.
- (d) Voting interests or consent rights allocated to a Lot owned by the Association may not be exercised or considered for any purpose, whether for a quorum, an election, or otherwise.
- (e) Any proxy given is effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event is a proxy valid for longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the Lot Owner executing it, if any.

#### Article 4

### VOTING MEMBER MEETINGS

**Section 1. Place of Meetings of Voting Members.** Meetings of the Voting Members shall be held on INDIAN RIVER LANDINGS Lands, or such other suitable place as close thereto as practicable in Brevard County as may be designated by the Board of Directors.

**Section 2. Annual Meeting of Voting Members.** The Members shall hold an annual meeting for the transaction of any and all proper business at a time, date and place stated in or affixed in accordance with the By-Laws. The location of the annual meeting and all other membership meetings shall be held within 45 miles of the Association property. The election of Directors, if one is required to be held, must be held at, or in conjunction with, the annual meeting or as otherwise provided in the governing documents.

**Section 3. Special Meetings of Voting Members.** Special meetings of the Voting Members may be called at any time by a majority of a quorum of the Board of Directors, or upon a petition signed by Voting Members holding at least ten (10%) percent of the votes of the Members. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 4. Notice of Meetings of Voting Members.** Unless law or the governing documents require otherwise, notice of an annual meeting need not include a description of the purposes for which the meeting is called. Notice of a special meeting must include a description of the purposes for which the meeting is called. The Association shall give all Lot Owners and Members actual notice of all membership meetings, which shall be mailed, delivered or electronically transmitted to the Members not less than fourteen (14) days before the meeting. Evidence of compliance with the fourteen (14) day notice shall be made by an affidavit executed by the person providing the notice and filed upon execution among the official records of the Association. In addition to mailing, delivering, and electronically transmitting a notice of any meeting, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed circuit cable television system serving the Association. When the broadcast notice is provided, the notice and agenda must be broadcast in

a manner and for a continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda.

**Section 5. Adjourned Meetings.** If any meeting of Members, special or annual, cannot be organized because a quorum has not attended, it may be adjourned to a different date, time or place, which adjournment must be announced at the meeting before the adjournment is taken, or notice must be given of the new date, time and place, pursuant to Section 720.303(2), Florida Statutes. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. The Board will fix the record date which will be used to determine the Members entitled to notice of the adjourned meeting who are entitled to vote and are Members as of the new record date, but were not Members as of the previous record date. In no event may a record date fixed by the Board be a date preceding the date upon which the resolution fixing the record date is adopted. The record date is the date for determining Members entitled to vote at the adjourned meeting.

**Section 6. Order of Business.** The order of business at all meetings of the Voting Members shall (unless waived) be as follows: (a) roll call to determine the voting interest represented at the meeting; (b) reading of minutes of preceding meeting; (c) reports of Officers; (d) unfinished business; (e) new business; and (f) adjournment. Meetings of Members shall be conducted by the Officers of the Association, in order of their priority.

**Section 7. Right to Speak.** Members have the right to attend all membership meetings and to speak at any meeting with reference to all items open for discussion or included on the agenda. Notwithstanding any provision in the governing documents or any rules adopted by the Board or by the membership, a Member has a right to speak for at least three (3) minutes on any item, if the Member submits a written request to speak before the meeting. The Association may adopt reasonable written rules governing the frequency, duration and other manner of Member's statements, which are consistent with this section.

**Section 8. Recording.** Any Member may tape record or video tape meetings of the Board of Directors and meetings of the Members. The Board of Directors of the Association may adopt reasonable rules governing the taping of meetings of the Board and the membership.

**Section 9. Action Without Meeting.** Any action which under the provisions of Florida law may be taken at a meeting of the Voting Members, may be taken without a meeting if authorized in writing by the requisite percentage of all Voting Members who would be entitled to vote at a meeting of Voting Members for such purpose, and if thereafter filed with the Secretary.

**Section 10. Minutes.** Minutes of all meeting of the members of an association and of the Board of Directors of the association must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a Board meeting must be recorded in the minutes.

**Section 11. Official Records.** The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace.
- (b) A copy of the Bylaws of the Association and of each amendment to the Bylaws.
- (c) A copy of Articles of Incorporation of the Association and of each amendment and/or restatement thereto.
- (d) A copy of the Declaration of Covenants, Conditions and Restrictions and a copy of each amendment thereto.
- (e) A copy of the current rules of the Homeowners' Association, if any.
- (f) The Minutes of all meetings of the Board of Directors and of the Members, which Minutes must be retained for at least seven (7) years.
- (g) A current roster of all Members and their mailing address and Lot identifications. The Association shall also maintain the electronic mailing addresses and the numbers designated by Members for receiving notice sent by electronic transmissions of those Members consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by Lot Owners to receive notice by electronic transmission shall be removed from Association records when consent to receive notice by electronic transmission is revoked. However, the Association is not liable for erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.
- (h) All of the Associations' insurance policies or a copy thereof, which policies must be retained for at least seven (7) years.
- (i) A current copy of all contracts to which the association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility. Bids received by the Association for work to be performed must also be considered official records and must be kept for a period of one (1) year.
  - 1. The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and accounting records must include:
  - 2. Accurate, itemized, and detailed records of all receipts and expenditures.
  - 3. A current account and a periodic statement of the account for each Member, designating the name and current address of each Member who is obligated to pay assessments, the due date and amount of each assessments or other

charge against the Member, the date and amount of each payment on the account, and the balance due.

4. All tax returns, financial statements, and financial reports of the Association.
  5. Any other records that identify, measure, record, or communicate financial information.
- (k) A copy of the disclosure summary described in Section 720.401(1) Florida Statutes.
- (l) All other written records of the Association not specifically included in the forgoing which are related to the operation of the Association.

**Section 12. Inspection and Copying of Records.** The official records shall be maintained within the state and must be open to inspection and available for photocopying by Members or their authorized agents at reasonable times and places within ten (10) business days after receipt of a written request for access. This subsection may be complied with by having a copy of the official records available for inspection or copying in INDIAN RIVER LANDINGS community. If the Association has a photocopy machine available where the records are maintained, it must provide members with copies on request during the inspection if the entire request is limited to no more than 25 pages.

- (a) The failure of the Association to provide access to the records within then (10) business days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this subsection.
- (b) A Member who is denied access to official records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this subsection. The minimum damages are to be Fifty (\$50.00) dollars per calendar day up to 10 days, the calculation to begin on the 11<sup>th</sup> business day after receipt of the written request.
- (c) The Association may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspections, but may not impose a requirement that a Member demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a Member's right to inspect records to less than one (1) eight (8) hour business day per month. The Association may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The Association may charge up to Fifty (\$.50) cents per page for copies made on the Association's photocopier. If the Association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the Association may have copies made by an outside vendor and may charge the actual cost of copying. The Association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to Members and prospective Members. Notwithstanding the provisions of this Section, the following records shall not be accessible to Members:

1. Any record protected by the Lawyer-Client privilege and any record protected by the work-product privilege, including, but not limited to, any record prepared by an Association Attorney or prepared at the Attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the Attorney or the Association and was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings which was prepared in anticipation of imminent, civil, or criminal litigations or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.

2. Information obtained by an Association in connection with the approval of lease, sale, or other transfer of a Lot.

3. Personnel records of the Association's employees, including, but are not limited to, disciplinary, payroll, health and insurance records. The term "personnel records" does not include written employment agreements with an Association employee or budgetary or financial records that indicate the compensation paid to an Association employee.

4. Medical records of parcel owners or community residence.

5. Social security numbers, driver's license numbers, credit card numbers, electronic mailing addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses for a Member other than as provided for Association notice requirements and other personal identifying information of any person excluding the person's name, lot designation, mailing address and property address. However, an owner may consent in writing to the disclosure of protected information described in this subsection. The Association is not liable for the disclosure of information that is protected under this subsection if the information is included in an official record of the Association and is voluntarily provided by an Owner and not requested by the Association.

6. Any electronic security measures that are used by the Association to safe guard data, including passwords.

7. The software operating system used by the Association which allows the manipulation of data, even if the Owner owns a copy of the same software used by the Association. The data is part of the official records of the Association.

(d) The Association or its authorized agent is not required to provide a perspective purchaser or lienholder with information about the residential subdivision or the Association other than information or documents required by Chapter 720, Florida Statutes, to be made available or disclosed. The Association or its authorized agent may charge a reasonable fee to the prospective purchaser or lienholder or the current Member for providing good faith responses to requests for information by or on behalf of the prospective purchaser or lienholder, other than that required by



law, if the fee does not exceed \$150.00 plus the reasonable cost of photocopying and any attorney fees incurred by the Association in connection with the response.

**Section 13. Budgets.** The Association shall prepare an annual budget that sets out the annual operating expenses. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, or another person. The Association shall provide each Member with 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 copy must be provided to the member within the time limits set forth in Section 12, above.

In addition to annual operating expenses, the budget may include reserve accounts for capital expenditures and deferred maintenance for which the Association is responsible to the extent that the governing documents do not limit increases and assessments, including reserves.

**IF THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS, EACH FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR TO THE MEMBERS MUST CONTAIN THE FOLLOWING STATEMENT IN CONSPICUOUS TYPE: THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA STATUTES, UPON OBTAINING APPROVAL OF THE MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.**

## Article 5

### **DIRECTORS**

**Section 1. Number and Qualification.** The Board shall consist of no less than three (3) Members nor more than five (5) Members as specified in the Articles. Each Director must be either a Member of the Association, an Officer or Director of a corporation or a Member of a limited liability company, which are Members of the Association, a general partner in a partnership which is a Member, or an Officer or Director of a corporate general partner in a partnership which is a Member, or the Trustee of a Trust, which is a Member of the Association. The term "candidate" means an eligible person who has timely submitted the written notice, as described below, of his or her intention to become a candidate.

Any Lot Owner desiring to be a candidate for Board membership must be eligible to serve on the Board of Directors at the time of the deadline for submitting a notice of intent to run as provided below in order to have his or her name listed as a proper candidate on the ballot. The following Lot Owners are not eligible to be a candidate or serve on the Board of Directors:

- (a) A Lot Owner who is delinquent in the payment of any fee, fine, or special or regular assessment as provided in Section 2 below.

(b) A Lot Owner who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, unless such felon's civil rights have been restored for at least five (5) years as of the date such person seeks election to the Board. The validity of an action by the Board is not affected if it is later determined that a Board member is ineligible for Board membership due to having been convicted of a felony.

(c) Co-owners of a Lot may not serve as Members of the Board of Directors at the same time unless they own more than one Lot or unless there are not enough eligible candidates to fill the vacancies on the Board at the time of the vacancy.

**Section 2. Election and Term of Office.** Election of Directors must be conducted in accordance with procedures set forth in the Declaration of Covenants, Conditions and Restrictions, Articles of Incorporation and the By-Laws. All Members of the Association are eligible to serve on the Board of Directors and a Member may nominate himself or herself as a candidate for the Board at a meeting with the election is to be held. However, the Association may elect an election process that allows candidates to be nominated in advance of the meeting, in which event the Association is not required to allow nominations at the meeting. An election is not required unless more candidates are nominated than vacancies exist. Elections shall be decided by plurality of ballots cast. There is no quorum requirement, however, at least twenty (20%) percent of the eligible voters must cast a ballot in order to have a valid election. Any challenge to the election process must be commenced within sixty (60) days after the election results are announced.

A Member who is delinquent in the payment of any fee, fine or other monetary obligation to the Association for more than ninety (90) days is not eligible for board membership.

A person who has been convicted of any felony in the State of Florida or in a United States District or Territorial Court, or has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this State is not eligible for board membership unless such felon's civil rights had been restored for at least five (5) years as of the date on which such person seeks election to the board. Validity of any action by the Board is not affected if it is later determined that a Member of the Board is ineligible for Board membership.

Any election dispute between a Member and an Association must be submitted to a mandatory binding arbitration with the Division of Florida Condominiums, Timeshares and Mobile Homes and the Department of Business and Professional Regulation ("Department"). Such proceedings must be conducted in the manner provided by Section 718.1255, Florida Statutes, and the procedural rules adopted by the Department.

Any vacancy occurring on the Board of Directors before the expiration of a term may be filled by an affirmative vote of the majority of the remaining Directors, even if the remaining Directors constitute less than a quorum, or by the sole remaining Director. In the alternative, the Board may hold an election to fill the vacancy, in which case the election procedures must conform

to the requirements set forth herein. A Board member appointed or elected under this provision is appointed for the unexpired term of the seat being filled.

Within ninety (90) days after being elected or appointed to the Board, each newly elected or appointed Director shall certify in writing to the secretary of the Association that he or she has read the homeowners' association's declaration, articles of incorporation, by-laws and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members. In lieu of written certification, within ninety (90) days after being elected or appointed to the Board, the newly elected or appointed Director may submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved homeowners' association education provider within one (1) year before or ninety (90) days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the Director serves on the Board without interruption.

(a) A Director who fails to timely file the written certification or educational certificate is suspended from service on the Board until he or she complies with this paragraph. The Board may temporarily fill the vacancy during the period of suspension.

(b) The secretary shall cause the Association to retain a Director's written certification or educational certificate for inspection by the Members for five (5) years after a Director's election. Failure to have such written certification or educational certificate on file does not affect the validity of any Board action.

(c) A Director or Officer more than 90 days delinquent in the payment of any monetary obligation due the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to law.

(d) A Director or Officer charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property must be removed from office, creating a vacancy in the office to be filled according to law until the end of the period of the suspension or the end of the Director's term of office, whichever occurs first. While such criminal charges are pending, he or she may not be appointed or elected to a position as a Director or Officer. However, if the charges are resolved without a finding of guilt or without acceptance of a plea of guilty or nolo contendere the Director or Officer shall be reinstated for the remainder of his or her term of office, if any.

The terms of Directors shall be for one (1) year. The Board currently consists of three (3) Directors. Each Director shall hold office for the term of which he or she is elected or appointed and until his or her successor has been elected or appointed and qualified, or until his or her earlier resignation, removal from office, or death. The Board of Administration shall always be composed of an odd number of members.

**Section 3. Vacancies.** A vacancy on the Board of Directors caused by the expiration of a Director's term shall be filled by electing a new Board member. The election must occur on the date of the annual meeting.

(a) An election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist. If the number of Board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become Members of the Board effective upon the adjournment of the annual meeting.

(b) Any remaining vacancies shall be filled by the affirmative vote of the majority of the Directors making up the newly constituted Board even if the Directors constitute less than a quorum or there is only one Director.

**Section 4. Removal of Directors** Regardless of any provision to the contrary contained in the governing documents, any Member of the Board of Directors may be recalled and removed from office with or without cause by a majority of the total voting interests.

Board of Director Members may be recalled by an agreement in writing or by written ballot without a membership meeting. The agreement in writing or the written ballots, or a copy thereof, shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48, Florida Statutes, and the Florida Rules of Civil Procedure.

The Board shall duly notice and hold a meeting of the Board within five (5) business days after receipt of the agreement in writing or written ballots. At the meeting the Board shall either certify the written ballots or written agreement to recall a Director or Directors of the Board, in which case such Director or Directors shall be recalled effective immediately and shall turnover to the Board within five (5) full business days any and all records and property of the Association in their possession or proceed as described in the Homeowners Association Act, Chapter 720, Florida Statutes.

When it is determined by the Department pursuant to binding arbitration proceedings that an initial recall effort was defective, written recall agreements or written ballots used in the first recall effort and not found to be defective may be reused in the subsequent recall effort. However, in no event is a written agreement or written ballot valid for more than one hundred twenty (120) days after it has been signed by the Member.

Any rescission or revocation of a Member's written recall ballot or agreement must be in writing and in order to be effective, must be delivered to the Association before the Association is served with written recall agreements or ballots.

The agreement in writing or ballot shall list at least as many possible replacement Directors as there are Directors subject to the recall, when at least a majority of the Board is sought to be recalled; the person executing the recall instrument may vote for as many replacement candidates as there are Directors subject to the recall.

The Members may also recall and remove a Board Director or Directors by a vote taken at a special meeting of the Members to recall a Director or Directors of the Board of Administration which meeting may be called by ten (10%) percent of the voting interests giving notice of the meeting as required for a meeting of Members, and the notice shall state the purpose of the meeting.

Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part to recall a Director or Directors.

The Board shall duly notice and hold a Board meeting within five (5) full business days after the adjournment of the Member meeting to recall one or more Directors. At the meeting the Board shall certify the recall in which case such Member or Members shall be recalled effective immediately and shall turnover to the Board within five (5) full business days any and all records and property of the Association in their possession or shall proceed within five (5) full business days after the meeting by filing with the Department a petition for binding arbitration.

If the Board determines not to certify the written agreement or written ballots to recall a Director or Directors of the Board or does not certify the recall by vote at a meeting, the Board shall, within five (5) full business days after the meeting file with the Department a petition for binding arbitration pursuant to the applicable procedures set forth in Section 718.112(2)(j) and 718.1255, Florida Statutes, and the rules adopted thereunder.

**Section 5. Organization Meeting.** The first regular meeting of a newly elected Board of Directors shall be held within ten (10) days after the election at such place as shall be fixed and announced by the Directors at the meeting at which such Directors were elected, for the purpose of organization, election of Officers and the transaction of other business. Notice to the newly elected Directors shall not be necessary in order legally to constitute the meeting, provided a majority of the whole Board are present.

**Section 6. Regular Meetings.** A meeting of the Board of Directors of the Association occurs whenever a quorum of the Board gathers to conduct Association business. All meetings of the Board must be open to all members except for a meeting between the Board and its Attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. These provisions of this subsection shall apply also to the meetings of any committee or other similar body when a final decision will be made regarding the expenditure of the Association funds and the meetings of any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a Member of the community.

Members have the right to attend all membership meetings and to speak at any meeting with reference to all items open for discussion or included on the agenda. Notwithstanding any provision in the governing documents or any rules adopted by the Board or by the membership, a Member has the right to speak for at least three (3) minutes on any item if the Member has submits a written request to speak before the meeting. The Association may adopt reasonable written rules governing the frequency, duration, or other manner of Members statements, which are consistence with this section.

Any Member may tape record or video tape meetings of the Board of Directors and meetings of the Members. The Board of Directors of the Association may adopt reasonable rules governing the taping of meeting of the Board and the membership.

Notices of all Board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of the meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each Board meeting must be mailed or delivered to each Member at least seven (7) days before the meeting, except in an emergency. An assessment may not be levied at a Board meeting unless the notice of the meeting includes the statement that assessments will be considered and the nature of the assessments. Written notice of any meeting at which special assessments will be considered or at which amendments to rules regarding parcel use will be considered must be mailed, delivered, or electronically transmitted to the Members and posted conspicuously on the property or broadcast on closed circuit cable television not less than fourteen (14) days before the meeting. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of Officers. This Section also applies to the meetings of any committee or other similar body when a final decision will be made regarding the expenditure of the Association funds, and to anybody vested with the power to approve or disapprove architectural decisions with respect to a specific Lot owned by a Member of the community. If twenty (20%) percent of the total voting interests petition the Board to address an item of business, the Board shall at its next regular Board meeting or at a special meeting of the Board, but not later than sixty (60) days after receipt of the petition, take the petitioned item up on an agenda. The Board shall give all Members notice of the meeting at which the petitioned items shall be addressed in accordance with a fourteen (14) day notice requirement set forth herein. Each Member shall have the right to speak for at least three (3) minutes on each matter placed on the agenda by petition, provided that the Member signs the sign-up sheet, if one is provided, or submits a written request to speak prior to the meeting. Other than addressing the petitioned items at the meeting the Board is not obligated to take any other action requested by the petition.

Meetings of the Board must be held at a location that is accessible to a physically handicapped person if requested by a physically handicap person who has a right to attend the meeting. The provisions of this subsection shall also apply to the meeting of any committee or other similar body when a final decision will be made regarding the expenditure of Association funds and to meetings of anybody vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a Member of the community.

**Section 7. Special Meetings.** Special meetings of the Board of Directors shall be open to all Members. Notice of the special meeting and participation in the meeting shall be in accordance with the provisions set forth in Section 6 of Article 5 above.

**Section 8. Waiver of Notice.** Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. Waiver of Notice of the meeting by the Directors, does not waive the requirement to post notice of the meeting of the Board of Directors as stated in Sections 6 and 7 above.

**Section 9. Quorum and Adjournment.** Except as otherwise expressly provided herein, at all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of

Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**Section 10. Action Without Meeting.** The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the vote or written consent of all the Directors. Any action so approved shall have the same effect as though taken at a duly constituted meeting of the Directors.

**Section 11. Committees.** The Board of Directors by resolution may, from time to time, designate whatever committees it desires, and may establish the purposes and powers of any committee it creates. The resolution designating and establishing the committee shall provide for the appointment of its members and a chairman, shall state the purposes of the committee, and shall provide for reports, termination and whatever other administrative matters the Board deems appropriate.

**Section 12. Powers of the Board.** The property and business of the Association shall be managed by the Board of Directors, which may exercise all corporate powers not specifically prohibited by the Articles or Declaration. The powers of the Board of Directors shall specifically include, but not be limited to, the following:

(a) **Levying and Collecting Assessments.** To levy and collect periodic assessments and special assessments and to establish the time within which their payments are due.

(b) **Maintaining the Common Properties.** To use and expend the assessments collected by it to maintain the Common Properties.

(c) **Reconstruction After Casualty.** To reconstruct and repair the Common Properties after casualty damage in accordance with the pertinent provisions of the Declaration.

(d) **Purchasing Equipment.** To purchase equipment and tools required to maintain the Common Properties.

(e) **Entering Lots.** To enter Lots when necessary (and with as little inconvenience to their Owners as practicable) in connection with maintaining the Common Properties.

(f) **Insuring the Common Properties.** To insure the Common Properties against loss from casualty and the Members and the Association against public liability, and to purchase whatever other insurance the Board deems advisable, all in the manner set forth in the Declaration and/or Articles.

(g) **Enforcing the Association's Rights.** To collect delinquent assessments by suit or other reasonable means, to abate nuisances, to enjoin Members and their tenants,

amenities and invitees from violating the Declaration and to fine them or seek damages from them if they do so.

(h) **Employing Personnel.** To employ and compensate whatever personnel may be reasonably required for maintaining the Common Properties and administering the Association.

(i) **Promulgating Rules.** To make reasonable rules and regulations for the use of the Common Properties that do not conflict with the Declaration and to amend or repeal existing rules and regulations.

(j) **Contracting for Maintenance and Administration.** To contract for the administration of the Association and to delegate to the party contracted with all powers and duties of the Association except the power and duty to perform those acts which require the specific approval of the membership.

(k) **Borrowing.** To borrow money in accordance with Section 5 of Article 7 hereof.

(l) **Duties.** All duties of the Association as stating in Article III, Powers, of the Articles of Incorporation.

(m) **Additional Powers.** All powers granted to corporations by Chapters 617 and 720, Florida Statutes, as amended from time to time, and by the governing documents of Indian River Landings.

**Section 13. Compensation of Directors.** Directors shall receive no compensation for their services as such but may be reimbursed by the Association for reasonable out-of-pocket expenses incurred by them in conducting the Association's affairs if the reimbursement is approved by a majority of the other Directors (provided that the expense of a Director's traveling to or from INDIAN RIVER LANDINGS Lands shall never be reimbursable unless the primary purpose of the Director's traveling was the Association's business).

## **Article 6**

### **OFFICERS**

**Section 1. Designation.** The principal Officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an Assistant Treasurer and an Assistant Secretary, and such other Officers as in their judgment may be necessary. Officers need not be Directors. Any two offices may be held by the same person, except that the office of President and Secretary may not be held by the same person.

**Section 2. Election of Officers.** The Officers shall be elected annually by the Board at the organization meeting of each new Board, and each Officer shall hold his office at the pleasure of the



Board, until he resigns or is removed or otherwise disqualified to serve or his successor elected and has qualified to serve.

**Section 3. Removal of Officers.** Upon an affirmative vote of a majority of the entire Board at any regular or special meeting, any Officer may be removed, with or without cause, and his successor elected.

**Section 4. Resignation.** Any Officer may resign his position at any time by delivering a written notice of his resignation to the Board of Directors. The resignation shall take effect upon the later of (a) receipt of the notice by the Board or (b) whatever later date is specified in the notice. No acceptance of the resignation by the Board or the membership shall be required to make it effective. The conveyance by an Officer (other than an Officer appointed by the Developer) of all the Lots owned by him shall automatically result in his resignation as an Officer.

**Section 5. Compensation.** The Association's Officers shall not receive compensation for their services. Officers may be reimbursed by the Association at the Board's discretion for reasonable out-of-pocket expenses incurred by them in conducting the Association's affairs (provided that the expenses incurred by an Officer in traveling to or from INDIAN RIVER LANDINGS Lands shall never be reimbursable unless the primary purpose of the traveling was the Association's business).

**Section 6. President.** The President shall be the chief executive Officer. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of the President of a corporation. The President shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business of the Association. The President shall be *ex officio* a member of all standing committees, and he shall have such other powers and duties as may be prescribed by the Board of Directors or these By-Laws.

**Section 7. Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or disabled or refuses or is unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or these By-Laws.

**Section 8. Secretary.** The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Members of the Association at the principal office of the Association or at such other place as the Board of Directors may order. The Secretary shall keep the seal of the Association in safe custody and shall have charge of such books and papers as the Board of Directors may direct; and the Secretary shall, in general, perform all of the duties incident to the office of Secretary. The Secretary shall give, or cause to be given, notices of meetings of the Members of the Association and of the Board of Directors required by these By-Laws or by law to be given. The Secretary shall maintain a list of Owners, listing the names and addresses of the Owners as furnished the Association, and such list shall be changed only at such time as satisfactory evidence

of a change in Ownership is presented to the Secretary. The Secretary shall perform such other duties as may be prescribed by the Board of Directors.

**Section 9. Treasurer.** The Treasurer shall have responsibility for the Association's funds and securities and shall be responsible for keeping, or causing to be kept, full and accurate accounts, tax records and other records of the business transactions of the Association, including accounts of all assets, liabilities, receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors in accordance with the Declaration, shall render to the President and Directors, upon request, an account of all of his transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these By-Laws.

## **Article 7**

### **FINANCIAL AFFAIRS**

**Section 1. Fiscal Year.** The Association's fiscal year shall run from January 1 through December 31 unless and until another is established by the Board of Directors.

**Section 2. Signing of Checks and Notes.** After the Developer's nominees cease to constitute a majority of the Board of Directors, all checks and notes of the Association for a face amount less than \$1,000.00 must be signed by the Association's President, Vice President, Secretary or Treasurer and all checks and notes of the Association for a face amount of \$1,000.00 or more must be signed by any two of the Association's President, Vice President, Secretary, Treasurer or Assistant Secretary.

**Section 3. Assessments.** Periodic and special assessments shall be levied and collected as provided in the Declaration and this Section.

(a) **Periodic Assessments.** Periodic assessments shall become due in monthly payments on the first day of each month, or if the Board of Directors so elects, in four (4) equal quarterly payments or two (2) equal semi-annual payments. If an annual periodic assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior such assessment and monthly or quarterly payment thereon shall be due upon the first day of each month or quarter, as the case may be, unless and until changed by an amended assessment. In the event the annual periodic assessment proves to be insufficient, the Board may at any time amend the budget and assessments. The unpaid periodic assessment for the remaining portion of the calendar year for which the amended assessment is made shall be payable as amended commencing on the first day of the month next succeeding the month in which such amended assessment is made or as otherwise provided by the Board of Directors.

(b) **Acceleration of Assessments.** If any Member is in default in the payment of an installment upon a periodic or special assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice to such Member, in which event the unpaid balance of the assessment shall become due upon the date stated in the notice but not less than ten (10) days after delivery of the notice to the member or, if such notice be by registered or certified mail, not less than twenty (20) days after the mailing.

(c) **Excess Assessments in Fiscal Year.** In recognition of the fact that is extremely difficult to adopt a budget for each fiscal year that exactly coincides with the actual expenses during that year, the Board of Directors shall report to the Members at the annual membership meeting the amount, if any, by which assessments for the preceding fiscal year to date have exceeded the Association's expenditures. Any such excess shall be applied automatically against the following year's assessments.

(d) **Delinquent Assessments.** If a Member is more than ninety (90) days delinquent in paying a monetary obligation due to the Association, the Association may suspend the rights of the Member, or the Member's tenant, guest or invitee, to use Common Areas or Common Properties and facilities until the monetary obligation is paid in full. The suspension of the rights of the Member does not apply to that portion of the Common Areas or Common Properties used to provide access or utility services to the Lot. The suspension does not impair the right of an Owner or tenant of a Lot to have vehicular and pedestrian ingress and egress from the Lot, including, but not limited to, the right to park.

**Section 4. Accounts.** The receipts and expenditures of the Association shall be appropriately credited and charged to accounts under the following classifications:

(a) **Current Expenses.** Current expenses shall include all receipts and expenditures to be made within the year for which the receipts are budgeted and may include a reasonable allowance for contingencies and working funds. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year or to fund reserves.

(b) **Reserves.** The following reserves may be established in the discretion of the Board of Directors:

(1) **Reserve for Deferred Maintenance.** A reserve for deferred maintenance to include funds for maintenance items which occur less frequently than annually.

(2) **Reserve for Replacement.** A reserve for replacement to include funds for repair or replacement required because of damage, depreciation or obsolescence.

(3) **Reserve for Betterments.** A reserve to be used for capital expenditures for additional improvements or additional personal property that will be part of the Common Properties.

Any or no amount may be budgeted for these reserves, in the sole discretion of the Board of Directors.

(c) **Individual Accounts.** The Association shall keep a separate account for each individual Member, which account shall designate the name and address of the Member, the amount of each periodic and special assessment, the date and amount on which they come or came due, the amounts paid upon the Member's account, and the balance due.

**Section 5. Borrowings.** The Association may borrow money when required in connection with the operation, care, upkeep and maintenance of the Common Properties or the acquisition of property, and may grant mortgages on and/or security interests in property owned by it in connection with any such borrowing; provided, however, that the consent of at least two-thirds of the Voting Members represented at a meeting at which a quorum has been attained in accordance with the provisions of these By-Laws shall be required for the borrowing of any sum in excess of \$50,000.00. If any sum borrowed by the Board of Directors pursuant to the authority contained in this Section is not repaid by the Association, any Owner who pays to the creditor a portion thereof corresponding to his share of periodic assessments set forth in the Declaration shall be entitled to obtain from the creditor a release of any judgment or other lien which the creditor has filed or has the right to file against, or which will affect, that Owner's Lot. The Association may take no action authorized in this Section without the prior written consent of the Developer as long as the Developer owns any Lot.

**Section 6. Financial Reporting.** Within ninety (90) days after the end of the fiscal year, or annually on a date on or before May 1<sup>st</sup>, the Association shall prepare and complete, or cause to be prepared and completed by a third party, a financial report for the preceding fiscal year. On or before May 1 of each year after the financial report is completed or received by the Association from the third party, but not later than one hundred twenty (120) days after the end of the fiscal year or other date as provided in the By-Laws, the Association shall mail or electronically transmit to each Lot Owner at the address last furnished to the Association by the Lot Owner, or hand deliver to each Lot Owner, a copy of the financial report or a notice that a copy of the financial report will be mailed, hand delivered or electronically transmitted to the Lot Owner, without charge, upon receipt of a written request from the Lot Owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all Associations. The rules shall include, but not be limited to, uniform accounting principles and standards for stating the disclosure of at least a summary of the reserves, including information as to whether such reserves are being funded at a level sufficient to prevent the need for a special assessment and, if not, the amount of assessments necessary to bring the reserves up to the level necessary to avoid a special assessment. The person preparing the financial reports shall be entitled to rely on an inspection report prepared for or provided to the Association to meet the fiscal and fiduciary standards of the Florida Homeowners Act, Chapter 720, Florida Statutes. In adopting such rules, the division shall consider the number of Members and annual revenues of an Association. Financial reports shall be prepared as follows:

(a) An Association that meets the criteria of this paragraph shall prepare or cause to be prepared a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements shall be based upon the Association's total annual revenues, as follows:

(1) An Association with total annual revenues of one-hundred fifty thousand (\$150,000) dollars or more, but less than three-hundred thousand (\$300,000) dollars, shall prepare compiled financial statements.

(2) An Association with total annual revenues of at least three-hundred thousand (\$300,000) dollars, but less than five-hundred thousand (\$500,000) dollars, shall prepare reviewed financial statements.

(3) An Association with total annual revenues of five-hundred thousand (\$500,000) dollars or more shall prepare audited financial statements.

(b) (1) An Association with total annual revenues of less than one-hundred fifty thousand (\$150,000) dollars shall prepare a report of cash receipts and expenditures.

(2) An Association which operates less than fifty (50) Lots, regardless of the Association's annual revenues, shall prepare a report of cash receipts and expenditures in lieu of financial statements required by paragraph (a).

(3) A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures deferred maintenance, and any other category for which the Association maintains reserves.

(c) An Association may prepare or cause to be prepared, without a meeting of or approval by the Lot Owners:

(1) Compiled, reviewed, or audited financial statements, if the Association is required to prepare a report of cash receipts and expenditures;

(2) Reviewed or audited financial statements, if the Association is required to prepare compiled financial statements; or

(3) Audited financial statements if the Association is required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the Association, an Association may prepare or cause to be prepared:

(1) A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

(2) A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

(3) A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken, except that the approval also may be effective for the following fiscal year. An Association may not waive the financial reporting requirements of this section for more than three (3) consecutive years.

#### **Article 8**

#### **AMENDMENTS TO BYLAWS**

Amendments to these Bylaws may be proposed by the Board of Directors of the Association acting upon the vote of the majority of the Directors. Upon any amendment or amendments to these By-Laws being proposed by the Board of Directors such proposed amendment or amendments shall be transmitted to the President of the Association, or other Officer of the Association in the absence of the President, who shall thereupon call a special meeting of the Membership for a date not sooner than twenty (20) days or later than sixty (60) days from the receipt by such Officer of the proposed amendment or amendments and it shall be the duty of the Secretary to give each Member written or printed notice of such meeting in the same form and in the same manner as notice of the call of the special meeting of the members is required as herein set forth. In order for such amendment or amendments to become effective, the same must be approved by the votes of the majority of the members of the Association who are present, in person or by proxy, at the meeting of the membership of which a quorum is present. The meeting of the Membership may be held at a special meeting called for that purpose or at the annual meeting in the discretion of the Board of Directors.

#### **Article 9**

#### **CONFLICTING PROVISIONS**

If any provisions of these By-Laws conflicts with any provision of the laws of the State of Florida, the conflicting provision shall be null and void upon a final judicial determination to that effect, though all the other provisions of these By-Laws shall remain in full force and effect. In case of any conflict between the Articles and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

**Article 10**

**MISCELLANEOUS PROVISIONS**

**Section 1. Inspection of Bylaws.** The Association shall keep in its office for the transaction of business the original or a copy of these By-Laws, as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the Owners and all first Mortgagees at all reasonable times during office hours.

**Section 2. Action by Board of Directors.** Unless specific actions are specifically required to be taken by the Members, all such actions may be taken by the Board through its proper Officers with or without a specific authorization.

**Section 3. Gender and Plurality.** Whenever the context so requires, the use of the masculine gender in these By-Laws shall be deemed to include all genders, the use of the singular to include the plural, and the use of the plural to include the singular.

**Section 4. Captions.** The captions used in these By-Laws are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text that follows them.

WE HEREBY CERTIFY THAT the foregoing By-Laws of the Association were duly adopted by the Board of Directors of the Association on the \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

APPROVED:

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
SECRETARY