



**AMENDED AND RESTATED  
BYLAWS  
OF  
OAK RUN AT PELICAN SOUND CONDOMINIUM ASSOCIATION, INC.**

1. **Identity.** These are the Bylaws of Oak Run at Pelican Sound Condominium Association, Inc. (the "Association"), a corporation not-for-profit, incorporated under the laws of the State of Florida and organized for the purpose of administering that certain condominium located in Estero, Lee County, Florida, and known as Oak Run at Pelican Sound, a Condominium (the "Condominium").

2. **Definitions.** All of the initially capitalized terms used herein shall have the meanings set forth in the Declaration of Condominium for Oak Run at Pelican Sound, a Condominium (the "Declaration"), unless defined otherwise herein. In addition, the following terms shall have the following meanings:

"**Act**" shall mean the Florida Condominium Act as it is amended from time to time; provided, however, the Act shall not be incorporated in these Bylaws or in any other document governing the Condominium except as specifically set forth herein.

"**Articles**" shall mean the Articles of Incorporation for the Association, as the same may be amended from time to time.

"**Board**" shall mean the Board of Directors of the Association.

"**Committee**" shall mean any committee created by the Board.

"**Condominium Documents**" shall mean the Declaration, the Articles, these Bylaws, and the Rules and Regulations, as the same may be amended from time to time.

"**Division**" shall mean the Division of Florida Condominiums, Timeshares and Mobile Homes.

"**Members Meeting**" shall mean any meeting of the Unit Owners held in accordance with these Bylaws and the Act.

### **3. Members**

#### **3.1 Annual Members Meeting**

**3.1.1 Date.** The Annual Members Meeting shall be held on the date, at the place, and at the time as determined by the Board from time to time, which meeting location shall be within 15 miles of the condominium property.

**3.1.2 Purpose and Notice.** The purpose of the Annual Members Meeting shall be stated in the notice of the meeting, which shall include an agenda. Advance notice shall be mailed, hand delivered or emailed to Unit Owners at least fourteen (14) days prior to the Annual Members Meeting, and shall be posted in a conspicuous place on the Condominium Property at least fourteen (14) continuous days prior to the Annual Members Meeting, all as specifically provided in the Act.

**3.1.3 Agenda.** The Agenda for an Annual Members Meeting shall include each of the following items, if applicable, and any additional items deemed appropriate by the Board; call to order; collection of election ballots not yet cast, appointment of a chairman of the Annual Members Meeting; proof of notice of the Members Meeting or waiver of notice; appointment of inspectors of election; election of Director(s); reports of committees, unfinished business, new business, and adjournment. Notwithstanding anything herein to the contrary, the first order of business shall be the collection of election ballots not yet cast.

#### **3.2 Special Members Meetings.**

**3.2.1 How Called.** A Special Members Meeting may be called by the President or by a majority of the Board of the Association, and must be called by the President or Secretary upon receipt of a written request from Unit Owners holding twenty-five percent (25%) of all the Voting Interests of the Association. Additionally, a Special Members Meeting may be called by Unit Owners holding ten percent (10%) of the Voting Interests of the Association to recall a Director or Directors of the Board as permitted by the Act (currently Section 718.112(2)(j) of the Florida Statutes).

**3.2.2 Purpose and Notice.** Special Members Meetings may be called for any purpose permitted by law. The business conducted at a Special Members Meeting shall be limited to that stated in the notice of the Special Members Meeting, which shall include an agenda. Advance notice shall be mailed, hand delivered or e-mailed to Unit Owners at least fourteen (14) continuous days prior to the Special Members Meeting, and shall be posted in a conspicuous place on the Condominium Property at least fourteen (14) continuous days prior to the Special Members Meeting, all as specifically provided in the Act.

**3.2.3 Agenda.** The Agenda for a Special Members Meeting shall include each of the following items, if applicable, and any additional items deemed appropriate by the Board: call to order; collection of votes not yet cast, appointment of a chairman of the Special Members Meeting (who need not be a Member or a Director); proof of notice of the Members Meeting or waiver of notice; special items of business, and adjournment.

**3.3 Waiver of Notice.** Notice of a Members Meeting may be waived by a Unit Owner unless prohibited by the Act.

**3.4 Affidavit or Certificate of Mailing.** The Association shall include in the official records of the Association an affidavit or certificate of mailing or, transmission via e-mail conforming with the requirements of the Act to the extent that Unit Owners have consented to receive notice by electronic transmission, which are incorporated herein by reference (currently Section 718.112(2)(d)2 of the Florida Statutes).

**3.5 Quorum.** A quorum at a Members Meeting shall be attained by the presence, either in person or by proxy, of Unit Owners entitled to cast one-third (1/3) of the Voting Interests of the Unit Owners; provided, however, quorum requirements (or lack thereof) and requirements that a minimum number of ballots be cast for the election of Directors shall be as provided in the Act.

**3.6 Voting by Members.**

**3.6.1 Majority Vote.** The acts approved by Unit Owners holding a majority of the Voting Interests of the Association present in person or by proxy at a Members Meeting at which a quorum is present shall be binding upon all Unit Owners except where otherwise provided by law or in the Condominium Documents.

**3.6.2 Voting Interests.** Each Unit Owner shall be a Member of the Association. No person who holds an interest in a Unit only as security for the performance of an obligation shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Unit. There shall be one vote appurtenant to each Unit. For the purposes of determining who may exercise the Voting Interest associated with each Unit, the following rules shall govern:

**3.6.2.1 Unit Owned By Husband and Wife.** Either the husband or wife (but not both) may exercise the voting interest with respect to a Unit. In the event the husband and wife cannot agree, neither may exercise the voting interest.

**3.6.2.2 Trusts.** In the event that any trust owns a Unit, the Association shall have no obligation to review the

trust agreement with respect to such trust. If the Unit is owned by Robert Smith, as Trustee, Robert Smith shall be deemed the Unit Owner of the Unit for all Association purposes. If the Unit is owned by Robert Smith as Trustee for the Laura Jones Trust, then Robert Smith shall be deemed the Member with respect to the Unit for all Association purposes. If the Unit is owned by the Laura Jones Trust, and the deed does not reference a trustee, then Laura Jones shall be deemed the Member with respect to the Unit for all Association purposes. If the Unit is owned by the Jones Family Trust, the Jones Family Trust may not exercise its voting interest unless it presents to the Association, in the form of an attorney opinion letter or affidavit reasonably acceptable to the Association, the identification of the person who should be treated as the Member with respect to the Unit for all Association purposes. If Robert Smith and Laura Jones, as Trustees, hold title to a Unit, either trustee may exercise the voting interest associated with such Unit. In the event of a conflict between trustees, the voting interest for the Unit in question cannot be exercised. In the event that any other form of trust ownership is presented to the Association, the decision of the Board as to who may exercise the voting interest with respect to any Unit shall be final. The Association shall have no obligation to obtain an attorney opinion letter in making its decision, which may be made on any reasonable basis whatsoever.

**3.6.2.3 Corporations.** If a Unit is owned by a corporation, the corporation shall designate a person, an officer, employee, or agent who shall be treated as the Member who can exercise the voting interest associated with such Unit. If the corporation fails to designate a person to vote, then the President or Vice-President may exercise the voting interest associated with such Unit. In the event of a conflict among the officers entitled to exercise a voting interest, the voting interest for such Unit cannot be exercised.

**3.6.2.4 Partnerships.** If a Unit is owned by a limited partnership, any one of the general partners may exercise the voting interest associated with such Unit. By way of example, if the general partner of a limited partnership is a corporation, then the provisions hereof governing corporations shall govern which person can act on behalf of the corporation as general partner of such limited partnership. If a Unit is owned by a general partnership, any one of the general partners may exercise the voting interest associated with such Unit. In the event of a conflict among general partners entitled to exercise a voting interest, the voting interest for such Unit cannot be exercised.

**3.6.2.5 Multiple Individuals.** If a Unit is owned by more than one individual, the primary occupant shall exercise the voting interest with respect to such Unit. In the event that there is a conflict among such individuals, the voting interest for such Unit cannot be exercised.

**3.6.2.6 Voting Certificate.** If a Unit is owned by more than one individual, a corporation, a partnership or a trust, the Board will require the use of a Voting Certificate identifying the Member with authority to vote on behalf of each such Unit.

**3.6.3 Liability of the Association.** The Association may act in reliance upon any writing or instrument or signature, whether original or facsimile, which the Association, in good faith, believes to be genuine, may

assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. So long as the Association acts in good faith, the Association shall have no liability or obligation with respect to the exercise of Voting Interests, and no election shall be invalidated (in the absence of fraud) on the basis that the Association permitted or denied any person the right to exercise a voting interest. In addition, the Board may impose additional requirements respecting the exercise of Voting Interests (e.g., the execution of a Voting Certificate).

**3.7 Proxies.** Votes may be cast in person or by use of a proxy complying with the requirements of the Act. All of the provisions of the Act regarding general and limited proxies are incorporated into these Bylaws by reference (currently Section 718.112(2)(b)2 of the Florida Statutes). A proxy holder need not be a unit owner.

**3.8 Adjourned Members Meetings.** If any proposed Members Meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the Members Meeting from time to time until a quorum is present, provided notice of the newly scheduled Members Meeting is given in the manner required for the giving of notice of a Members Meeting.

#### **4. Directors.**

**4.1 Membership.** The affairs of the Association shall be governed by a Board consisting of five (5) Directors each of whom shall serve staggered terms of two (2) years and until his/her successor is duly elected, or appointed.

**4.2 Qualifications.** Each Director must be a member or the spouse of a member; provided, however, co-owners of a Unit are not eligible to serve on the Board at the same time unless they own more than one (1) unit or unless there are not enough eligible candidates to fill the vacancies on the Board. A person who has been suspended by the Association or convicted of a felony in any state or who is more than ninety (90) days delinquent in the payment of regular assessments, special assessments or fines is not eligible to serve on the Board. A director or officer who is more than ninety (90) days delinquent in the payment of any monetary obligation due the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to law.

**4.3 Elections.** At each annual election the members shall elect, by written secret ballot, as many Directors as there are vacancies to be filled, unless the balloting is dispensed with as provided for by law.

**4.3.1 First Notice: Candidates.** Not less than sixty (60) days before the election, the Association shall mail,

deliver or electronically transmit to each unit owner entitled to vote, a first notice of the date of the election along with a certification form provided by the Division attesting that he or she read and understands, to the best of his or her ability, the governing association documents, the Act and any applicable rules. Any unit owner or other eligible person wishing to be a candidate may qualify as such by giving written notice to the Association at least forty (40) days before the annual election.

**4.3.2 *Second Notice: Candidate Information Sheets.*** If there are more candidates than there are Directors to be elected, balloting is required within the time prescribed by law. The Association shall mail, deliver or electronically transmit a second notice of election, together with the notice of annual meeting, to all unit owners entitled to vote in the contested election, together with a ballot listing all qualified candidates in alphabetical order, by surname. Upon timely request of a candidate, the Association shall also include an information sheet (no larger than 8-1/2 inches by 11 inches, finished by the candidate) in the mailing, delivery or electronic transmission. The costs of mailing and copying the candidate information sheet are borne by the Association.

**4.3.3 *Balloting.*** Where balloting is required, Directors shall be elected by a plurality of the votes cast, provided that at least twenty (20%) percent of the eligible voters cast ballots. Proxies may not be used in the election. In the election of Directors, each unit shall have as many votes as there are Directors to be elected, but no unit may cast more than one vote for any candidate, it being the intent here that voting for Directors shall be non-cumulative. Tie votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by lot, or by any other method required or permitted by law.

**4.4 *Election of Directors.*** All of the provisions regarding the election of Directors in the Act and in the Florida Administrative Code are incorporated herein by reference. The Act contains detailed and specific provisions, which may be changed by the Florida legislature from time to time. In general, the Act requires the election of Directors shall be held at the Annual Members Meeting. The regular annual elections, as well as elections to fill vacancies, shall be by written ballot or voting machine, and by a plurality of the votes cast, each person voting shall be entitled to cast his vote for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting. There shall be no quorum requirement; however, at least twenty percent (20%) of the eligible voters must cast a ballot in order to have a valid election of Directors. Notwithstanding the provisions of this subsection, an election and balloting are not required unless more candidates file notices of intent to run or are "nominated" than vacancies exist on the Board. The Act and the Florida Administrative Code ("FAC") each of which may be amended from time to time contain detailed and specific provisions on the manner in which notices must be sent to Unit Owners and the manner in which the elections must actually be held. Notwithstanding any terms to the contrary set forth in these bylaws, the Association shall adhere to the provisions of the Act and the Florida Administrative Code and to the extent the Act or the FAC conflict with these bylaws, the Act and FAC shall control.

**4.5 *Vacancies and Removal.***

**4.5.1 Vacancies Generally.** Except as to vacancies resulting from removal of Directors by Members, vacancies in the Board occurring between Annual Members Meetings shall be filled by the remaining Directors even if less than a quorum (e.g., one Director remains).

**4.5.2 Recall of a Director.** Directors may be removed from office in the manner provided for the removal of Directors in the Act. As stated in Section 718.112(2)(i) of the Florida Statutes, as it may be renumbered from time to time, a Director may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all Unit Owners. A Special Members Meeting for recall may be called by Unit Owners holding ten percent (10%) of the Voting Interests in the Association.

**4.6 Regular Board Meetings.** Regular Board Meetings may be held at such time and place as shall be determined, from time to time, by a majority of the Directors.

**4.7 Special Board Meetings.** Special Board Meetings may be called by the President and must be called by the President or Secretary at the written request of one-third (1/3) of the Directors.

**4.8 Notice Requirements for Board Meetings.**

**4.8.1 Generally.** Notice of Board Meetings shall be given to each Director, personally or by mail, telephone or electronic transmission (e-mail), and shall be transmitted at least two (2) days prior to the meeting. Notice of Board Meetings shall be posted conspicuously on the Condominium Property for at least forty-eight (48) continuous hours in advance for the attention of the Unit Owners except in the event of an emergency. Upon notice given by mail, e-mail, or personally to each Unit Owner, the Board shall adopt a specific location on Condominium Property upon which all notices of Board meetings, both regular and special, shall be posted.

**4.8.2 Agenda.** All notices for Board Meetings must specifically incorporate an agenda. Any item not included on the notice may be taken up on an emergency basis by a majority plus one of the Directors. Such emergency action shall be noticed and ratified at the next regular Board Meeting. Notice of Board Meetings at which Assessments shall be considered shall contain a statement that Assessments will be considered and describe the nature of such Assessments.

**4.8.3 Additional Notice Requirements for Assessments and Other Special Items.**

Notwithstanding the above, at any Board Meeting at which there will be proposed, discussed or approved (i) non-emergency Special Assessments, or (ii) amendments to Rules regarding Unit use, additional notice must be mailed, emailed or hand delivered to each Unit Owner as well as posted conspicuously on the Condominium Property, not less than fourteen (14) days prior to the Board Meeting. Evidence of compliance with the fourteen (14) day notice requirement shall be in the form of an affidavit executed by the person

providing notice, which shall be placed in the official records of the Association.

**4.9 *Waiver of Notice.*** Any Director may waive notice of a Board Meeting before or after the Board Meeting and that waiver shall be deemed equivalent to be due receipt by such Director of notice. Attendance by any Director at a Board Meeting shall constitute a waiver of notice of such Board Meeting, except when his attendance is for the express purpose of objecting at the beginning of the Board Meeting to the transaction of business because the Board Meeting is not lawfully noticed.

**4.10 *Quorum.*** A quorum at Board Meetings shall consist of a majority of the Board. The acts approved by a majority of those present at a Board Meeting at which a quorum is present shall constitute the acts of the Board except when approval by a greater number of Directors is specifically required by the Condominium Documents.

**4.11 *Adjourned Board Meetings.*** If at any proposed Board Meeting there is less than a quorum present, the majority of those present may adjourn the Board Meeting from time to time until a quorum is present, provided notice of such newly scheduled Board Meeting is given as required herein. At any newly scheduled Board Meeting, any business that might have been transacted at the Board Meeting as originally called may be transacted.

**4.12 *No Joinder in Board Meeting by Approval of Minutes.*** The joinder of a Director in the action of a Board Meeting by signing and concurring in the minutes of that Board Meeting shall not constitute the approval of that Director of the business conducted at the Board Meeting. A Director may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

**4.13 *Presiding Officer.*** The presiding officer at the Board Meetings shall be the President (who may, however, designate any other person to preside), in the absence of the presiding officer, the Directors present may designate any person to preside.

**4.14 *Committees.*** The Board may create one or more Committees, appoint Board Members and/or Unit Owners to such Committees, and invest in such Committees such powers and responsibilities as the Board shall deem advisable to make recommendations to the Board regarding the Association or the Condominium. To the extent required by the Act, notice of Committee Meetings shall be given in the same manner as for Board Meetings.



**4.15 Attendance.** A Director who is present at any Director's meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he votes against such action or abstains from voting. A Board member who abstains from voting on any action taken on any corporate matter shall be presumed to have taken no position with regard to the action. Board members may not vote by proxy or by secret ballot at Board meetings, except that officers may be elected by secret ballot. A vote or abstention for each member present shall be recorded in the minutes.

**4.16 Voting.** A Director may not vote by proxy and there shall be no secret ballot voting by Directors at a Board meeting, except that officers may be elected by secret ballot. The minutes of the meeting must reflect each Director's vote or abstention.

**5. Minutes of Board and Members Meetings.** The minutes of all Board Meetings and Members Meetings shall be kept in a book available for inspection by Unit Owners, or their authorized representatives, and Directors at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.

**6. Unit Owners' Right to Participation at Members Meeting, Board Meetings and Committee Meetings.** All Members Meetings, Board Meetings, and Committee Meetings shall be open to Unit Owners, except that Unit owners shall not be privileged to attend meetings between the Board or a Committee and the Associations attorney with respect to proposed or pending litigation or rendering legal advice to the Board. With the exception noted above, Unit Owners shall have a right to participate at all Member Meetings and committee and Board meetings.

The Board may adopt reasonable rules governing the frequency, duration, and manner of Unit Owner participation. Unit Owners shall have the right to tape record or videotape Members Meetings and Board Meetings subject to the reasonable rules adopted by the Division.

**7. Powers and Duties.** All of the powers and duties of the Association shall be exercised by the Board, including those powers and duties existing under the laws of Florida and the Condominium Documents. Such powers and duties shall be exercised in accordance with the Condominium Documents and the Act, and shall include, without limitation, the right, power and authority to:

**7.1** Operate and maintain all portions of the Condominium Property other than the Units.

**7.2** Convey a portion of the Common Elements to a condemning authority, governmental entity, or a public utility for the purpose of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

**7.3 Employ and dismiss the personnel necessary for the maintenance and operation of the Common Elements.**

**7.4 Adopt and amend Rules concerning the details of the operation and use of the Condominium Property.**

**7.5 Maintain bank accounts and invest funds on behalf of the Association and designate the signatories required therefor. The duty to maintain accounting records shall be according to generally accepted accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times.**

**7.6 Purchase (at a foreclosure sale or otherwise), lease, hold, mortgage, or otherwise acquire Units or other property in the name of the Association or its designee for the use and benefit of the Unit Owners. Without limiting the foregoing, the Association, when authorized by a majority of the Voting Interests of the Units represented at a meeting at which a quorum has been attained, shall have the power to acquire and enter into agreements for the acquisition of fee interests, leaseholds, memberships and other possessory or use interests in lands or facilities, including, but not limited to, country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the Condominium intended to provide for the use or benefit of the Unit Owners (whether or not on an exclusive basis). The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental, membership fees, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses.**

**7.7 Obtain and maintain adequate insurance to protect the Association and the Condominium Property.**

**7.8 Make repairs, additions and improvements to, or alterations of, the Condominium Property, and repairs to and restoration of the Condominium Property in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings or otherwise.**

**7.9 Enforce obligations of the Unit Owners.**

**7.10 Levy fines where appropriate against Units for the failure of the Unit Owner, or its occupant, licensee or invitee, to comply with any provision of the Declaration, these Bylaws or the reasonable rules of the Association in accordance with these Bylaws.**

**7.11 To Adopt Budgets, Borrow Money and Make and Collect Assessments and Fees from and against owners and users to defray the expenses of the Association.**

**7.11.1 The Association, through sole and unbridled discretion of its Board of Directors for any proper Association purpose, has the power to borrow money on behalf of the Condominium, pledge regular or special assessments as collateral, and assign collateral collection rights for said assessments when required in connection with the operation, care, upkeep, maintenance, repair, replacement or improvement of the common elements of Association property. The Board of Directors shall be empowered to execute any and all usual and customary loan documents, including, but not limited to, promissory notes and other evidences of indebtedness as security mortgages and security interests in property owned by the Association provided that such actions are approved by a majority of the Board and a majority of the voting interests of the Unit owners represented at a meeting at which a quorum has been attained.**

**7.12 Contract for the management and maintenance of the Condominium Property and authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments and Special Assessments, preparation of records, enforcement of Rules and maintenance and repairs and replacement of the Common Elements with funds as shall be made available by the Association for such purposes. The Association shall, however, retain at all times the powers and duties granted by the Condominium Documents and the Act, including but not limited to the making of Assessments, Special Assessments, promulgation of Rules and execution of contracts on behalf of the Association.**

**7.13 At its discretion, authorize Unit Owners or other persons to use portions of the Common Elements for private parties, gatherings, and other purposes and impose reasonable charges for such private use.**

**7.14 Grant, modify or move any easement, subject to the provisions of the easement, without the joinder of any Unit Owners, if the easement constitutes part of or crosses the Common Elements.**

**7.15 Levy Assessments and Special Assessments against Unit Owners and perform all other fiscal obligations of the Association.**

**7.16 The irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair or replacement of any Common Elements or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any other Unit or Units.**

**7.17 Charge a Use Fee against a Unit Owner for the exclusive or non-exclusive use of all or a portion of the Common Elements or Condominium Property or as otherwise provided by the Declaration.**

**8. Officers.** The Board shall elect the officers listed below each of whom must be unit owners, or the spouse of a unit owner.

**8.1 President.** The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.

**8.2 Vice President.** The Vice President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the Vice President of an association and as shall otherwise be prescribed by the Directors.

**8.3 Secretary/Vice President.** The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall perform all other duties incident to the office of the Secretary of an association and as may be required by the Directors or the President.

**8.4 Assistant Secretary/ Vice President.** The Assistant Secretary shall exercise the powers and perform the duties of the Secretary in the absence or disability of the Secretary.

**8.5 Treasurer/Vice President.** The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall perform all other duties incident to the office of the treasurer of an association and as may be required by the Directors or the President.

**8.6 Delegation.** To the extent permitted by law the powers and duties of Directors and officers may be delegated for the purpose of management.

**9. Compensation of Directors and Officers.** Neither Directors nor officers shall receive compensation for their services. The Association may not contract with a director or officer for any service for which compensation would be received unless approved by a majority of the voting interests of members present in person or by proxy at a Special Meeting called for that purpose. Management of the Condominium will be with a company in the business of providing professional services to Associations. Directors and officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties. This provision may only be amended by Unit Owners holding a majority of the Voting Interests in the Association.

**10. Resignations.** Any Director or officer may resign his post at any time by written resignation, delivered to

the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. Any director who ceases to qualify under section 4.2 above shall be considered as having resigned.

**11. *Fiscal Management.*** The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

**11.1 *Fiscal Year.*** The fiscal year of the Association shall be the same as the calendar year unless otherwise determined by the Board.

**11.2 *Adoption of Budget by Board: Items.*** The Board shall from time to time, and at least annually, prepare a budget for the Condominium complying with Section 718.112(2)(f) of the Florida Statutes, which is incorporated herein by reference.

**11.3 *Notice of Budget Meeting.*** A copy of the proposed budget shall be mailed, hand delivered or e-mailed to each Unit Owner not less than fourteen (14) days prior to the Board Meeting at which the budget will be considered, together with a notice of that Board Meeting indicating the time and place of such meeting.

**11.4 *Special Membership Meeting on Budget.*** If a budget is adopted by the Board which requires Assessments against the Unit Owners in any year exceeding one hundred fifteen percent (115%) of such Assessments (as determined by the Act) for the preceding year, as hereinafter defined, upon written application of Unit Owners holding ten percent (10%) of the Voting Interests to the Board, a Special Members Meeting shall be held as provided in the Act (currently Section 718.112(2)(e) of the Florida Statutes, which is incorporated herein by reference).

**11.5 *Collection of Assessments.*** Assessments shall be collected quarterly on January 1, April 1, July 1, and October 1 from the Unit Owners. Assessments may be accelerated as provided in the Declaration and as permitted by the Act. In the event the annual Assessments prove to be insufficient, the budget and Assessments including special assessments may be amended and increased at any time by the Board upon compliance with the notice and other requirements of the Act.

**11.6 *Depository.*** The depository of the Association shall be such bank or banks in the County or adjacent counties as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from these accounts shall be made only by checks signed by such person or persons as are authorized by the Directors.

**11.7 Reserve Funds.** The provision of the Act respecting reserve funds are incorporated herein.

**11.8 Acceleration of Assessment.** If a Unit Owner shall be delinquent in the payment of an Assessment, the Board may accelerate the remaining installments of the Assessment as permitted by the Declaration and the Act.

**11.9 Fidelity Bonds.** To the extent required by law, fidelity bonds shall be required for those persons who control or disburse funds of the Association in the amount(s) required by the Act. The premiums on such bonds for association Directors and Officers shall be paid by the Association as a Common Expense. Evidence of bonds for others authorized to control or disburse funds of the Association shall be presented to the Directors periodically. The Bond must cover the maximum funds that will be in the custody of the person at any one time.

**11.10 Financial Reports.** Within ninety (90) days (or as otherwise provided in the Act from time to time) following the end of the fiscal year, or annually on such date as is otherwise provided herein, the Board shall mail, or furnish by personal delivery, to each Unit Owner financial reports complying with the requirements of the Act.

**12. Roster of Unit Owners.** Each Unit Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all notice purposes until notified in writing of changes therein as provided above.

**13. Parliamentary Rules.** Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these Bylaws.

**14. Rules and regulations.** The Board may, from time to time, adopt, modify, amend or add to the Rules. Copies of such modified, amended or additional Rules shall be furnished by the Board to each affected Unit Owner not less than thirty (30) days prior to the effective date thereof. The current Rules adopted by the Board are attached hereto as Exhibit "D".

**15. Mandatory Nonbinding Arbitration.** The provisions of the Section 718.125 5 of the Florida Statutes (as it may be renumbered or amended) respecting mandatory nonbinding arbitration are incorporated into and made part of these Bylaws.

**16. Certificate of Compliance.** A certificate of compliance from a licensed professional may be accepted by the Board as evidence of compliance of the Units with applicable fire and life safety codes.

**17. *Transfer Fees.*** The Association may charge up to the maximum transfer fees permitted by the Act. The Association may require that a prospective lessee place a security deposit in the amount permitted by the Act into an escrow account with the Association, subject to the requirements of the Act.

**18. *Emergency Powers.*** In the event of any "emergency" as defined in paragraph (M) below, the board of directors may exercise the emergency powers described in this section, and any other emergency powers authorized by section 617.0207, Florida statutes (2010), and section 617.0303, Florida statutes (2010), all as amended from time to time.

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

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

(C) The Board may change or postpone the annual meeting date to a date and time determined by the Board, even if such change will result in not holding an annual meeting in a particular calendar year, as long as the annual meeting is held no more than eighteen (18) months after the prior annual meeting date.

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

(E) The Board may use reserve funds to meet Association needs, and may use reserve funds as collateral for Association loans. By adoption of this provision, the owners specifically authorize the Board to use reserve funds for nonscheduled purposes in the event of any emergency pursuant to Section 718.112(2)(f)(3), Florida Statutes, as may be amended from time to time. The Board may adopt emergency assessments with such notice deemed practicable by the Board.

(F) The Board may adopt emergency Rules and Regulations governing the use and occupancy of the units, common elements, limited common elements, and Association property, with notice given only to those Units with whom it is practicable to communicate.

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

(H) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(I) Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, shutting down electricity; water, sewer, security systems; or air conditioners.

(J) Mitigate further damage, including taking action to contract for the removal of debris (including within Units) and to prevent or mitigate the spread of fungus, including, but not limited to, mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the condominium property, even if the Unit Owner is obligated by the Declaration or law to insure or replace those fixtures and to remove personal property from a Unit.

(K) Levy special assessments without a vote of the owners.

(L) Without Unit Owners' approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating funds are insufficient.

(M) For purposes of this Section only, an "emergency" exists only during a period of time that the condominium, or the immediate geographic area in which the condominium is located, is subjected to:

(1) a state of emergency declared by local civic or law enforcement authorities;

(2) a partial or complete evacuation order;

(3) federal or state "disaster area" status;

(4) a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the condominium, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism; or,



(5) an unanticipated set of circumstances, which, if not acted upon with immediacy, is likely to cause imminent and significant financial harm to the Association, the Unit Owners, the Condominium Property, or Association Property. A determination by two (2) Directors or by the President that an emergency exists shall have presumptive validity of such an emergency.

**19. Compliance and Default; Remedies.** In addition to the remedies provided in the Declaration of Condominium, the following shall apply:

**19.1 Fines.** The Board of Directors may levy fines against units whose owners commit violations of the Condominium Act, the provisions of the Condominium Documents, or the Rules and Regulations, or who condone such violations by their family members, guests, lessees and/or agents. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amount allowed by law. The procedure for imposing fines shall be as follows:

(A) **Notice:** The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable written notice of not less than fourteen (14) days, and the notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A specific designation of the provisions of the Declaration, Bylaws or Rules which are alleged to have been violated;
- (3) A short and plain statement of the specific facts giving rise to the alleged violation(s); and
- (4) The possible amounts of any proposed fine.

(B) **Hearing.** At the hearing, the party sought to be fined shall have a reasonable opportunity to respond, to present evidence, to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before a panel of three (3) Unit Owners appointed by the Board, none of whom may then be serving as Directors. If the panel, by majority vote does not agree with the fine, it may not be levied.

**19.2 Mandatory Non-Binding Arbitration.** In the event of any dispute as defined in Section 718.1255(1) of

the Condominium Act, between a Unit Owner and the Association arising from the operation of the Condominium, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division of Florida Land Sales, Condominiums and Mobile Homes before filing any lawsuit over the disputed matters. Nothing herein shall be construed to require arbitration of disputes related to the levy or collection of fees or assessments.

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

**20. Indemnification.** To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every Officer of the Association against all expenses and liabilities, including attorney's fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be made a party because of his being, or having been, a Director or Officer of the Association. The foregoing right to indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

(A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.

(B) A violation of criminal law, unless the Director or Officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.

(C) A transaction from which the Director or Officer derived an improper personal benefit.

(D) Recklessness, or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for human rights, safety or property, in an action by or in the right of someone other than the Association or a member. In the event of a settlement, the right to indemnification shall not apply unless a majority of the disinterested Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to, and not exclusive of, all other rights to which a Director or Officer may be entitled.

**21. Construction and Conflicts.** Wherever the context so permits, the singular shall include the plural, the

plural shall include the singular, and the use of any gender shall be deemed to include all genders. In the event that these Bylaws, the Articles and/or the Declaration conflict with any other document, the declaration shall control, then the Articles, then the Bylaws, in that order. This provision may not be amended.

**22. *Written Inquiries from Unit Owners.*** When a Unit Owner files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Unit Owner within thirty (30) days of receipt of the inquiry. The Board's response shall either give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the Division. If the Board requests advice from the Division, the Board shall, within ten (10) days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board shall, within sixty (60) days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The failure to provide a substantive response to the inquirer as provided herein precludes the Board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry.

**23. *Captions.*** The captions herein are inserted only as a matter of convenience and for reference and in no way define or limit the scope of these Bylaws of the intent of any provision hereof.

**24. *Amendments.*** Amendments to these Bylaws shall be proposed and adopted in the following manner:

**24.1 *Notice.*** Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

**24.2 *Proposal.*** A Resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by Unit Owners holding not less than one-third (1/3) of the Voting Interests of the Association.

**24.3 *Approval.*** Except as otherwise provided by law, or by specific provision of the Condominium Documents, these Bylaws may be amended if the proposed amendment is approved by at least two-thirds (2/3rds) of the voting interests of the Association present in person or by proxy. This may be accomplished at any annual or special meeting called for the purpose, provided that notice of the amendment has been given to the members in accordance with law.

**24.4 *Execution and Recording.*** A copy of each amendment shall be attached to a Certificate certifying that the amendment was duly adopted as an amendment of these Bylaws, which Certificate shall be executed by the President or Vice President with the formalities of a deed, if the amendment has been adopted consistent

with the provisions of the Declaration. The amendment shall be effective when the Certificate and a copy of the amendment is recorded in the Public Records of Lee County, Florida.

**24.5 Procedure.** The Act contains certain procedural requirements for amendments to Bylaws, all of which are incorporated herein by reference.

**25. Common Elements: Limited Power to Convey.** The Association has a limited power to convey portions of the common elements as provided for in Section 73.073, Florida Statutes.

The foregoing constitute the Amended and Restated Bylaws of Oak Run at Pelican Sound Condominium Association, Inc., and were duly adopted at a meeting of the Board of Directors held on \_\_\_\_\_, 201\_\_.

**OAK RUN AT PELICAN SOUND  
CONDOMINIUM ASSOCIATION, INC.**

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**President, Robert Twombly**

**Attest:**

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**Secretary, Sharon Weisenauer**

**Attest:**

**OAK RUN AT PELICAN SOUND CONDOMINIUM ASSOCIATION, INC.**

, Secretary

(SEAL)

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