

Twin Oaks Harbor Property Owner's

Association

**Bylaws**

*T.O.H.P.O.A.*

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# BYLAWS OF

## TWIN OAKS HARBOR PROPERTY OWNER'S ASSOCIATION, INC.

### ARTICLE I. INTRODUCTION

Twin Oaks Harbor Property Owners' Association, Inc., (hereinafter referred to as the "Association") is a Missouri nonprofit corporation, organized and existing under the laws of the State of Missouri for the purposes of performing all duties and obligations assigned to it by that certain Declaration of Covenants and Restrictions for Twin Oaks Harbor (hereinafter referred to as the "Declaration"), which document is to be recorded by National Development Company, Inc., a Texas corporation ("Declarant"), in the County Recorder's Office, St. Clair County, Missouri.

### ARTICLE II. GENERAL PROVISIONS

Section 1. Definitions. Unless expressly indicated to the contrary, the terms used herein shall have the meanings given to them in the Declaration.

Section 2. Conflicts. In the event of any conflict between these Bylaws, as amended from time to time, and the Declaration, the Declaration shall control.

Section 3. Membership. Each Owner and Declarant, so long as it is deemed to be the Owner of any lot in Twin Oaks Harbor, in accordance with the provisions of the Declaration, or any amendments thereto, shall constitute the Members of the Association. Transfer of a lot, whether such transfer occurs voluntarily or by operation of law, shall immediately and automatically terminate the transferor's membership in the Association, except to the extent that such transferor retains an interest in any other lot in the subdivision. The transferee shall, immediately and automatically upon the transfer of the lot, become a Member of the Association.

If a lot is owned by more than one (1) person, then all of the persons owning said lot shall be Members of the Association and shall be eligible to hold office, attend meetings, and exercise all of the other rights of an Owner which are granted by the Declaration. However, the vote of a lot shall be cast only by the "voting member" as provided herein.

### ARTICLE III. ASSOCIATION MEETINGS

Section 1. (Amended 6/10/00) Annual Meetings. All annual Association meetings shall be held in St. Clair County, Missouri on the third or fourth Saturday in April each year. At a time no earlier than ten a.m. The meeting shall not coincide with Easter weekend. The purpose of the annual meeting shall be to hear reports from officers, to elect directors to the board and to transact any other business pertaining to the notice thereof. Unless one third or more of the voting power is present in person or by proxy, the only matters that may be voted upon at any annual meeting of members are those that are described in the meeting notice.

Section 2. Special Association Meetings. Special Association meetings for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President, and shall be called by the President or the Secretary at the request of a majority of the Board of Directors, or at the request, in writing, of Members representing ten percent (10%) of the total votes eligible to be voted by all of the Members of the Association. Each such request shall state the purpose or purposes of the proposed meeting. The business transacted at all special Association meetings shall be confined to the subject(s) stated in the notice thereof.

Section 3. Notice of Meetings. Unless a Member waives in writing his right to receive notice of an Association meeting, a written notice of all Association meetings shall be delivered or mailed to each Member, by United States

mail, postage prepaid, at his address as shown in the records of the Association at least thirty (30) days prior to the date of any annual or special meeting. Each notice shall specify the time, date, and place of such meeting, shall state whether it is an annual or a special meeting, and shall briefly describe the business to be transacted or anticipated to be transacted at such meeting. Upon notice being given in accordance with the provisions hereof, the failure of any Member to receive actual notice of any Association meeting shall not in any way invalidate the meeting or any business transacted at such meeting.

Section 4.(Amended 6/10/00)      Quorum. Except as otherwise provided in this declaration or the by-laws of the Association, the presence in person or by proxy of members representing fifteen (15) percent of the total votes eligible to be voted by all members of the Association shall constitute a quorum at all-meetings of the Association. With five (5) percent present.

Section 5.(Amended 6/10/00)      Voting.

- (a) Each Owner of a lot (including Declarant shall be entitled to one vote for each lot owned up to four lots. No Owner shall, however, be eligible to vote at any annual or special meeting until the assessments that are legally due and payable for all lots owned by such Owner are fully paid at least three (3) days prior to the meeting.
- (b) The votes of Members, present either in person, proxy or absentee ballot at any duly called Association meeting at which a quorum has been established, casting a majority of the total votes eligible to be voted by such Members, shall decide any question under consideration, and shall constitute the act of and be binding upon the Association, except as otherwise provided by law, by the Declaration, or these Bylaws.
- (c) Notwithstanding any provisions herein to the contrary, a Member's voting rights may be suspended by the Association for a period to be determined by the Board if such Member violates any provision of the Declaration or the Bylaws pertaining to the payment of assessments. In such event, the Member whose voting rights have been suspended shall have no cause of action against the Association or the Board.

Section 6.      Designation of Voting Member. If a lot is owned by more than one person or entity, such persons or entities shall designate one of them as the "voting member". Such person shall be designated in a certificate, to be signed by each of the record Owners of such lot, and filed with the Secretary of the Association. If a lot is owned by a corporation, a designated director or officer thereof shall be the voting member. If a lot is owned by a partnership, a general partner thereof shall be designated as the voting member. Such certificate shall be valid until revoked or until superseded by a subsequent certificate, or until transfer of such lot, whichever occurs earlier. If such certificate is not on file for a particular lot which is owned by more than one (1) person or entity, or a combination thereof, the following three (3) provisions shall apply.

- (a) Such persons or entities may, but shall not be required to, designate a voting member.
- (b) If such persons or entities do not designate a voting member, and if more than one (1) of the co-Owners of such lot are present at a meeting, then any one (1) of them may cast the vote for their lot; provided, however, that no vote for the lot may be cast if any of the co-Owners of such lot promptly object to the casting of such vote.
- (c) If the co-Owners of a lot do not designate a voting member, and only one such co-Owner is present at an Association meeting (either in person or by proxy or absentee ballot), then the person present may cast the lot's vote, just as though he owned the lot individually, and without establishing the concurrence of the absent co-Owner(s) of such lot.

Section 7.      Proxies. Votes may be cast by the Members either in person or by proxy or by absentee ballot. "Proxy" is defined to mean an instrument containing the appointment of a person who is substituted by a Member to vote for him in his place and stead. All proxies shall be in writing and signed and dated by the person entitled to vote (as set forth in Section 6 above). A proxy shall be effective only for the specific meeting for which it was originally given and any lawful adjournments thereof. In no event shall any proxy be valid for a period longer than ninety (90) days from the date of the first meeting for which it was given. A proxy shall be revocable at any time in the sole discretion of the Owner who executed it. If a lot is owned by more



than one (1) person or entity, or a combination thereof, and is such co-Owners have not designated one (1) of them as the voting member, a proxy which designates a third party to cast their vote must be signed by each co-Owner.

Section 8. Waiver and Consent. Whenever the vote of Members at an Association meeting is required or permitted by any provision of these Bylaws to be taken in connection with any action of the Association, the meeting and the vote of Members may be dispensed with, and the matter(s) in question may be voted upon by mail-in ballot if Members representing a majority of the total votes eligible to be voted by all Members consent in writing to dispense with the meeting and to vote upon the matter(s) in question by mail-in ballot. Such writing shall be filed with and entered upon the records of the Association. Main-in ballots may accompany the requisite consent forms sent to Members and may be completed and returned simultaneously therewith; however, written notice of such action shall be given to all Members, unless all Members approve of such action.

Section 9. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record, in a minute book, all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat.

Section 10. Adjournment. Any Association meeting, whether or not a quorum is present, may be adjourned from time to time by the affirmative vote of Members casting a majority of the total votes represented at said meeting, in person or by proxy. In the absence of a quorum, no other business may be transacted at such Association meeting; provided, however, that any Association meeting which is adjourned due to the failure to establish a quorum shall be re-convened in thirty (30) days, and any business which properly could have been conducted at the original meeting, pursuant to the provisions hereof, may be conducted at the adjournment thereof, without the need to establish a quorum at such adjournment. It shall not be necessary to give any notice of any adjournment or the business to be transacted at any adjourned meeting, other than by an announcement at the meeting at which such adjournment occurs.

Section 11. Parliamentary Rules. Robert's Rules of Order (latest edition) shall govern the conduct of all Association meetings when not in conflict with the Declaration, these Bylaws, or the rulings of the Board of Directors.

#### ARTICLE IV. BOARD OF DIRECTORS

Section 1. Number, Term and Qualifications. (Amended 6/94) The affairs of the Association shall be governed by a Board of Directors composed of five (5) persons, each of whom, with the exception of the Directors appointed by Declarant, shall be a property Owner.

In no event shall co-Owners of any property serve on the Board of Directors concurrently. Except for the initial Board of Directors named in the Articles of Incorporation and/or appointed by Declarant, shall serve a term of three (3) years or until the election of his successor, or until earlier death, incapacity, resignation or removal, provided that one (1) of the Directors (#1) initially elected shall serve for a one (1) year term; one (1) of the Directors (#2) initially elected shall serve for a two (2) year term; and the remaining Director (#3) initially elected shall serve for a three (3) year term. Beginning in 1994, Director #4 shall serve an initial two (2) year term and Director #5 shall serve an initial three (3) year term to establish the order of election for the five (5) member Board. In 1995 Director position #2 will be elected; in 1996 Director positions #3 and #4 will be elected; and in 1997 Director positions #1 and #5 will be elected. Thereafter, Director elections shall continue in the established pattern and the term of no more than two (2) of the Directors shall expire annually.

The number of persons comprising the Board of Directors may be fixed or changed by a vote of the Members of the Association at a meeting of voting Members called for the purpose of electing the Board of Directors; provided, however, that no reduction in the number of Directors shall of itself have the effect of shortening the term of any incumbent Director.

Section 2. Election. (Amended 6/94)

- (a) Until the expiration of the Declarant Control Period as specified in the Declaration, the Board of Directors shall consist of persons designated in the Articles of Incorporation, or their successors designated by Declarant. During the Declarant Control Period, Declarant shall have the right to appoint and remove all Directors.
- (b) Declarant's right to appoint and remove all Directors or Officers of the Association shall terminate upon the earliest to occur of the following:

(c) the date as of which fifty percent (50%) of the total lots planned for the Development have been conveyed by Declarant to Owners other than Declarant; or

(i) the surrender by Declarant of the authority to appoint and remove members of the Board and Officers by notice in writing by Declarant to the Board of Directors to this effect.

(c) Upon the expiration of the Declarant's right to appoint and remove Directors of the Association, such rights shall automatically pass to the Owners, including Declarant, if Declarant owns one or more lots in the Development. Thereafter, Directors shall be elected by Owners, on a one lot, one vote basis, pursuant to the terms and provisions of the Declaration and these Bylaws of the Association.

(d) Within thirty (30) days of the expiration of the Declarant Control Period, the Association shall call a special Association meeting for the purpose of electing all Director(s) by mailing or delivering written notice thereof to each Member not less than seven (7) days prior to the date of said meeting. The meeting may be called and the notice thereof given by any Member in the event the Association fails to do so. The persons receiving the highest number of votes or ballots shall be deemed elected.

(e) The election of Directors by Members may be conducted by mail-in ~~proxy's or~~ ballots.

Section 3. Removal of Directors. At any annual Association meeting, or at any special Association meeting duly called for such purpose by Members representing ten percent (10%) of the total votes eligible to be voted by all of the Members of the Association, any one or more of the Directors, other than those Directors appointed by Declarant, may be removed, with or without cause, by the affirmative vote of Members casting a majority of the total votes eligible to be voted by all of the Members of the Association, or by the written agreement of Members representing a majority of the total votes eligible to be voted by all of the Members of the Association. A successor shall be elected at such meeting for the remainder of the term to fill the vacancy thus created. Should the membership fail to elect such a successor, the Board of Directors shall fill the vacancy in the manner provided in Section 5 below. Any Director whose removal has been proposed by the Members shall be given prompt written notice of his proposed removal and shall be provided with a reasonable opportunity to attend and be heard at the meeting at which his removal is voted upon.

Section 4. Resignation of Directors. Any Director may resign at any time by sending written notice of his resignation to the President of the Association. Such resignation shall take effect upon receipt thereof by the President, unless otherwise provided in such written notice. Except for those Directors appointed by the Declarant, any Director who ceases to be an Owner shall automatically be deemed to have resigned. Any Director who is more than thirty (30) days delinquent in the payment of any Assessment or other amount owed to the Association shall be deemed to have resigned from the Board of Directors, effective upon the Board's receipt of notification of such delinquency from the Treasurer of the Association.

Section 5. Vacancies (Amended 6/10/00). If the office of any Director becomes vacant by reason of death, incapacity, resignation, or removal from office by the Board, the remaining Directors by a majority vote shall choose a successor to fill such vacancy, until the next annual meeting of the Association. At which time Directors shall be elected to the Board by the Members to fulfill the remainder of the term.

Section 6. Regular Board Meetings. Regular meetings of the Board of Directors may be held at such time, date and place as shall be determined from time to time by a majority of Directors; provided, however, that at least one (1) such meeting shall be held during each calendar year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone, or telegraph, at least seven (7) days prior to the scheduled meeting date.

Section 7. Special Board Meetings. Special meetings of the Board of Directors may be called by the President, and in his absence, by the Vice-President, or by a majority of the Directors, by giving at least seven (7) days' notice to each Director, personally or by mail, telephone, or telegraph; provided, however, that notice of special Board meetings by telephone conference, if given personally or by telephone, shall only be required to be given at least forty-eight (48) hours prior



to such meeting. Notices of special Board meetings shall state the time, date, place and purpose of the special Board meeting to which they pertain.

Section 8. Meetings by Telephone Conference. Both regular and special Board meetings may be conducted by telephone conference or similar communication equipment, by means of which all persons participating in the meeting can hear each other. To the extent permitted by law, any Director who is not physically in attendance at any regular or special meeting of the Board of Directors, but who is in telephone contact with the other Directors during such meeting and is thereby able to participate in the discussions, reports, debates, votes, and other matters conducted thereat, shall be deemed to be in attendance at said meeting for all purposes, including but not limited to the purpose of creating a quorum.

Section 9. Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all of the Directors, either individually or collectively, consent in writing to the action taken and to be taken at any time prior or subsequent to the intended effective date of such action.

Section 10. Waiver of Notice. Any Director may at any time waive notice of any meeting of the Board of Directors, in writing, and such waiver shall be deemed to be the equivalent of that Director having actually been given notice of such meeting. Attendance by a Director at any meeting of the Board, either physically or by telephone, shall constitute a waiver by him of notice of the time, date, and place thereof, except when a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all of the Directors are present at any meeting of the Board, no notice thereof shall be required, and any business which could properly come before the Board of Directors may be transacted at such meeting.

Section 11. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business. The vote of a majority of the Directors present at a Board meeting at which a quorum has been established shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors a quorum is not established, a majority of those Directors present may adjourn the meeting, one or more times, to a subsequent time, date, and place. At any such adjourned meeting of the Board at which a quorum has been established, any business which might have been transacted at the meeting prior to its adjournment may be transacted without further notice.

Section 12. Compensation. No Director shall receive any compensation from the Association for acting as such, and no Director shall be reimbursed for any costs incurred for travel, meals, accommodations, or related expenses incurred in order to attend meetings of the Board of Directors, unless such compensation is approved by the affirmative vote of Members casting a majority of the total votes eligible to be voted by all of the Members of the Association.

Section 13. Fidelity Bonds. The Board of Directors shall obtain fidelity bonds, in reasonable and prudent amounts, for all Officers, Directors, and employees of the Association who handle or are responsible for Association funds.

Section 14. Liability and Indemnification.

- (a) No Director, Officer, employee, or agent of the Association, and no heir, executor, or administrator of any such person, shall be liable to the Association for any loss or damage suffered by it on account of any action or omission by him as a Director, Officer, employee, or agent if he acted in good faith and in a manner reasonable believed to be in and not opposed to the best interest of the Association, unless with respect to an action or suit by or in the right of the Association to procure a judgment in its favor, such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association.
- (b) The Association shall indemnify each person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) because he is or was a Director, Officer, employee, or agent of the Association, against expenses, (including reasonable attorney's fees), judgments, fines, and amounts paid in settlement, actually and reasonable incurred by him in connection with such action, suit, and proceedings if he acted in good faith and in a manner reasonable believed to be in or not

opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was lawful.

- (c) The Association shall indemnify each person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor because he is or was a Director, Officer, employee, or agent of the Association against expenses (including reasonably attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made with respect to any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine, upon view of all the circumstances of the case, such person is fairly and reasonable entitled to indemnification for such expenses which such court shall deem proper.
- (d) To the extent that a Director, Officer, employee, or agent of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in this Section, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including reasonable attorney's fees) actually and reasonably incurred by him in connection therewith.
- (e) Any indemnification under this Section (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Directors, Officers, employees, or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in this section. Such determination may be made (1) by the Board upon a majority vote of a quorum consisting of Directors who were not parties to such action, suit, or proceeding; or (2) if such a quorum is not obtainable, or even if obtainable, a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion to the Association.
- (f) Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors in a particular case, upon receipt of an undertaking by or on behalf of the Director, Officer, employee, or agent to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Section.
- (g) The indemnification provided by this Section shall not be deemed exclusive of any other rights to which those indemnified may be entitled, shall continue as to a person who has ceased to be a Director, Officer, employee, or agent, and shall inure to the benefit of their heirs, executors, administrators, and personal representatives of such persons.

Section 15. Powers and Duties. All of the powers and duties of the Association shall be exercised by the Board of Directors unless otherwise specifically delegated to the Members. Such powers and duties of the Board shall be exercised in accordance with the provisions of the Declaration. The powers and duties of the Board of Directors shall be subject to approval of the Members only when such approval is specifically required by law, by the Declaration or by these Bylaws.

Section 16. Board Appointed by Declarant. Notwithstanding anything to the contrary herein, this Article IV, Sections 1 - 10 shall not apply so long as Declarant retains the right to appoint and remove Directors, as provided in the Declaration. The activities of the Board during the period of Declarant control shall be governed by the Declaration.



## ARTICLE V. OFFICERS

Section 1. Designation. (Amended 6/94) The Officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may also elect an Assistant Treasurer, an Assistant Secretary, and such other Officers, from among Association Members, as in its judgment may be necessary or appropriate. The President, Vice-President, Secretary and the Treasurer may all be directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 2. Election of Officers. The Officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each newly constituted Board of Directors.

Section 3. Term and Removal of Officers. Each Officer of the Association shall hold office until his successor is elected, except that each Officer's position shall immediately become vacant when and if he ceases to be an Owner. Any Officer may be removed at any Board meeting, with or without cause, by the Board of Directors; provided, however, that no Officer shall be removed except by the affirmative vote for removal of a majority of the Directors. Any Officer whose removal has been proposed shall be given prompt written notice of his proposed removal and shall be provided with a reasonable opportunity to attend and be heard at the Board meeting at which his removal is voted upon. If the Office of any Officer becomes vacant for any reason, the vacancy shall promptly be filled through the election of a successor by the Board of Directors.

Section 4. President. The President shall be the chief executive officer of the Association. 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 President of a property owners association, including but not limited to, the power to appoint such committees at such times from among the Members as he may in his discretion determine appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice-President. The Vice-President shall assume the powers and duties of the President whenever the President is absent from any meeting of the Association or the Board of Directors or is unable to act in his capacity as President if neither the President or Vice-President is able to act, majority of the remaining Directors shall appoint some other officer to act in the place of the President, on an interim basis. The Vice-President shall also generally assist the President and perform such other duties as shall from time to time be delegated to him by the Board of Directors or by the President.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and the Board of Directors and shall make such minutes available for inspection by Members, their authorized representatives, and the Directors at reasonable times. The Secretary shall also perform all of the duties which are usually vested in the office of Secretary of a property owners association and such other duties as shall be prescribed by the Board. In addition, the Secretary shall issue notices of all meetings of the Association and the Board of Directors, have charge of the Association's books and records, except those of the Treasurer, and receive and incorporate into the records of the Association all notices which are required or permitted to be transmitted to the Association, including notices from Owners designating voting members and providing changes of address.

Section 7. Treasurer. The Treasurer shall keep full and accurate financial records and books of account, keep the assessment rolls and accounts of the Members, be responsible for the preparation of all required financial data, and be responsible for the deposit of all money and other valuables in such depositories as may from time to time be designated by the Board of Directors.

Section 8. Execution of Instruments. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by any two (2) Officers or by such other person or persons as may be designated by the Board of Directors.



Section 9. Compensation of Officers. No officer shall receive any compensation from the Association for acting in his capacity as an Officer unless such compensation is approved by the affirmative vote of Members casting a majority of the total votes eligible to be voted by all of the Members of the Association.

#### ARTICLE VI. FINANCES AND ASSESSMENTS

Section 1. Annual Budget. The Board of Directors shall adopt the annual budget for the Association for each forthcoming fiscal year. The Owners shall be given a copy of the proposed annual budget, which shall be detailed and shall show the amounts budgeted by account and expense classifications, which accounts shall include, but not be limited to, the following items of expenses:

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|--|----------------------------|
| (a) Payroll                            | (f) Services               |
| (b) Administration                     | (g) Insurance              |
| (c) Maintenance                        | (h) Utilities              |
| (d) Payroll taxes and related benefits | (i) Professional Fees      |
| (e) Reserves (if any)                  | (j) Materials and supplies |

The proposed annual budget shall be mailed to the Owners not less than thirty (30) days before the meeting of the Board of Directors held for the purpose of adopting the annual budget and shall include written notice of the time and place of such meeting, which shall be open to the Owners.

Section 2. Collection of Assessments. Assessments shall be paid by the Members and collected by the Association in the manner and according to the terms and provisions set forth in Article V of the Declaration.

Section 3. Accounting Records. (Amended 6/10/00) The Association shall maintain account records in accordance with good accounting practices which shall be open to inspection once annually by members or their authorized representatives at a reasonable time, which shall be set by the Association within five business days after a written demand from a Member. The written demand must specify the exact records requested and purpose of records requested. The Association may impose a reasonable charge to recover the cost of labor and materials for all documents copied. Members shall not be allowed to inspect individual personal assessment records, employee files or personal complaints. Two days after notice of a special or annual meeting, members may by written demand receive in alphabetical order a list of members names, addresses and number of eligible votes.

Section 4. Depositories. The funds of the Association shall be deposited in a federally insured institution as shall be designated from time to time by the Board, in the manner designed to indicate the custodial nature thereof. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board.

Section 5. Fiscal Year. The Association shall operate on a fiscal year which begins on the first day of June of each year; provided, however, that the Board of Directors may, in its sole discretion, change to a different fiscal year in the event that the Board of Directors deems it advisable to do so (amended in 11/96 to a fiscal year of Jan 1 - Dec. 31 per CPA's recommendation).

Section 6. Application of Payments and Commingling of Funds. All sums collected by the Association, from Assessments or otherwise, may be commingled in a single fund or divided into more than one (1) fund, as determined by the Board of Directors. All Assessments paid by an Owner shall be applied to interest, delinquencies, costs, attorneys' fees, and other charges, expenses, and advances in such manner and amounts as the Board determines to be appropriate. All Owners and the authorized agents thereof shall be entitled to inspect the Association's records of its receipts and disbursements at reasonable times, and upon a written request thereof and the payment of a reasonable fee not to exceed \$10.00 as determined by the Board, any Owner shall be furnished with a statement of his account setting forth the amount of any unpaid Assessments or other charges due and owing from such Owner. Said statement shall be furnished within five (5) business days from the Association's receipt of a request in writing therefor and shall be binding upon the Association, the Board and every other Owner. The

Association shall be responsible, as the agent of each Owner, for paying the expenses of the Association. The Board shall not be individually liable for the payment of any of the expenses; rather, it shall merely serve to direct and authorize the payment of the expenses on behalf of the Owners.

Section 7. Audit. Unless otherwise determined by the Board, an audit of the accounts of the Association shall be prepared each year by such independent accounting firm as the Board elects, in its sole discretion, in accordance with generally accepted auditing standards. A copy of said audit shall be furnished to any Member upon request made not earlier than one hundred (100) days following the year for which the report is made.

#### *ARTICLE VII. AMENDMENTS TO THE BYLAWS*

The provisions of these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of a majority of the Board. An amendment may also be proposed by the membership, subject to approval by the Board of Directors by affirmative vote, written consent, or any combination of affirmative vote and written consent of a majority of the Board.

#### *ARTICLE VIII. RULES AND REGULATIONS*

Section 1. Adoption. The Board of Directors shall have the right to establish and amend, from time to time, such uniform Rules and Regulations as the Board may deem necessary and appropriate for the management, preservation, safety, control, and orderly operation of the Subdivision and for the benefit of all of the Owners. Such Rules and Regulations may, to the extent not in conflict with the provisions of the Declaration and these Bylaws, impose reasonable restrictions upon the use and occupancy of any portion of the Subdivision as the Board, in its sole discretion, deems necessary or appropriate.

Section 2. Compliance with Rules and Regulations. Each Owner shall obey the Rules and Regulations, as the same may lawfully be amended from time to time, and shall ensure that the same are faithfully observed by the members of his family, his guests, tenants, invitees, and licensees. Each person who comes within the Subdivision shall be subject to the Rules and Regulations for the duration of his presence therein. A copy of the Rules and Regulations, as amended from time to time, shall be made available to Owners upon request.

Section 3. Conflict. In the event of any conflict between the Rules and Regulations, as amended from time to time, and the Declaration or these Bylaws, the latter instruments shall control.

#### *ARTICLE IX. MISCELLANEOUS PROVISIONS*

Section 1. Association's Records. Once a year a Member shall have the right to demand and receive from the Association a complete list of the names and addresses of all of the Members of the Association, upon reasonable notice and upon payment of a reasonable fee to the Association for reproduction costs. Article VI, Section 3 outlines the procedures for a Member to acquire Association accounting records. The minutes of all Association and Board meetings shall be available for inspection by the Members in the Association office.

Section 2. Notices. Each Owner shall register his mailing address with the Secretary of the Association upon becoming an Owner, and shall promptly notify the Secretary of any subsequent changes of address. Any notices required by the Declaration or the Bylaws to be given to the Association or the Board of Directors shall be sent by registered or certified mail to the Secretary at the office of the Association or to such other address as the Board of Directors may hereafter designate from time to time, by notice in writing to all of the Owners. All notices required by the Declaration or the Bylaws to be given to any Owner shall be sent by first class or bulk mail, postage prepaid, to such Owner's most recent address as shown in the records of the Association. All notices shall be deemed to have been given when mailed, postage prepaid, except notices of changes of address, which shall be deemed to have been given when received.

Section 3. Liability Survives Transfer of Lot. The transfer of a lot shall not relieve or release the former Owner from any liabilities or obligations incurred in connection with the Subdivision during the period of his Ownership, or



impair any rights or remedies which the Association may have against such former Owner arising out of or in any way connected with such ownership and the covenants and obligations incident thereto.

Section 4.            Severability. The provisions hereof shall be deemed to be independent and severable, and the invalidity or partial invalidity or unenforceability of any one (1) provision shall not effect the validity or enforceability of any other provision hereof.

Section 5.            Captions. The captions used in these Bylaws are inserted solely as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any of the provisions hereof.

Section 6.            Number and Gender. Whenever the context so requires, the use of any gender in these Bylaws shall be deemed to include both genders, and the use of the singular shall be deemed to include the plural, and the plural shall include the singular.

Section 7.            Waiver. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 8.            Interpretation. The provisions of these Bylaws shall be liberally construed to effectuate the purpose of ensuring that the Subdivision shall at all times be operated and maintained in a manner so as to optimize and maximize its enjoyment and utilization by each Owner as a quality development.

In the event of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the event of any conflict between these Bylaws and the Declaration, the Declaration shall control.