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**AMENDED AND RESTATED BYLAWS  
OF THE  
BIRD KEY IMPROVEMENT ASSOCIATION, INC.  
(updated)**

**TABLE OF CONTENTS**

<i>a.</i>	<i>Preamble:</i> .....	<i>4</i>
<i>1.</i>	<i>Identification:</i> .....	<i>5</i>
<i>2.</i>	<i>Definitions:</i> .....	<i>5</i>
<i>3.</i>	<i>Membership:</i> .....	<i>7</i>
	<i>A. Types of Members:</i> .....	<i>7</i>
	<i>1. Regular Members:</i> .....	<i>7</i>
	<i>2. Special Members:</i> .....	<i>8</i>
	<i>B. Obligations and Rights of Members:</i> .....	<i>8</i>
	<i>1. Provisions Common to All Members:</i> .....	<i>8</i>
	<i>2. Provisions to Regular Members:</i> .....	<i>8</i>
	<i>3. Special Members:</i> .....	<i>9</i>
	<i>C. Membership Meetings, Notices and Voting Rights</i> .....	<i>9</i>
<i>4.</i>	<i>Board of Directors:</i> .....	<i>12</i>
	<i>A. Powers and Duties of the Board:</i> .....	<i>12</i>
	<i>B. Meetings, Vacancies, Quorum:</i> .....	<i>13</i>
	<i>C. Nomination and Election Procedure:</i> .....	<i>14</i>
	<i>1. Number of Directors, Terms:</i> .....	<i>14</i>
	<i>2. Nomination Procedures:</i> .....	<i>15</i>
	<i>3. Election Procedures:</i> .....	<i>15</i>

D.	<i>Business Affairs and Accounting Procedures of the Association:</i>	16
E.	<i>Assessments:</i>	16
5.	<i>Officers:</i>	18
A.	<i>Election and Qualifications:</i>	18
B.	<i>Duties of the President:</i>	18
C.	<i>Duties of the Vice President:</i>	19
D.	<i>Duties of the Secretary:</i>	19
E.	<i>Duties of the Treasurer:</i>	19
6.	<i>Committees:</i>	20
A.	<i>General Provisions:</i>	20
B.	<i>Executive Committee:</i>	21
C.	<i>Finance Committee:</i>	21
D.	<i>Architectural Committee:</i>	21
E.	<i>The Landscape Committee:</i>	22
F.	<i>Compliance Committee:</i>	23
G.	<i>Mediation Committee:</i>	23
7.	<i>Enforcement Procedures:</i>	24
A.	<i>Remediation by Association:</i>	24
B.	<i>Fines and Penalties:</i>	24
C.	<i>Suspension of Rights:</i>	25
D.	<i>Procedures for Imposition of Fines or Suspension:</i>	26
E.	<i>Additional Remedies, Collection:</i>	27
8.	<i>Variances:</i>	27
9.	<i>Plans and Permits:</i>	28
10.	<i>Fiscal Year:</i>	30

11.	<i>Seal:</i> .....	30
12.	<i>Amendments:</i> .....	30
13.	<i>Indemnification of Officers and Directors:</i> .....	30
14.	<i>Interpretation:</i> .....	31
15.	<i>Notices:</i> .....	31

**AMENDED AND RESTATED BYLAWS  
OF THE  
BIRD KEY IMPROVEMENT ASSOCIATION, INC.**

WITNESSETH:

(The following is the history of the BKIA)

WHEREAS, the subdivision known as Bird Key (the "Subdivision"), is platted as set forth in Plat Book 11, Pages 20-20F of the Public Records of Sarasota County, Florida, platted as to section corners as set forth in Plat Book 12, Pages 23-23a of the Public Records of Sarasota County, Florida, and re-platted as to portions of blocks 7, 14, and 16 as set forth in Plat Book 13, Pages 4-4b of the Public Records of Sarasota County, Florida, and;

WHEREAS, the Declaration of Restrictions, Limitations, Conditions, and Agreements encumbering the Subdivision, dated October 15, 1959, are recorded at Official Records Book 196, pages 679 through 690 of the Public Records of Sarasota County, Florida (the "Declaration"); and

WHEREAS, Arvida Realty Co. (the "Developer") was the original owner and developer of all lots in the Subdivision and caused the Declaration to encumber the Subdivision and to be recorded as aforesaid; and

WHEREAS, on or about November 25, 1980, Arvida Corporation, the successor-in-interest to Arvida Realty Co., assigned to BIRD KEY IMPROVEMENT ASSOCIATION, INC., all of its rights, powers, obligations and privileges under the Declaration, all according to the Agreement recorded in Official Record Book 1407, page 1235 in the Public Records of Sarasota County, Florida; and

WHEREAS, the Bird Key Improvement Association, Inc., a corporation not for profit organized pursuant to the laws of the State of Florida, the Articles of Incorporation of which are filed at the office of the Florida Secretary of State, has adopted Bylaws of the Association; and

WHEREAS, pursuant to Part III of Chapter 720 of the Florida Statutes (2007), the Declaration of Restrictions, Limitations, Conditions and Agreements for the Bird Key Subdivision, originally recorded on October 15, 1959, were revived and recorded (the "Revived Declaration"), together with the Restated Articles of Incorporation and Amended and Restated Bylaws, on June 12, 2008 at Instrument #2008080980, 80 pages, in the Public Records of Sarasota County, Florida; and

WHEREAS, the Bylaws have been amended thrice since the recordation of the Revived Declaration by a majority of the members of the Board of Directors, pursuant to Article XI of the Bylaws, and recorded at Official Records of Sarasota County, Florida, Instrument # 201073611, 6 pages, on June 16, 2010; Instrument # 201073612, 8 pages, on June 16, 2010; and Instrument #201110767, 8 Pages on August 31, 2011; and

WHEREAS, Article XI of the Bylaws states that the Bylaws of the Association may be amended by the a majority of a quorum of regular members at a duly noticed meeting of regular members; and

WHEREAS, pursuant to Article XI of the Bylaws, majority of a quorum of the regular members at a duly noticed meeting of regular members voted to approve these Amended and Restated Bylaws proposed by the Board;

NOW, THEREFORE, in accordance with the foregoing, the Board of Directors of BIRD KEY IMPROVEMENT ASSOCIATION, INC. hereby adopts and records the following Amended and Restated Bylaws.

## **ARTICLE I – IDENTIFICATION**

A. The name of this corporation is Bird Key Improvement Association, Inc. ~~and hereinafter the corporation shall be referred to as the Association.~~

B. The principal office of the Association is 100 Bird Key Drive, Sarasota, Florida 34236, but may be at such other place as may be designated by the Board of Directors of the Association.

## **ARTICLE II – DEFINITIONS**

**(This entire article has been added to add clarity.)**

A. The following words, when used in these Amended and Restated **Bylaws** shall have the following meanings:

1. “Act” shall mean the Homeowners Association Act of the Florida Statutes (currently at Chapter 720).

2. “Articles” shall mean the Association’s Articles of Incorporation, as amended from time to time.

3. “Assessment” shall mean any sum or sums of money payable to the Association as authorized in the Governing Documents, which if not paid by the Owner of a Lot can result in a lien against the Lot.

4. “Association” shall mean the Bird Key Improvement Association, Inc., a Florida corporation not-for-profit (the “BKIA”).

5. “Board” shall mean the Board of Directors of the Association.

6. “Bylaws” shall mean the Association’s Bylaws, as amended from time to time.

7. “Common Areas” shall mean all real property located in the Subdivision which has been heretofore or which may hereafter be specifically set aside by the Developer or Association or otherwise deeded to the Association for common use and enjoyment of all Lot owners in the Subdivision as Members of the Association.

8. “Developer” shall mean Arvida Corporation.

9. "Declaration" shall mean the recorded Amended and Restated Declaration of Restrictions, Limitations, Conditions and Agreements and any recorded exhibits thereto, and any amendments thereto or reiterations thereof.

10. "Governing Documents" shall mean the Declaration, as well as the Articles and Bylaws, and any duly adopted amendments, and supplements thereto or restatements thereof.

11. "Lot" shall mean the real property designated by any numbered Lots as reflected on the plats of the Bird Key Subdivision, as set forth in Article II of the Declaration, including all improvements thereon including, without limitation, residences, structures, fences, and mailboxes, together with vegetation, trees, and landscaping. As the context may require, "Lot" shall also mean any Lot together with any portion of a contiguous Lot or Lots that is capable of separate conveyance, the ownership of which obligates the Owner to become a Member of the Association and to pay to the Association Assessments that, if not paid, may result in a lien.

12. "Member" shall mean any Lot Owner in the Subdivision, who, by virtue of the ownership of one or more Lots in the Subdivision is a Regular or Special Member of the Association, as defined in these Bylaws.

13. "Owner" shall mean the record owner, whether one or more persons, corporations, trusts, or other legal entities, of the fee simple title to any Lot.

14. "Resident" shall mean any person who lawfully resides in the Subdivision, such as a Member, a Member's family, a Member's attendant domestic servants, a Member's approved tenant or tenants, and any other approved occupant.

15. "Single Family Residence" means occupancy by a Single Family, which shall mean a single housekeeping unit composed of a: (1) one person; (2) two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage, legal adopting or acting as guardian, legal custodian, or legal designee of a parent for a minor child residing within the Lot; or (3) two or more natural persons meeting the requirements of (2) above, except that there is among them one person who is not related to some or all of the others, it being the intention of this provision to prohibit occupancy of a Lot by three (3) or more unrelated adults while clarifying that nothing herein shall be applied or construed to permit discrimination based on familial status, handicap, or other protected classification under Fair Housing laws.

16. The "Subdivision" shall mean all of the real property commonly known and referred to as the Bird Key Subdivision, platted as set forth in Article II of the Declaration.

B. Additional specific terms may be defined throughout these Bylaws where contextually suitable. Where a term is not defined herein or hereinabove, the Board is charged with defining the term. The Board may, but is not required to, refer to the Florida Statutes

governing homeowner associations or to a dictionary when determining the meaning or definition of any terms used in these Bylaws. The Board's definition of such term shall be binding unless wholly unreasonable and arbitrary. An opinion of the Association's attorney that the Board's definition is not wholly unreasonable and arbitrary shall be dispositive and binding on all parties.

## ARTICLE III – MEMBERSHIP

### A. TYPES OF MEMBERS

#### 1. Regular Members:

a. *There shall be not more than five hundred eleven (511) Regular Members.*

b. *The qualifications for a Regular Member are as follows:*

(i) *Holding or acquiring title to a freehold estate in one or more Lots of the Subdivision solely or with other persons or entities as joint tenants, tenants-in-common, or tenants by the entirety. If such title is vested in more than one person or entity, only one of such persons or entities shall be a Regular Member. An entity shall designate a natural person as the representative of the entity for all purposes hereof and register promptly with the Association the name, address, and all additional information required by the Association.*

*The term "representative," shall include such representative's successor as designated by the entity. All designations of representatives shall be subject to approval by the Board to insure the reasonable longevity of all such designations. One successor co-owner, if a natural person, whether joint, in common, or by the entirety, of a Lot, shall become a Regular Member of the Association upon the death of the existing Regular Member, and shall not be required to pay a transfer fee.*

(ii) *Completing and returning to the Association a Membership Information form and an affidavit provided by the Association.*

2. Special Members: All natural persons or entities, as the case may be, at the time they acquire co-ownership of any Subdivision Lot with a Regular Member, shall become Special Members of the Association.

### B. OBLIGATIONS AND RIGHTS OF MEMBERS

#### 1. Provisions Common to All Members:

a. *All Members shall sign and return to the Association a properly attested affidavit acknowledging receipt of a copy of the Association's Governing Documents and agreeing to be bound by the provisions therein and to comply with the terms thereof, as they may be amended from time to time.*

b. *All Members shall receive a Membership Certificate signed by the President or Vice President, and the Secretary, designating the membership classification and stamped with the corporate seal of the Association. Evidence of membership may be required at all membership meetings.*

c. *Membership in the Association shall terminate upon the death or dissolution of a Member, or upon the transfer of his or its title to any Subdivision Lot. Termination of membership shall not relieve or release the former Member from liability for non-compliant issues arising, or monetary obligations incurred, in connection with the former Member's membership and the Association's Governing Documents.*

d. *Each Member grants permission to the Association and its designated agents to enter upon his or its Lot to insure compliance with the Governing Documents.*

e. *Each Member shall commence construction or renovation of his property within sixty (60) days of receiving the Association's permit therefor, and will complete the project within eighteen (18) months after commencement, unless extended by written agreement of the Board.*

**(To be consistent with the Declaration.)**

## **2. Provisions for Regular Members:**

a. *Regular Members shall have the exclusive right to one vote for each Lot owned by them at Association membership meetings and such vote(s) will be binding on all of their co-owners of those Lots.*

b. **Regular Members may allow their Single Family Residence to be occupied, in the absence of the Member, only by:**

- i) Members of their immediate families.
- ii) Lessees who have signed written leases with a term period of not less than sixty (60) days. A maximum of two leases per year will be allowed.
- iii) Attendant domestic employees domiciled with (i) or (ii) of the above.

All occupants that do not meet the above criteria must be approved by the Board.

**( Allows the Association to know of renters and caretakers and keeps the owner responsible for the actions of the above.)**

c. *Regular Members may transfer their memberships to a co-owner upon surrendering their Membership Certificate to the Association and after the co-owner completes and returns to the Association a Membership Information form.*

d. *Regular Members shall, prior to occupancy by lessees, provide to the Association a copy of the executed subject lease document, a completed lessee information form, and a transfer fee, pursuant to the procedures set forth by the Board.*

e. *Regular Members shall, prior to acquiring title (whether legal or equitable) to a Lot (or any part thereof) in the Subdivision, no later than closing date of the transfer of the Subdivision realty, complete and return to the Board the Membership Information form provided by the Board along with a copy of the executed contract or other document pursuant to which the property was purchased or transferred, the transfer fee and the affidavit provided by the Board, pursuant to the procedures set forth by the Board.*

f. *Regular Members shall be liable for penalties arising from violations committed by their co-owners, families, lessees or other legal occupants.*

### 3. Special Members:

- a. Special Members shall be entitled to all the rights and privileges of regular members except the right to vote.
- b. Special Members shall be jointly liable with the Regular Member for fees, dues and assessments levied with respect to their property and for penalties imposed upon the Regular Member.

### C. MEMBERSHIP MEETINGS, NOTICES AND VOTING RIGHTS

1. *The Association shall maintain a roster of the names and mailing addresses of each of its Members. The roster shall be maintained from evidence of ownership furnished to the Association from time to time that substantiates the holding of a membership and from changes of mailing addresses furnished to the Association from time to time by the Members. It shall be the duty of each Member to promptly notify the Association of any change of title to the lot or change of address.*

2. The regular annual membership meeting of the Association shall be held on the first Tuesday of March of each year or on such other day in March of each year as the Board may designate by resolution from time to time.

3. The Secretary shall provide to each Regular Member at least thirty (30) days notice of the date, time and place of each annual meeting, and notice of the agenda, which shall include the Board's proposals, if any, which require a membership vote. The Secretary shall provide at least twenty (20) days notice of each special membership meeting, which the Board is hereby empowered to call. Notices shall contain sufficient information about any proposal(s) to be submitted so that Members may vote knowledgeably on it or them. Notice of a special meeting shall include the purpose or purposes for which it is called.

4. Notwithstanding any other provision herein, notice of meetings of the Board of Directors, Members' meetings (except Member meetings to recall directors), and committee meetings may be given by electronic transmission (i.e., email) to those directors or Members who consent in writing to receive notice by electronic transmission. Any Member may, by written waiver of notice signed by such Member, waive such notice, and such waiver, when filed in the records of the Association (whether executed and filed before or after the meeting), shall be deemed equivalent to the giving of such notice to such Member. The attendance of any Member at a membership meeting shall constitute such Member's waiver of notice of such meeting, except when attendance is for the sole purpose of objecting to the meeting as improperly called or noticed.

(To allow for e-mail notification of meetings.)

5. The Board shall present for membership voting any proposal submitted to the Board in writing at least forty-five (45) days before any membership meeting is to be held, signed by at least fifteen (15) Members, as follows:

- a. If such proposal demands a special membership meeting, the proposal shall be accompanied by a check, payable to the Bird Key Improvement Association, Inc., for \$500.00 to be used to defray costs of preparation and mailing of notices, and the Board shall thereupon arrange for a special membership meeting to be held within sixty-five (65) days after receipt of the proposal and check.

b. The Board shall be bound by membership votes at an annual or special meeting, provided such proposals have been presented in the manner and time prescribed above.

6. The order of business at an annual meeting of the Members shall be as follows:

- a. Call to order by the President and the President's report.
- b. Secretary's report of the numbers of Members present.
- c. Reading and approval of minutes of previous meeting.
- d. Association budget.
- e. Committee reports.
- f. Old business.
- g. New business.

7. A quorum exists if Members entitled to cast not fewer than fifteen percent (15%) of all eligible voting interests are present at a membership meeting, either in person or by proxy. If a Member's right to vote has been suspended because his assessments are delinquent, the total voting interests required to constitute a quorum shall be correspondingly reduced. The acts approved by a majority of the votes cast (in person or by proxy) at a membership meeting at which a quorum is present shall constitute the acts of the Members, except when approval by a greater number of Members is required.

8. Members have the right to attend all membership meetings and to speak at any meeting with reference to all items opened for discussion or included on the agenda. Any Member has the right to speak for at least three minutes on any item, provided that the Member submits a written request to speak twenty-four hours prior to the meeting.

9. *The Board may adopt reasonable written rules regarding the audiotape or videotape recording of the meeting and the frequency, duration, and other manner of Members' speeches at a meeting. Subject to reasonable rules as promulgated by the Board, any member may audiotape or videotape record a meeting.*

10. Any action that may be taken at a membership meeting may be taken without a formal meeting if written consents, stating the action taken, are signed by Members entitled to vote on such action and having not less than the minimum number of votes necessary to authorize such action at a meeting at which all Members entitled to vote on such action were present and voted. When the members are acting by written agreement in lieu of a membership meeting, the Association shall follow and comply with the procedures contained in Section 617.0701(4), Florida Statutes, as amended from time to time.

**(To allow voting on Association issues by written agreement.)**

## ARTICLE IV – BOARD OF DIRECTORS

### A. POWERS AND DUTIES OF THE BOARD

1. *The Board shall have all powers, authority, discretion and duties necessary or appropriate for the administration of the Association and operation of the Subdivision, except as may be specifically reserved or granted to the Owners, or a specific committee or committees by the Declaration, Articles or these Bylaws. The powers of the Board shall include, but shall not necessarily be limited to, the following:*

*a. All powers specifically set forth in the Declaration, Articles and these Bylaws, all powers incident thereto or reasonably to be inferred therefrom, and all powers and authority of a Board of Directors set forth in the Florida Not-For-Profit Corporation Act (currently Chapter 617, Florida Statutes) and the Florida Homeowners' Association Act (currently Chapter 720, Florida Statutes), except as expressly limited by the Declaration, Articles or these Bylaws.*

**(Allows the provisions of the Florida State statutes to apply.)**

*b. The Board shall have the right to enforce by any legal means provisions of the Declaration, the Articles, these Bylaws and rules and regulations promulgated pursuant thereto.*

*c. The Board shall levy assessments and adopt and amend annual budgets, and use and expend assessments and other receipts of the Association to carry out the powers and duties of the Association pursuant to the Declaration and these Bylaws.*

*d. The Board may employ, dismiss, control and contract for personnel and contractors for the administration of the Association and the carrying out of the Association's responsibilities, including but not limited to managers, maintenance personnel, attorneys, accountants and other professionals, by employment or contract, as the Board may determine.*

*e. The Board may adopt, amend and rescind reasonable rules, regulations and policies relating to the administration of the Association and the use of the Lots and Common Areas, as provided in the Governing Documents.*

*f. The Board may create and disband such committees as the Board may from time to time determine is reasonably necessary or useful, and may delegate such authority to such committees as may be reasonable in connection with any lawful purpose. Nothing contained herein shall restrict the authority of the President of the Association from appointing advisory committees not inconsistent with other committees created by the Board.*

*2. In anticipation of or during any emergency as defined below, the Board may exercise the following emergency powers, and any other emergency powers authorized by Section 617.0303, Florida Statutes (2011) or any other applicable law, as may be amended from time to time:*

*a. The Board may modify lines of succession if during such emergency any or all officers or agents of the Association are for any reason rendered incapable of discharging their duties; and it may relocate the principal office or designate alternative principal offices or regional offices or authorize the officers to do so.*

*b. During an emergency as defined below, notice of a meeting of the Board of Directors need be given only to those directors whom it is practicable to reach and may*

be given in any practicable manner, including by publication, by electronic or telephonic means, or by radio. One or more officers of the Association present at a meeting of the Board of Directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority as necessary to achieve a quorum. The director or directors in attendance at a meeting shall constitute a quorum.

c. Corporate action taken in good faith during an emergency under this section to further the ordinary affairs of the Association binds the Association and may not be used to impose liability on a corporate director, officer, employee or agent who acted reasonably and in good faith.

d. An officer, director, or employee acting in accordance with any emergency bylaws is only liable for willful misconduct.

e. An emergency exists for purposes of this section if a quorum of the Board cannot readily be assembled because of some catastrophic event including, without limitation, a hurricane or a flood.

(This entire section, # 2, applies Florida State laws in case of emergencies.)

## **B. MEETINGS, VACANCIES, QUORUM**

1. The Board shall meet once a month at a time and place determined by the Board. Notice thereof shall be posted on the Association office door at least forty-eight (48) hours before the meeting. All Members are entitled to attend such meetings and may speak, provided the Member lists, on a sign-up sheet at such meeting, the agenda item on which the Member desires to speak. The association may adopt written reasonable rules expanding the right of Members to speak and governing the frequency, duration, and other manner of Member statements, which rules must be consistent herewith.

(Allows members to speak at a Board meeting without giving prior notice as is currently required.)

2. Special meetings may be called by the President or, in his absence, the Vice President, or on the call of a majority of the Board. At least five (5) days notice specifying the purposes, time, place and date of a special Board meeting shall be mailed to each director. A quorum of the Board shall determine all matters before it except as otherwise provided herein or in the Articles of Incorporation. A Director may waive notice of a meeting before, at or after the meeting. A majority of the Board members shall constitute a quorum.

3. If, at any proposed meeting of the Board, there is less than a quorum present at any time, or if a majority of those present determine an adjournment is appropriate for any reason, the majority of the directors present (in person or via speaker telephone) may adjourn the meeting from time to time until a quorum is present. At any reconvened Board meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

(Allows for stopping and restarting Board meetings.)

4. Interim vacancies occurring on the Board shall be filled by a Regular Member within sixty (60) days of the vacancy by majority vote of the remainder of the Board for such period which shall expire not later than the next annual membership meeting. The unexcused absence of a member of the Board from more than three (3) meetings of the Board within any fiscal year of the Association shall be

considered the submission of the resignation of such member, effective upon acceptance of such resignation by the Board.

## **C. NOMINATION AND ELECTION PROCEDURE**

### **1. Number of Directors, Terms.**

The Board of Directors shall consist of 7 to 11 directors as provided in the Association's Articles. Term limits for all Board members shall be for three years unless otherwise stated to a shorter time. A one-year absence from the Board is required before election to any additional terms.  
(Currently there is no term time limit.)

The Board, from time to time as it may determine, shall designate by resolution the number of directors to be elected at the next succeeding regular annual meeting and the terms of each. The Board will seek to create a Board of Directors composed of groups, each group consisting of an equal number of directors, as near as may be, and staggering the terms of each group.

For example, the Board may provide for staggering the terms of directors by dividing the total number of directors into three groups, with each group containing one-third of the total, as near as may be. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, expire at the third annual shareholders' meeting after their election.

Additions or reductions in the number of directors shall be accommodated by adding to or taking from a group or groups so as to keep the number of directors in each group equal, as near as may be.

### **2. Nomination Procedures.**

a. A nominating committee of not less than three (3) persons, shall be appointed by the President, with the consent and approval of the Board, not less than sixty (60) days prior to the date of the annual membership meeting. At least thirty (30) days prior to the date of the annual membership meeting, the nominating committee shall submit to the Board the names of Regular Members, or spouses of Regular Members residing with a resident Regular Member, as nominees for election to the Board in a number equal to the number to be elected at the next succeeding regular annual meeting.

The Board will retain final approval of all nominees submitted by the nominating committee. Not less than twenty-five (25) days prior to such annual meeting, the Board shall mail notices to the Regular Members stating the names of the persons proposed by the nominating committee. Such notice shall also call attention to and outline the procedure for placing in nomination the names of additional Regular Members or said spouses.

b. Additional names of Regular Members or said spouses may be placed in nomination by written petition signed by at least ten (10) Regular Members and bearing a statement of each proposed nominee, over the nominee's signature that, if elected, the nominee will serve on the Board for the term for which the petition nominates him or her. Such nominating petitions shall be delivered to the Secretary of the Association at least fourteen (14) days prior to the annual meeting at which the election is to occur.

Each such nominating petition shall be accompanied by a fee to be used for costs of preparation of ballot forms and mailing. Such fee will not be required if the prescribed nomination petition is received by the Secretary at least sixty (60) days prior to the date of the annual meeting.

### **3. Election Procedures.**

a. At least twenty-five (25) days prior to the next regular annual membership meeting, the Secretary shall mail a ballot form to each Regular Member as shown on the books of the Association. Each Regular Member may cast as many votes to which he or she is entitled for as many nominees as there are offices to be filled on the Board. Votes may not be cumulative. Ballots may be voted in person at the meeting or as absentee ballot.

b. To have their ballots counted as absentee ballots, Members must sign their name, write in their addresses and either mail or hand deliver them directly to the Secretary not later than 1:00 p. m. of the day preceding the regular annual membership meeting. Votes may be cast individually for each nominee. Solicitation of proxy votes is not permitted. No person may control more than two proxy votes, except for the Secretary of the Association.

c. If there are more nominees than openings, the President will ask for discussion on the nominees. The ballots shall indicate which nominees were submitted through the nominating process. Upon conclusion of discussion, Members will mark their ballots and have them deposited into a ballot box. The Secretary shall maintain security of the ballot box and deliver the same to the election supervisors.

d. Election supervisors shall be appointed by the President with the consent and approval of the Board prior to the date of the election. A nominee shall not be an election supervisor. The election supervisors shall open the ballot box and count the ballots received. Thereafter, the election supervisors shall tabulate the votes cast for each nominee, including all absentee ballots.

Nominees shall be elected to office by plurality of votes cast. The election supervisors shall certify the results of the election to the annual membership meeting. Such certificate shall be made a part of the Minutes of the meeting.

e. In the event there are no nominees for election to the Board other than those nominated by the nominating committee, the Secretary shall omit the preparation and mailing of ballots as prescribed in this subsection and election of such nominees shall be by voice vote at the annual membership meeting, upon proper motion by a member of the nominating committee.

f. Any director may be recalled and removed from the Board with or without cause by a majority of the total voting interests of the Regular Members, pursuant to the requirements and procedures for recall set forth in the Act.

### **D. BUSINESS AFFAIRS AND ACCOUNTING PROCEDURES OF THE ASSOCIATION**

The Board shall conduct the business and affairs of the Association and shall have control and jurisdiction of all of the property and facilities thereof. For the purpose of preserving the beauty, restrictions and desirability of the Subdivision as an exclusive residential and recreational development, the Board shall make rules and regulations governing the acquisition and use of the properties of the Association and governing the use and maintenance of the properties of the Members of the Association located in the Subdivision. The Association shall not capitalize any fixed assets it acquires except real property. Costs of fixed assets other than real property shall be recorded as an expense in the month they are incurred.

## E. ASSESSMENTS

1. Except as provided herein, upon acquiring title to realty in the Subdivision, the transferee, whether already a Member or not, shall pay to the Association a transfer fee in an amount to be determined by the Board from time to time. An amount equal to the then current transfer fee is to be paid to the Association each time a Member enters into an agreement to lease his or its Subdivision real estate.

2. The Board may assess annual dues against each Member of the Association on a per platted lot basis to promote and finance Association purposes. Such assessments shall be based upon entire and fractional platted lots owned by each Member. All Lot Owners are jointly and severally liable with each other for all such assessments on any particular Lot. Any yearly increase in dues may not exceed 100% of the then existing dues without membership approval.

3. Some of the purposes for which such assessments may be made are:

a. Enforcement of Subdivision's Governing Documents governing the use of property of the Association and of its members.

b. Employment of security guards and an office manager.

c. Acquisition of realty in the Subdivision.

d. Maintenance of the Subdivision properties and the elimination of nuisances thereon pursuant to ~~paragraph 10~~ the Declaration.

e. *Administrative costs, including, without limitation, legal and accounting fees.*

f. *Such other purposes consistent with the Governing Documents as the Board may deem appropriate.*

4. *The Board may not levy assessments, other than those for transfer fees, penalties, fines, expenses for remediation or enforcement, including legal and related fees, without the prior approval of the membership at an annual or special meeting held for, among other reasons, such purpose. The notice of such a meeting shall contain sufficient information about the purposes for which the proceeds of the assessment will be used so that members may vote knowledgeably on the proposal.*

5. A special assessment is one required for the purpose of undertaking a single project for which the Board has no specific authorization in the Governing Documents.

6. *Nothing set forth herein shall limit the right of the Board to impose fines or penalties against a Member for violations of the Governing Documents, including maintaining nuisances and failing to pay monetary obligations to the Association when due, such as assessments, fines, penalties, or expenses for remediation or enforcement, including legal fees and related expenses.*

7. Assessment statements shall be mailed to the most recent address recorded by the Association of each Member and shall be due upon receipt thereof, but in no event shall be paid later than the due date in the annual notice.

8. Any assessments not paid within thirty (30) days of the due date shall bear interest at the rate of 18% per annum from the due date or at the highest rate provided by law, whichever is less, and may be subject to late fees, penalties, attorney's fees, costs, and related expenses.

9. The Association shall have a lien against each Lot in the Subdivision, together with all improvements thereon, to secure delinquent assessments, including those assessments that come due and remain unpaid, together with interest and late charges and penalties thereon and cost of collection, including reasonable attorney fees and costs.

The Association may foreclose on a lien on any Lot or Lots as provided by law. Additionally, the Association shall have the authority to pursue other collection remedies, including but not limited to the suspension of the use of portions of the Subdivision property, the suspension of voting rights, recovery of assessments and other unpaid financial obligations from any tenant in a Lot owned by a delinquent Lot Owner, and the imposition of fines for non-payment.

(This allows BKIA to collect the money the association has spent on lot maintenance from owners and others.)

## **ARTICLE V – OFFICERS**

### **A. ELECTION AND QUALIFICATIONS**

The officers of the Association shall be a President, one or more Vice Presidents, a Treasurer and a Secretary. Only the President and Vice Presidents need be members of the Board of Directors or Members of the Association. The offices of Secretary and Treasurer may be held by the same person. The officers shall be elected by the Board at its first meeting after the annual membership meeting for a term of one year or until the election of their successors, and announcement thereof shall be made in the first periodic mailing to members.

### **B. DUTIES OF THE PRESIDENT**

1. The President shall:
  - a. Be the chief executive officer of the Association and shall preside at all meetings of the membership and at all meetings of the Board.
  - b. Have the usual rights, duties and obligations incident to the office of the President of a corporation.
  - c. Be an ex officio member of all committees of the Association and may appoint any advisory committee he or she deems desirable.
  - d. Supervise the Office Manager.
  - e. After retirement, at the invitation of the Board, shall serve as an advisor to the Board for the year following his or her term as President and shall be entitled to participate in all proceedings of the Board except the right to vote.

### **C. DUTIES OF THE VICE PRESIDENT**

A Vice President, as designated by the Board, shall have the rights, authority and obligations of the President during the absence, illness or disability of the President.

## D. DUTIES OF THE SECRETARY

1. The Secretary shall:
  - a. Cause to be kept accurate minutes of all meetings of the Board and of the Members. The Secretary shall give notice of all special meetings of the Board and all meetings of the Members in accordance with these Bylaws or resolutions of the Board.
  - b. Provide a Membership Information form to each new Member and maintain the completed form in the Member's file.
  - c. Issue Membership Certificates and keep a record of names, addresses and phone numbers of Members and their lessees, and such other information as the Board deems appropriate.
  - d. Perform all other duties required by the Board.
  - e. Maintain a separate record of all variances granted.
  - f. Assist the Office Manager and delegate to the Office Manager such duties as the Board allows him or her to do.
  - g. *Together with the President, issue and execute official documents of the Association.*  
(Allows additional duties to the Association Secretary.)

## E. DUTIES OF THE TREASURER

1. The Treasurer shall:
  - a. Keep complete and accurate books of account of all receipts and disbursements of the Association.
  - b. Collect, receipt for, deposit and disburse the money of the Association as directed by the Board.
  - c. Present a comprehensive and complete financial statement of the Association at the annual membership meeting.
  - d. Furnish the Board with financial information that it requests from time to time.
  - e. Perform other duties as the Board may direct.
  - f. Invest Association funds in stocks, bonds, certificates of deposit or other commercial paper only upon resolution of the Board.
  - g. Make all disbursements drawn on the Association account by checks signed by two officers designated by the Board.
  - h. Help supervise the Office Manager with respect to duties he or she assigns to the latter.
  - i. *In the absence of the Secretary, issue and execute, together with the President, official documents of the Association.*

(Allows additional duties of the Association Treasurer.)

2. In the absence of the Treasurer, the duties of the Treasurer shall be performed by an officer or employee designated by the Board. The Board may by resolution require that officers or employees entrusted with funds of the corporation to obtain good and sufficient fidelity bonds for the faithful performance of their duties before engaging in the performance of their duties.

## ARTICLE VI – COMMITTEES

### A. GENERAL PROVISIONS

1. The Standing Committees of the Association shall be as follows:

- a. The Executive Committee;
- b. The Finance Committee;
- c. The Landscape Committee;
- d. The Architectural Committee;
- e. The Compliance Committee; and
- f. The Mediation Committee.

2. The Board may from time to time create additional committees and define their duties, or may delegate such power to the President, and may abolish such committees if it deems such action appropriate.

3. The chairman of each committee shall be appointed and may be replaced by the Board, which may delegate such duty to the President.

4. *The committee members serve at the pleasure of the Board.*  
(To allow for additions and leavings to committees.)

5. No committee action or approval of plans shall be undertaken or made without the approval (by signature in the case of plans) of at least two members of the Committee involved.

6. *Each committee may adopt its own requirement for meetings, notice and waiver of notice, and voting requirements. Meetings shall be held in compliance with all other existing Florida statutory requirements.*  
(Allows committees to be more efficient.)

### B. EXECUTIVE COMMITTEE

The Board may by resolution appoint the President, a Vice President and one other officer of the corporation as an Executive Committee to conduct the business and affairs of the corporation between meetings of the Board. The Executive Committee shall have the powers, authorities and obligations set forth in the resolution establishing the Executive Committee, provided, however, the Executive Committee shall not be empowered to levy assessments against members of the corporation, or fill vacancies in office occurring on the Board.

## C. FINANCE COMMITTEE

The Finance Committee shall consist of three Board members, who shall be appointed by the Board or, at the option of the Board, by the President. The members shall serve until their successors have been appointed. The Committee shall have such duties as are determined by the Board.

## D. ARCHITECTURAL COMMITTEE

1. The Architectural Committee shall consist of three Board members who shall be appointed by the Board or, at the option of the Board, by the President. They shall serve until their successors are appointed and shall maintain a close liaison with the Board.

2. The Architectural Committee shall examine and approve or disapprove plans and specifications, *in accordance with the Architectural Guidelines*, for the construction and exterior alteration on any Lot in the Subdivision of all improvements or structures or exterior appearance of any kind, including, without limitation, any building, fence, wall, swimming pool, screened enclosure, dock, floating dock, davits, moorings or mooring post, boat slip, pier, seawall, grading, flood elevation and drainage system, drain, mailbox, solar energy device, aerial, antenna, decorative building, garages, porte cocheres, storage areas, hurricane shutters, tool cabins or sheds, garden houses, pool houses, gazebos, pergolas, or other improvements or change or modification thereto, and to approve or disapprove any exterior addition, changes, modifications or alterations therein or thereon.

(To be consistent with the Declaration.)

Additions, modifications or alterations include, but are not limited to painting, re-roofing, roof repair, changing windows and/or doors, new or additional air conditioning equipment, new pool equipment. All of the foregoing additions, changes, modifications or alterations shall be hereinafter referred to as "Design Improvements". A plan for demolition of a residence or part thereof and/or for new construction of a residence shall hereinafter be referred to as "New Construction".

(To be consistent with the Declaration.)

3. The Architectural Committee shall base its approval or disapproval of plans and specifications on the criteria established by the Architectural Guidelines, to assure that the plans and specifications meet the current high standards of beauty, design, and value of other structures in the Subdivision.

4. The Architectural Committee will submit recommendations for or against any and all requested or proposed variances to the Board for approval.

5. Approval by the Committee shall not mean approval of the engineering or architectural soundness nor of the value of any structure approved, and the Association assumes no liability therefor. The Board assumes no liability for the designs contained in any plans submitted to the Board or their suitability for their intended use, whether approved or not.

## E. THE LANDSCAPE COMMITTEE

1. The Landscape Committee shall consist of at least one Board member and other Board or non-Board members as appointed by the Board or, at the option of the Board, by the President. They shall serve until their successors are appointed and shall maintain a close liaison with the Board and Architectural Committee. The Landscape Committee shall consist of a maximum of 5 members and the Committee may have such duties as determined by the Board, in addition to those set forth herein.

2. The Landscape Committee shall examine and approve or disapprove plans and specifications, in accordance with the Landscape Provisions in the Architectural Guidelines, that relate to the exterior alteration on, or addition to, any Lot in the Subdivision of all improvements or design elements related to landscaping. This shall include the addition, alteration, or modification to the lawn materials, plants, hedges, trees, and plant beddings, or other improvements or changes or modifications thereto. The Landscape Committee shall also approve or disapprove the installation of landscaping and any additions, changes, modifications or alterations to the landscaping, as provided herein. Additions, modifications or alterations include, but are not limited to, new landscape material, remodeling existing landscape material, and the pruning and removal of trees. All of the foregoing additions, changes, modifications or alterations shall be hereinafter referred to as "Landscape Design Improvements".

(To be consistent with the Declaration.)

3. *The Landscape Committee shall base its approval or disapproval of plans and specifications on the criteria established by the Landscape Provisions in the Architectural Guidelines, in order to assure that the plans and specifications meet the current high standards of beauty, design, and value of other Lots in the Subdivision.*

4. Approval by the Landscape Committee shall not mean approval of the drainage engineering or design soundness nor of the value of any Landscape Design Improvement approved, and the Association assumes no liability therefor.

(To limit Association liability for design error.)

## F. COMPLIANCE COMMITTEE

1. The Compliance Committee shall consist of three Board members, one of whom shall be a member of the Architectural Committee, to be appointed by the Board, which may allow the President to make the appointments. They shall serve until their successors are appointed.

2. The primary duties of the Compliance Committee shall be to inspect premises for violations of the Governing Documents and rules and regulations established by the Board related thereto, to enforce compliance by providing notice to any non-compliant Member with an opportunity to cure violations, and to recommend further enforcement remedies to the Board.

3. The Compliance Committee shall, for the purpose of insuring compliance with the Governing Documents, inspect any Lot in the Subdivision on the occasions of:

- a. a written complaint signed by one or more Members;
- b. construction or exterior alteration, including painting, of structures, buildings and/or landscaping;
- c. the transfer of a Lot (or part thereof) in the Subdivision;

- d. the development of patently unsightly conditions on any Lot;
- e. the development of circumstances or conditions deemed by the Committee to make inspection necessary; or
- f. to assure compliance with Board approved plans or specifications.  
(To make sure what is built was what was planned.)

**G. MEDIATION COMMITTEE**

1. The Mediation Committee shall consist of at least three Members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee.

2. The purpose of the Mediation Committee is to approve or disapprove the imposition of fines or suspensions against a non-compliant Member to enforce compliance with the Governing Documents, after notice and an opportunity to be heard.

**ARTICLE VII – ENFORCEMENT PROCEDURES**

**A. REMEDIATION BY ASSOCIATION**

In the event that any Owner shall fail or refuse to maintain such Owner's Lot and any improvements and structures thereon or any part thereof, in full compliance with the Governing Documents and any rules and regulations of the Board related thereto, or shall otherwise violate the provisions of the Declaration or the Bylaws, the Association, in addition to any other remedies provided by law, shall have the right to take remedial action to correct any such violation or non-compliance, after thirty (30) days of the date the Board sends written notice to the non-compliant Member if the non-compliant condition remains uncured.

(Allows the Board to correct a non-compliant problem if the owner does not.)

Such right shall include the right of reasonable access to the premises and such entry by Association and/or its duly authorized agents shall not be deemed to be a trespass. The expense of any such repairs, maintenance, or remediation (the "Remediation Expense") shall be chargeable to and paid by the non-complaint Member to the Association within fifteen (15) days after submission of the bill therefore, or failing payment within fifteen (15) days, the Remediation Expenses may become a lien on the offending Member's Lot.

**B. FINES AND PENALTIES**

1. In the event any Member shall violate the provisions of the Declaration or the Bylaws, the Board may impose a fine of \$50.00 per day, commencing ~~31~~ seven (7) days after notice of the imposition of such fine is mailed to the non-compliant Member and continuing until compliance is accomplished or in good faith undertaken.

(31 days is to long as there have been numerous letters sent before this action is contemplated.)

2. In the event any Member shall violate a provision in the Declaration or the Bylaws that can, by its nature, be violated only by a single act or action limited as to time (a "Single-Act violation"), such as, but not limited to, the conduct of an estate sale, or the commencement of renovation or construction before a permit is subsequently issued by the Association, a fine in the amount of \$100 per violation may be imposed upon the non-compliant Member.

**(To be consistent with the Declaration.)**

The failure of a member to pay the Single-Act violation fine within thirty (30) days after the Board's mailing to such Member notice of the imposition of such fine shall result in the assessment of a penalty of \$10 a day until the fine and penalty are paid.

**(Additional costs are the best deterrent.)**

3. If a Member, who has been provided notice of a violation of this Declaration or the Bylaws, repeats, within six (6) months of such notice, a substantially same or similar violation, then in that event, the Board may impose a fine, as provided herein, commencing seven (7) days upon a single notice of imposition of a such fine, without the necessity of an opportunity for hearing.

**(To reduce chronic violations of the same nature.)**

4. In the event any Member fails to pay a monetary obligation due the Association under this Declaration, including a transfer fee, an annual or special assessment, a fine for a Single-Act violation, or a Remediation Expense, within 30 days after the payment due date, the Board may impose a penalty in the amount of \$10 per day until the fee or assessment and penalty, together with interest, costs and attorney's fees, if any, are paid.

**(This work is performed by an attorney and there are costs associated with it that the delinquent member should be responsible for.)**

5. In addition and not in limitation of the foregoing, the Board may exercise its right to place a lien on the Lot of the non-compliant Member for the failure or refusal to pay any such assessments, Remediation Expenses, interest, fines, fees, penalties, and legal fees, expenses and related costs when due. If such lien is not paid, the Association shall have the right to foreclose the same in the same manner as a mortgage lien foreclosure or in such other manner as may be permitted by law. In addition to recovery of all payments due the Association, the Association shall be entitled to recover from the Owner of said Lot all expenses, including reasonable attorney fees and related costs, incurred in connection with the preparation of such claim of lien and/or bringing of such foreclosure proceedings, and all such costs and fees shall be secured by said lien in addition to any assessments, costs, fees, or penalties that accrue.

6. No fine or penalty shall exceed \$20,000.00 in the aggregate, per violation.

**(To be consistent with the Declaration.)**

7. Non-compliant Members will be provided with fourteen (14) days' notice and an opportunity for hearing before a fine will be imposed, as currently required by law or such other or further rights as may be required by then existing law, except for recurring violations described in sub-paragraph 3 above.

**(To comply with Mediation Committee requirements.)**

### **C. SUSPENSION OF RIGHTS**

1. If a Member is delinquent in paying a monetary obligation due to the Association or a Member, a Member's licensee, occupant or invitee is in non-compliance with any provision of the Governing Documents or the rules and regulation of the Board related thereto, the Board may suspend the rights of the Member or the Member's

tenant, guest, or invitee, to use the Common Areas and facilities until the monetary obligation is paid in full or compliance is achieved.

2. In addition to the above, if a Member is delinquent in paying a monetary obligation due to the Association, the Board may suspend the voting rights of a Member. The suspension ends upon full payment of all obligations currently due or overdue to the Association.

3. Non-compliant Members will be provided with fourteen (14) days' notice and an opportunity for hearing before a suspension will be imposed, as currently required by law or such other or further rights as may be required by then existing law.

(To comply with Mediation Committee requirements.)

#### **D. PROCEDURES FOR IMPOSITION OF FINES OR SUSPENSION**

(These provisions have been in practice for 3 years and this is the appropriate place for them in our documents. They follow current State statutes.)

1. If the Board (via a committee or agent or otherwise) determines that any Member, or the tenant, guest or invitee of a Member, is in violation of any of the provisions in the Association's Governing Documents, the Board shall notify the Member of the nature of the violation and the enforcement remedies available to the Board under the Governing Documents for such a violation, to wit: the imposition of fines, penalties and suspension, remediation by the Association at cost to the non-compliant Member, and/or an action at law or in equity to enforce compliance.

2. The fine schedule is as follows:

a. \$50 per day for a continuing violation until compliance is accomplished or in good faith undertaken (a "Continuing Violation");

b. \$100 per violation for violation of those provisions in this Declaration or the Bylaws that can only, by their nature, be violated only by a single act or action limited as to time ("Single-Act violation"); and

c. \$10 per day for failure to pay any monetary obligation due the Association, including a transfer fee, a fine for a Single-Act Violation, an annual or special assessment, or a Remediation Expense, within 30 days after the payment due date ("Monetary Violation Obligation").

3. Before imposing a fine as set forth above, or a suspension, the Board shall provide the non-compliant Member with at least fourteen (14) days notice and an opportunity for a hearing before a committee (the "Mediation Committee"). Such notice may be combined with the notice given by the Board to notify the non-compliant Member of the nature of the violation and an opportunity to cure, as set forth in sub-paragraph 1.

The notice shall set out the right of the non-compliant Member to a hearing before the

Mediation Committee, the procedure and time limit for the person to request a hearing, and either the date, time and place of such hearing or that if the person requests a hearing, that the non-compliant Member shall be given further notice of the date, time, and place of the hearing. If the non-compliant Member does not request a hearing within the fourteen (14) days following the notice, then the Mediation Committee may meet at any time upon notice to the non-complaint Member.

4. The Mediation Committee shall meet and hold a hearing if one has been timely requested by the non-compliant Member. At the conclusion of the hearing, if one has been requested, or during the meeting if no hearing is held, the Mediation Committee shall determine whether a fine or a suspension shall be imposed and the amount of such fine, if any, in accordance with the Declaration. No fine or suspension may be imposed unless the Mediation Committee has approved of the same, and recommended the same to the Board.

5. If the Mediation Committee, after a meeting and/or a hearing, as the case may be, recommends that no fine or suspension be imposed, the Board may not impose a fine a suspension.

6. The Board, or an agent or committee designated for that purpose, shall provide a notice of the imposition of a fine to the non-complaint Member and its tenants or occupants, if any.

#### **E. ADDITIONAL REMEDIES, COLLECTION**

**(Required to update to current state law.)**

1. In the event of the failure of any Member to comply with the provisions of its Governing Documents or the rules and regulations promulgated by the Board, including without limitation, the failure to pay monetary obligation due the Association, the Board has the right, in addition to all other remedies, to proceed at law or equity to compel compliance by the Member and/or to prevent actual or anticipated violation of the said provisions.

2. The Association has the right to take actions as herein provided and to enforce collection of any monetary obligation owed to it, whether the obligation is for assessments, fines, penalties, Remediation Expenses, or surveying, architectural, engineering, legal or accounting fees and related or other costs incurred in enforcement. In the event a Member fails or refuses to pay to the Association the monetary obligation due it, the Association may file and foreclose a lien against the Member's Lot and/or seek a personal money judgment against the Member in any manner authorized by law.

Notice of the Association's intent to file a claim of lien against any Member shall be provided to the member as provided by the Act. If such lien is not timely paid by the Member, the Association shall have the right to foreclose the lien in the same manner as a mortgage or in such manner as may be permitted by law. In addition, the Association shall have the right to seek a money judgment against the Member.

**(The above allows updating to current state law.)**

## ARTICLE VIII - VARIANCES

A. *Variances shall be granted only by the Board upon recommendation of the Architectural Committee, and shall not constitute a waiver of these provisions with respect to any other lot in the Subdivision or to any other members.*

B. *A fee determined by the Board shall be charged to each person requesting a variance.*

C. *In the event a variance is granted, the Board shall, by written resolution, specify the reasons therefor, and shall obtain from the Member granted the variance a written agreement containing a detailed description of the variance, the reasons for granting it, and acknowledgement of receipt of the established fees, which the Board may change from time to time.*

## ARTICLE IX - PLANS AND PERMITS

A. None of the following actions shall be commenced without a prior written permit from the Association:

**(Section 1 is the same as in the Declaration.)**

1. *Additions, modifications or alterations of improvements or structures or exterior appearance of any kind, including, without limitation, any building, fence, wall, swimming pool, screened enclosure, dock, floating dock, davits, moorings or mooring post, boat slip, pier, seawall, grading, flood elevation and drainage system, drain, mailbox, solar energy device, aerial, antenna, hurricane shutters, (including fabric coverings or similar material), decorative building, garages, porte cocheres, storage areas, tool cabins or sheds, garden houses, pool houses, gazebos, pergolas, landscaping plan, landscape device or object or other improvements or changes or modifications thereto.*

*Additions, modifications or alterations include, but are not limited to painting, re-roofing, roof repair, new landscape material, remodeling existing landscape material, changing windows and/or doors, new or additional air conditioning equipment, and/or new pool equipment. Alteration of the landscaping includes without limitation, modifications to the ground cover, rocks, shrubs and trees over 4 inches in diameter measured 4 feet from the ground. All of the foregoing additions, changes, modifications or alterations shall be hereinafter referred to as "Design Improvements". Design Improvements do not include changes in flowers or replacement of dead bushes that are under 4 feet tall. A plan for demolition of a residence or part thereof and/or for new construction of a residence or any addition thereto shall hereinafter be referred to as "New Construction".*

2. *Garage and estate sales, as provided for in the rules and regulations promulgated by the Board from time to time.*

**(Permitting allows the Association to require the owner to have traffic assistance, if needed.)**

B. The Association will not issue a permit allowing the actions described in subparagraph 1 immediately above, without first receiving:

1. A completed and signed permit application and Owner agreement;
2. A fee payment equal to \$1 per \$1,000 of construction cost, but at least \$10; and

3. Such other and further material and documentation as provided in the Governing Documents or such other publications or requirements of the Board, as promulgated from time to time.

(Allows for the use of the Owners and Contractors Handbook, which has been used for many years.)

C. Each such construction, demolition, renovation and alteration must conform to plans approved by the Association in writing.

D. All new residential structures and exterior renovations must be designed, and plans therefore certified, by an architect registered in the State of Florida, and, if applicable, must meet appropriate City drainage codes with an approved drainage system plan sealed by an engineer.

Compliance with other restrictions and criteria, such as Municipal and County Codes and Ordinances, State of Florida Statutes, laws and rules, and U.S. Governmental regulations and requirements, is the responsibility of each Owner and not the responsibility of the Board. The Board assumes no liability for the designs or structures contained in any plans submitted to the Board or their suitability for their intended use.

E. Landscaping plans shall include the locations and height, if over 4' high, of all trees and shrubs on the Lot. Decorative rocks are to be shown on the plans. Lawn and plant areas may not be installed or changed to hardscape (stone, shell, mulch or equivalent). Lawns may be replaced with ground cover or drought resistant plants. Stone or shell may be used only for pathways and as plant bed accents. Lots must have plants and be pleasant to look at. Lawns may be replaced with Florida-Friendly Landscaping or Xeriscape.

“Florida-Friendly Landscaping” or “Xeriscape” means quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. All new and re-landscaped properties must have an engineered drainage system that meets city code requirements and has been approved by the City of Sarasota.

(Consistent with the Declaration for the definition of xeriscape.)

F. All permits must be openly displayed in a permit box on the premises during the time any construction, demolition, replacement or alteration is undertaken.

G. The Board shall have the right to hire a registered architect or engineer to review the plans and specifications submitted by any Member, and the cost of such consultant shall be borne by such Member.

H. Homeowners shall notify in writing the Architectural Committee or Landscape Committee when work covered by the permit is completed or when plans are altered during construction for possible inspection and re-certification by the Board.

I. The action granted by any BKIA permit must begin within sixty (60) days after the date shown on the BKIA permit, or else another BKIA permit must be applied for, and all changes, improvements, and alterations must be completed within eighteen (18) months from the date the first BKIA permit is issued, unless extended in writing by the Board.

(To be consistent the Declaration.)

J. The Board shall publish rules, regulations or policies detailing the permitting process, as well as guidelines and standards authorized by the Declaration and these Bylaws, which may be updated or modified by the Board from time to time.

(Allows for the use of the Owners and Contractors Handbook, which has been used for many years.)

## **ARTICLE X - FISCAL YEAR**

The fiscal year of the Association shall begin on January 1 and end on December 31 of each year.

## **ARTICLE XI – SEAL**

The corporation seal of the Association shall be engraved with the following: "BIRD KEY IMPROVEMENT ASSOCIATION, INC. FLORIDA, 1959, NOT FOR PROFIT." The Secretary shall have custody of the corporate seal that shall be affixed to all instruments of the corporation requiring a seal for proper execution. The Board may adopt other seals in its discretion.

## **ARTICLE XII - AMENDMENTS**

A. The Bylaws of the Association may be amended by a majority of the Members of the Board at a meeting duly noticed for such purpose and will be effective sixty (60) days after the mailing of such amendments to the general membership. A copy of this Bylaw will be included in the mailing.

If within the sixty (60) day period written objections signed by 15 percent of Regular Members are submitted to the Board, by delivery to the BKIA office, then the proposed amendments shall be tabled and presented to the membership for a vote at the next membership meeting.

B. The Articles of Incorporation and Bylaws may be amended by a majority of a quorum at a meeting of Regular Members, duly noticed, pursuant to the following procedure:

1. Upon proposal by the Board; or

2. Upon a written proposed amendment(s) submitted to the Board at least sixty (60) days prior to such meeting, along with a petition signed by a minimum of twenty-five (25) members. The proponents shall give reasons for their position to the Board, which will provide a recommendation to the membership. At the meeting, the President will ask for discussion, at the conclusion of which a vote shall be taken.

C. Proposed amendments will be noticed to the membership at least thirty (30) days prior to voting. Approved amendments shall be noticed to membership within thirty (30) days after voting.

## **ARTICLE XIII - INDEMNIFICATION OF OFFICERS AND DIRECTORS**

A. The Association shall indemnify any 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 or criminal, administrative or investigative (whether or not by or in the name of the Association), by reason of the fact that he is or was a director or officer of the Association, against any and all expenses (including attorney's fees), judgments, fines and amounts paid in settlement incurred by him in connection with such action, suit or proceeding, except for an officer or director who is adjudged guilty of willful misfeasance or willful malfeasance in the performance of his duties.

Such right of indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs and personal representative of such person, provided, however, that if any past or present officer or director sues the Association, other than to enforce this indemnification, such past or present director or officer instituting such suit shall not have the right of indemnification hereunder in connection with such suit.

B. The Association may purchase insurance to provide funds for the indemnification herein set forth and, if such insurance is purchased but the proceeds of the same are not sufficient to cover the cost of indemnification, then the deficiency shall be paid from the Association funds. If there are insufficient or no such funds, then the Board shall assess the membership to cover the cost of indemnification. The Association reserves the right to select its own investigators and lawyers to defend the indemnified party, who must cooperate fully with any such persons in order to be indemnified under this Article.

C. The Association shall not be liable for any duplication of costs incurred by the indemnified party if the Association agrees to defend him, and the indemnified party hires others to defend him. The failure of the indemnified party to cooperate in the defense of any action taken against him shall be deemed a waiver of his right to a defense or to indemnification by the Association.

D. This indemnity is contingent upon receipt by the Association, at its business address, from the indemnified party of notice, by certified mail within fifteen (15) days of his acquiring notice thereof, of any legal action or claim made against him.

#### ARTICLE XIV - INTERPRETATION

The interpretation of these Bylaws, when questions concerning them arise in matters involving their application, shall be by the Board of Directors and their decision shall be final, conclusive, and binding on the Members.

(Clarifies that the Board interprets the application of the Bylaws, not the offending member.)

#### ARTICLE XV – NOTICES

A. All notices to Members named by the Association by ordinary mail to the mailing list address last provided it by a Member shall be deemed sufficient notice to that Member.

B. The date of mailing shall be the date of the notice and the date of mailing of a response, if the postal service is utilized by a member, shall be the date of that member's response to the notice.

IN WITNESS WHEREOF, the President and Secretary of the Association, respectively, on behalf of the Membership, have caused their hands and seals to be attached to these Amended and Restated Bylaws of the Bird Key Improvement Association, Inc., on this \_\_\_\_ day of \_\_\_\_\_, 2012.

Bird Key Improvement Association, Inc.

By: John C. Laurie, its PRESIDENT

(Corporate Seal)

\_\_\_\_\_  
Attest: Sonya Goldwasser, SECRETARY

STATE OF FLORIDA  
COUNTY OF SARASOTA

BEFORE ME, personally appeared John C. Laurie, who is personally known to me or produced \_\_\_\_\_ as identification, and who, after being duly sworn, acknowledged and affirmed that he is the President of Bird Key Improvement Association, Inc. and that he executed the foregoing instrument as his free act and deed as such officer for the use and purpose therein mentioned, and that said instrument is the free act and deed of said Association.

WITNESS my signature and official seal in Sarasota County, State of Florida on this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Name of Notary Public  
My Commission Expires

STATE OF FLORIDA  
COUNTY OF SARASOTA

BEFORE ME, personally appeared Sonya Goldwasser, who is personally known to me or produced \_\_\_\_\_ as identification, and who, after being duly sworn, acknowledged and affirmed that she is the Secretary of Bird Key Improvement Association, Inc., that she attested the foregoing instrument as her free act and deed as such officer for the use and purpose therein mentioned, and that said instrument is the free act and deed of said Association.

WITNESS my signature and official seal in Sarasota County, State of Florida on this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Name of Notary Public  
My Commission Expires:

This Instrument prepared by:  
Law Firm of James L. Essenson  
2071 Main Street  
Sarasota, Florida 34237  
Phone (941) 954-0303

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