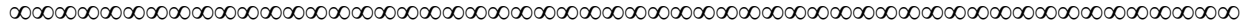


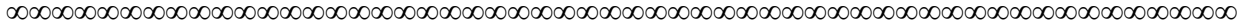
**Second Amended And Restated Bylaws Of Mariner's Cove HOA Of Lee County, Inc.
(3-5-2018)**



- 1. GENERAL.** These are Bylaws of Mariner's Cove Homeowners Association of Lee County, Inc., hereinafter the "Association", a corporation not for profit organized under the laws of Florida as a community Association for the purpose of operating a 55 or older residential community with a "No Pets" policy. All prior Bylaws, if any, are hereby revoked and superseded in their entirety. All terms defined in the Declaration for Mariner's Cove shall be used with the same meanings as defined therein.
- 1.1 Principal Office.** The principal office of the Association shall be at 20700 Basin Drive, Estero, Florida 33928, unless otherwise changed by the Board of Directors.
- 1.2 Seal.** The seal of the Association, if any, shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "corporation not for profit."
- 1.3 Official Records.** The Association shall maintain each of the following items, when applicable, which constitute the official records of the Association. Items A thru D are listed in level of priority.
- A. Declaration.** A copy of the Declaration and a copy of each amendment thereto.
- B. Articles.** A copy of the Articles of Incorporation of the Association and of each amendment thereto.
- C. Bylaws.** A copy of the Bylaws of the Association and of each amendment thereto.
- D. Rules and Regulations.** A copy of the current Rules and Regulations of the Association.
- E. Roster.** The Association shall maintain a current roster of all Members, mailing addresses, lot identifications, and occupants residing in the home. The Association shall also maintain the electronic mailing addresses and the phone numbers of those Members consenting to receive notice by electronic transmission, but shall remove from the Association records when consent is revoked. However, the Association is not liable for an erroneous disclosure of the electronic mail address or the phone number.
- F. Plans, Permits.** Copies of any plans, specifications, permits, and warranties related to improvements constructed on the Common Areas or other property that the Association is obligated to maintain, repair, or replace, if available.
- G. Contracts.** A current copy of all contracts to which the Association is a party.
- H. Bids.** Bids received by the Association for work to be performed must also be considered official records and must be kept for a period of 1 year.

H. Records retained for 7 Years. The following records must be retained for at least seven (7) years:

1. **Financials.** The financial and accounting records of the Association.
2. **Minutes.** The minutes of all meetings of the Board of Directors and of the Members.
3. **Insurance.** All the Association's insurance policies or a copy thereof.



2. **MEMBERS.** The Members of the Association are the record Owners of legal title to the Lots and being age 55 or over. In the case of a residential Lot subject to an agreement for deed, the purchaser in possession shall be deemed the Owner of the residential Lot solely for purposes of determining use rights. In the case of ownership by a legal entity such as a trust, partnership, corporation, limited liability company, etc., the Owner shall provide to the Association the name of an individual, age 55 or over, who shall exercise all privileges of membership in the Association.

2.1 **Membership.** Membership shall become effective after delivery to the Association of a copy of the recorded deed or other instrument evidencing title and proof of age of the Owner being age 55 or over.

2.2 **Change/Termination of Membership.** A change of membership in the Association shall be established by the new Member's membership becoming effective as provided for in Section 2.1 above. At that time the membership of the prior Owner shall be terminated automatically. The Association shall be entitled to charge an administrative transfer fee equal to the maximum amount permitted by law, as may be amended. The termination of membership in the Association does not relieve or release any former Member from liability or obligation incurred under or in any way connected with the Association during the period of his/her membership, nor does it impair any rights or remedies the Association may have against any former Owner or Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

2.3 **Rights and Privileges of Members.** Every Member who is current in the payment of all assessments and financial obligations to the Association and whose membership is not suspended, shall have the right to attend membership meetings and have his/her vote cast, serve on the Board if elected, serve on committees, and enjoy the Common Areas subject to the rules of the Association.

2.4 **Suspension of Membership.**

A. **Notice of Intended Suspension.** Membership shall not be suspended until the Member has been sent reasonable notice of the intended suspension and been offered a reasonable opportunity to be heard. Suspension of any Member's membership

temporarily revokes the Member's rights and privileges to use and enjoy Common Areas and facilities, and to participate in Association affairs.

B. Suspension Restrictions. A suspension shall in no way impair the enforceability of any assessment or lien, or the authority of the Association to assess and collect any future assessment and lien, nor shall it impair the Member's right of access to, and use of, his/her own property in a manner consistent with the Association Documents. The right of the Member to vote may not be suspended, unless the Member is delinquent in the payment of any assessment in excess of ninety (90) days.

C. Reasons For Suspension. The Board may suspend a Member's membership in the Association:

1. **Assessment Past Due.** For a period of time during which an assessment against the Member remains unpaid more than (90) days after the date it was due and payable; or
2. **Violation.** For a reasonable period during or after any infraction of the Association's rules and regulations by a Member or by any person to whom he/she has expressly or impliedly delegated his/her use privileges; or
3. **Property Destruction.** For misuse, abuse, or intentional destruction of Association property, real or personal.



3. MEMBERS' MEETINGS AND VOTING.

3.1 Types of Meetings. A quorum at the Members' Meeting shall be attained by at least twenty-five percent (25%) of the entire membership present, either in person or by proxy, for any action governed by these Bylaws.

A. Annual Members' Meeting. There shall be an Annual Members' Meeting in each calendar year in February in Lee County, Florida, for the purpose of electing Directors and transacting any other business duly authorized by the Members.

B. Special Members' Meetings. Special Members' Meetings shall be held whenever called by the President, or by a majority of the Board of Directors, or by a written petition signed by at least twenty-five percent (25%) of the entire membership. Requests for a Special Members' Meeting by the entire membership shall be in writing and shall state the purpose or purposes of the meeting. The business at any special meeting shall be limited to the items specified in the notice of meeting.

C. Advisory Meetings. The President of the Association may call advisory meetings of the Members. Such meetings shall be for purposes of discussion only and no official vote of the Members may be taken at any such advisory meeting, although straw polls may be solicited.

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

3.3 Members Voting Interests.

A. Entitled vote. The Members of the Association are entitled to one (1) vote for each paid lot assessment. If one (1) natural person age 55 or over owns a residential Lot, the right to vote shall be established by the record title to the residential Lot. If two (2) or more natural persons age 55 or over own a residential Lot jointly, that residential Lot's vote may be cast by any one (1) of the record Owners. If two (2) or more Owners age 55 or over of a residential Lot do not agree among themselves how their one (1) vote shall be cast on any issue, that vote shall not be counted for any purpose.

B. Designated Member. If the Owner of a residential Lot is other than a natural person, the residential Lot's designated Member, age 55 or over, shall cast the vote of that residential Lot.

C. Suspension of Right to Vote. The right to vote may be suspended for non-payment of any monetary obligation due and owing to the Association, which is delinquent in excess of ninety (90) days.

3.4 Vote Binding. The acts approved by a majority of the votes cast by eligible voters at a meeting of the Members at which a quorum has been attained shall be binding upon all residential Lot Owners for all purposes, except where a different number of votes is expressly required by law or by any provision of the Association Documents.

3.5 Meeting procedure

A. Parliamentary Rules. Robert's Rules of Order (latest edition) shall guide the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with the Articles or Bylaws. The presiding Officer may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

B. Notice of Members' Meetings.

1. Posted. Notices of all Members' Meetings must state the date, time, place, and agenda of the meeting and shall be conspicuously posted in the community 48 hours prior to the meeting, or:

2. Delivered.

a. Mailed. The notice must be mailed to each Member at the Member's address as it appears on the books of the Association at least fourteen (14) days prior to the date of the meeting. The Members are responsible for providing the Association with any change of address; or

b. Hand Delivered-Electronically. The notice may be furnished by personal delivery or electronic transmission by Member's consent. The notice must be transmitted or delivered at least fourteen (14) days prior to the date of the meeting.

3. New Owner. If ownership of a residential Lot is transferred after notice has been mailed or transmitted, no separate notice to the new Owner is required.

4. Effect. Any notice required to be sent to any Member under the provisions of the Association Documents shall be deemed to have been properly sent, and notice thereby given, when mailed with the proper postage affixed to the last known address of the Member appearing in the records of the Association, or to the address of the Member's home, or electronically sent as permitted by law. Notice to one of two or more co-Owners of a Lot shall constitute notice to all co-Owners. It shall be the obligation of every Member to immediately notify the Management and Secretary of the Association, in writing, of any change of address including seasonal changes for delivery when a Member has more than one address.

C. Order Of Business. The order of business at Members' Meetings, except Advisory Meetings, shall be substantially as follows:

1. Determination of quorum
2. Reading or disposal of minutes of last Members' Meeting
3. Reports of Officers
4. Reports of Committees
5. Election of Directors (Annual Members' Meeting only)
6. Unfinished Business
7. New Business
8. Adjournment

D. Minutes. Minutes of all meetings of the Members shall be kept in a businesslike manner, available for inspection by Members or their authorized representatives at all reasonable times. Minutes must be maintained in written form, or in another form that can be converted into written form within a reasonable time.

E. Right To Speak. Members have the right to attend all Members' Meetings and to speak at any meeting with reference to all items opened for discussion or included on the agenda. Notwithstanding any provision to the contrary in the Association Documents or any rules adopted by the Board or by the membership, a Member has the right to speak for at least 3 minutes on any agenda item. The Association may adopt written reasonable rules governing the frequency, duration, and other manner of Member statements, which rules must be consistent with this subsection.

F. Proxy Voting. Members may cast their votes at a meeting in person or by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. No proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the Member executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the residential Lot, specify the date, time, and place of the meeting for which it is given, and the original or a transmitted copy must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. No proxy shall be valid if it names more than one (1) person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. Holders of proxies must be Members.

3.6 Action by Members without a Meeting. Except the holding of an Annual Members' Meeting and annual election of Directors, any action required or permitted to be taken at a meeting of the Members may be taken by mail without a meeting if written instruments expressing approval of the action proposed to be taken are signed and returned by Members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which a quorum of the voting interests were present and voting. If the requisite number of written consents are received by the Secretary within ninety (90) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved at a meeting of the Members held on the ninety (90th) day. Within ten (10) days thereafter, the Board shall send written notice of the action taken to all Members. Nothing in this paragraph affects the rights of members to call a special meeting of the membership, as provided for by Section 3.1 B above, or by law.



4. BOARD OF DIRECTORS. The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Association Documents, shall be exercised by the Board, subject to approval or consent of the Members only when such is specifically required. Directors may not be employees of the Association.

4.1 Number and Terms of Office. The number of Directors, which shall constitute the whole Board of Directors, shall be seven (7). In order to provide for continuity of experience, the Board shall maintain a system of staggered three (3) year terms as follows: in 2017 two (2) Directors will be elected, in 2018 two (2) Directors will be elected, in 2019 three (3) Directors will be elected, in 2020 two (2) Directors will be elected, 2021 two (2) Directors will be elected, in 2022 three (3) Directors will be elected, and so on, with this format repeating annually thereafter. A Director's term will end at the final adjournment at the Annual Meeting at which his/her successor is duly elected, unless he/she sooner resigns or is recalled as provided for in Association Documents.

4.2 Qualifications. Each Director must be a Member (or Spouse of a Member) of the Association. In the case of a Lot owned by a corporation, any Officer age 55 or over is eligible for election to the Board of Directors. If a Lot is owned by a partnership, any partner age 55 or over is eligible to be a Director. If a Lot is held in trust, the trustee, grantor or settlor of the trust, or any one of the beneficial Owners age 55 or over residing in the Lot is eligible to be elected to the Board of Directors. Employees of Mariner's Cove are not eligible to serve on the Association Board.

4.3 Board Member Certification and Education.

A. Certification.

1. Within 90 days after being elected or appointed to the Board, each Director shall certify in writing to the secretary of the Association that he/she has read the Association's Documents and that he/she will work to uphold such documents and policies to the best of his/her ability; and that he/she will faithfully discharge his/her fiduciary responsibility to the Association's Members; or

2. Within 90 days after being elected or appointed to the Board, in lieu of such written certification, the newly elected or appointed Director may submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved education provider within 1 year before or 90 days after the date of election or appointment.

B. Valid Tenure. The written certification or educational certificate is valid for the uninterrupted tenure of the Director on the Board.

C. Suspension. A Director who does not timely file the written certification or educational certificate shall be suspended from the Board until he/she complies with the requirement. The Board may temporarily fill the vacancy during the period of suspension.

D. Retain 5 years. The Association shall retain each Director's written certification or educational certificate for inspection by the Members for 5 years after the Director's election. However, the failure to have the written certification or educational certificate on file does not affect the validity of any Board action.

4.4 **Nominations and Elections.** Members are entitled to vote in the election of the Directors if voting rights have not been suspended.

A. Candidates. In order to qualify for the election and to be eligible to serve as a Director, the candidate must be a Member of the Association, in good standing with all dues and assessments current, not in arrears or in default. The Board shall adopt and utilize procedures whereby any person eligible to serve as a Director may qualify as a candidate and have his/her name on the ballot, by notifying the Association in writing, at least forty-five (45) days in advance of the election, of his/her desire to be a candidate for any vacancy which he/she is eligible to fill. All eligible persons giving timely written notice of desire to be a candidate shall be listed alphabetically by surname on any ballots distributed or used by the Association.

B. Election and Voting Materials. Candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes at their own expense. Any written materials distributed to the Members by the Association regarding an election shall be non-partisan, and Association funds shall not be used in any way to promote the election of any candidate over another. No ballot or other election materials used by the Association shall endorse, disparage, or comment on any candidate or indicate whether a candidate is an incumbent; however, the Association shall distribute without editing brief resumes of background and qualifications provided by any candidates who would like it distributed. The Association shall distribute ballots and all other election and voting materials with the notice of the Annual Members' Meeting.

C. Balloting. Voting shall be a written ballot. The Association shall provide two envelopes and a ballot to the Members. The completed ballot shall be sealed inside the smaller envelope that shall be placed inside the larger envelope bearing the identifying information:

1. **Name.** The name of the Member casting the ballot
2. **Lot Number.** The lot number of the Member casting the ballot
3. **Signature.** The signature of the Member submitting the ballot

D. Returned to Association. Prior to the beginning of the Annual Member's Meeting the larger envelope with the smaller envelope inside, containing the ballot, shall be delivered to the Association:

1. **Mail.** By mailing inside another envelope addressed to the Association or Management; or
2. **Hand Delivery.** Hand delivered to the Association office; or
3. **Meeting.** Presented at the meeting prior to the counting process.

E. Vote Counting. An election is not required unless more candidates are seeking positions than vacancies exist. No ballots shall be accepted after the counting process has begun. If an election is required, the election process shall be as follows:

1. **Eligibility.** The identifying information on the outer envelope shall be used to

confirm each Member's eligibility based on the Association Documents.

2. **Ballot.** Ballot envelope shall be removed from the outer envelope and placed with the eligible ballot envelopes. If more than one ballot is found inside a Member's outer envelope all ballots from that outer envelope are disqualified.

3. **Votes Tallied.** Ballots are removed from the ballot envelope and votes are tallied in such a manner as deemed advisable.

F. Elected. The persons receiving the largest number of votes shall be elected, except that a run-off shall be held to break a tie vote. The results of the election shall be announced at the end of the Annual Meeting, and the new Directors shall take office at the final adjournment of the meeting.

G. Dispute. The incumbent Board shall resolve any dispute as to the validity of any ballots.

4.5 **Vacancies on the Board.** If the office of any Director becomes vacant for any reason, a successor shall be appointed by the Board at a special meeting of the Board of Directors of the Association. The successor so appointed shall fill the term of the Director being replaced until the next Annual Meeting. If for any reason there shall arise circumstances in which no Directors are serving and the entire Board is vacant, the Members shall elect successors at a special meeting. Any Director may resign at any time by giving written notice to the Association, and unless otherwise specified therein, the resignation shall become effective upon receipt. The resignation may not be revoked once received.

4.6 **Removal of Directors.**

A. Cause. Any Director may be removed, with or without cause, by a majority vote of the voting interests, either by a written petition or at a meeting called by ten percent (10%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days or more than sixty (60) days from the date that notice of the meeting is given. The Members at the same meeting shall fill any vacancies created thereby.

B. Absence. If any Director elected by the Members shall be absent for any reason from three (3) consecutive regular meetings of the Board, the Board may, by vote of at least a majority of the whole Board taken at the next meeting, declare the office of said Director to be vacant, and may appoint a successor.

C. Restrictions. Any Director who is removed from office is not eligible to stand again for election to the Board until the next annual election, and must turn over to the Association within seventy-two (72) hours any and all records and other property of the Association in his/her possession. If a Director who is removed does not relinquish his/her office or turn over records as required, the circuit court in the county where the Association has its principal office may summarily order the Director to relinquish

his/her office and turn over corporate records upon application of any Member. In any such action, the prevailing party shall be entitled to recover its attorney fees and costs.

4.7 **Powers.** The Board shall have the authority to:

A. Control Affairs. Manage and control the affairs of the Association.

B. Appoint and Remove Persons. Appoint and remove at its pleasure all Officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient.

C. Assessments. Establish levy assessments and collect any assessment or charge provided for in the Association Documents.

D. Depository. Designate one or more financial institution(s) as depository for Association funds, and the Officer(s) authorized to make withdrawals therefrom.

E. Borrow Money. With the prior consent of at least a majority of the voting interests, borrow money for Association purposes, and assign, pledge, mortgage or encumber any community or Association Common Areas or future revenues of the Association as security therefore;

F. Rules and Regulations. The Board of Directors may, from time to time, upon proper descriptive notification to the Members, adopt and amend administrative rules and regulations governing the use, maintenance, management and control of the common elements, the Lots and the operation of the Association; but all actions shall not alter the Governing Documents that shall only be changed by the Members. Copies of such Rules and Regulations may be furnished to each residential Lot Owner, but are nevertheless effective upon adoption by the Board at a duly noticed meeting.

G. Employ Persons. Cause the Association to employ sufficient personnel to adequately perform the responsibilities of the Association;

H. Contracts. Negotiate and enter into contracts for the maintenance and operation of the Common Areas;

I. Improvements. Make improvements to the Common Areas.

J. Committees. The Board of Directors may, by resolution, provide for standing or special committees as it deems desirable and discontinue the appointment of any standing or special committees at its pleasure. Each such committee so designated shall have the powers and perform such duties, not inconsistent with law, as may be assigned to it by these Bylaws and the Board of Directors. Said committees or boards need not be composed of the Board of Directors, unless otherwise specified in these Bylaws.

K. Property-Agreements. Acquire property, real or personal, and enter into agreements with any persons, and such other matters as the Board may deem appropriate.

L. Perform Acts. Perform all other acts not inconsistent with law or the Governing Documents and necessary for other proper functioning of the Association.

M. Common Area Fees. The Board may establish and levy fees for the use of Common Areas or Association property.

4.8 OFFICERS.

A. Officers. The executive Officers of the Association shall be a President, a Vice-President, a Treasurer and a Secretary, who must be Directors, all of whom shall be elected annually by a majority vote of the Board of Directors.

1. **President.** The President shall be the chief executive Officer of the Association; shall preside at all meetings of the Members and Directors; shall be ex-officio Member of all standing committees; shall have general and active management of the business of the Association; and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages and other contracts and documents requiring the seal of the Association in accordance with a majority vote of the Board of Directors, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other Officer or agent of the Association.

2. **Vice-President.** The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and shall perform such other duties as the Board of Directors shall assign. If the Board so determines, there may be more than one (1) Vice-President.

3. **Secretary.** The Secretary shall attend meetings of the Board of Directors and all meetings of the Members and shall cause all votes and the minutes of all proceedings to be recorded electronically and/or in a book or books to be kept for that purpose, and shall perform like duties for standing committees when required. The Secretary shall give, or cause to be given, proper notice of all meetings of the Members, and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Governing Documents. An Assistant Secretary may perform any of the foregoing duties, if one has been designated.

4. **Treasurer.** The Treasurer shall have the custody of Association funds and securities, and be responsible for the keeping of full and accurate accounts of receipts and disbursements electronically and/or in books belonging to the Association. The Treasurer is responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as are selected by the Board of Directors. The Treasurer shall oversee the disbursement of Association funds, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at meetings of the Board, or whenever they may require it, a full accounting of all transactions and

of the financial condition of the Association. The Treasurer shall prepare an annual budget of estimated revenues and expenses to present to the Board of Directors for approval. An Assistant Treasurer, if one is elected, as well as a duly authorized property management agent, pursuant to the Declaration, may perform any of the foregoing duties.

B. Removal. Any Officer may be removed with or without cause at any meeting by vote of a majority of the Directors. Any Officer so removed shall return all books, records and property of the Association to the Association within seventy-two (72) hours of his/her removal, other than such items as he/she is entitled to keep while serving as a Director.

C. Restriction. No Officer may hold more than one office concurrently with another.

D. Appoint Officers. The Board may, from time to time, appoint such other Officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association.

E. Liability. To the extent permitted by law, the Corporation shall indemnify and hold harmless each Director and Officer of the Corporation from any liability, loss, claim, action or suit from or by virtue of such action, except willful or gross malfeasance taken, or failure to take any such action relative to their service as such Director or Officer.

4.9 Compensation of Directors. No compensation shall be paid to any Director for services as a Director of the Association, but a Director may be reimbursed for all actual and proper out-of-pocket expenses related to the proper discharge of their respective duties.

4.10 Emergency Powers. In the event of any "emergency" as defined below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Florida Statutes, 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 incapacity of any Officer of the Association.

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

C. During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the 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.

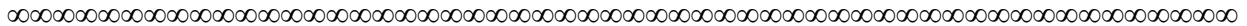
D. Corporate action taken in good faith during what is reasonably believed to be an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttal presumption of being reasonable and

necessary.

E. Any Officer, Director, or employee of the Association acting in an emergency with a reasonable belief that his/her actions are lawful in accordance with these Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

F. These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

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



5 BOARD MEETINGS

5.1 Types of Meetings

A. **Organizational Meeting.** The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors, at such place and time as may be fixed and announced by the Directors at the Annual Meeting at which they were elected. The new Officers elected at such meeting shall take office upon their appointment.

B. **Regular Board Meetings.** Regular Board Meetings may be held at such time and place as shall be determined from time to time by the President or by a majority of the Directors. Regular Board Meetings shall be open to Members. Any Member may tape-record or videotape Regular Board Meetings. The Board may adopt reasonable rules governing the taping of Regular Board Meetings.

C. **Special Board Meetings.** The Board may hold Special Meetings from time to time where necessary to address matters which arise between Regular Board Meetings. The Notice of Special Meetings shall be the same as for Regular Board Meetings.

D. **Executive Board Meetings.** Executive Meetings of the Board may be called by the President, the Secretary, or by a majority of the Directors to discuss personnel matters, or meetings between the Board and its attorney with respect to proposed or pending litigation where the discussion would otherwise be governed by the attorney-client privilege. Not less than forty-eight (48) hour notice of an Executive Meeting shall be given to each Director, personally or by mail, email, telephone or telegram, which notice shall state the time, place, and purposes of the meeting. Business conducted at an

Executive Meeting shall be limited to the items specified in the notice of the meeting.

5.2 **Meeting procedure**

A. Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meetings when not in conflict with the law, the Declaration, the Articles or Bylaws. The presiding Officer may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

B. Notice of Board Meetings.

1. **Posted.** Notices of all Board Meetings must state the date, time, place, and agenda of the meeting and shall be conspicuously posted in the community 48 hours prior to the meeting, **or**:

2. **Mailed.** The notice may be mailed to each Member at the Member's address as it appears on the books of the Association at least fourteen (14) days prior to the date of the meeting. The Members are responsible for providing the Association with any change of address; **or**

3. **Delivery-Electronically.** The notice may be furnished by personal delivery or electronic transmission with the Member's consent. Such notice must be transmitted at least fourteen (14) days prior to the date of the meeting.

4. **New Owner.** If ownership of a residential Lot is transferred after notice has been mailed or transmitted, no separate notice to the new Owner is required.

5. **Notice Exceptions.** Notice of any Board meeting at which rules affecting the use of a lot or special assessments are to be considered shall specifically contain a statement that rules or special assessments will be considered and the nature of the rule or assessments and shall be mailed, delivered or electronically transmitted and posted at least fourteen (14) days in advance.

C. Order Of Business. The order of business at Board Meetings, except Executive Board Meetings, shall be substantially as follows:

1. Determination of quorum
2. Reading or disposal of minutes of last Board Meeting
3. Reports of Officers
4. Reports of Committees

5. Unfinished Business
6. New Business
7. Adjournment

D. Minutes. Minutes of all meetings of the Board, except Executive Board Meetings, shall be kept in a businesslike manner, available for inspection by Members or their authorized representatives at all reasonable times. Minutes must be maintained in written form, or in another form that can be converted into written form within a reasonable time.

E. Right To Speak. Members have the right to attend all Regular and Special Board Meetings and to speak at any meeting with reference to items on the agenda. Notwithstanding any provision to the contrary in the Association Documents or any rules adopted by the Board or by the membership, a Member has the right to speak for at least 3 minutes on any agenda item. The Association may adopt written reasonable rules governing the frequency, duration, and other manner of Member statements, which rules must be consistent with this subsection.

- 5.2 **Adjourn Board Meeting to reconvene later.** A majority of the Directors present at any meeting of the Board of Directors, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specified later time. When the meeting is reconvened, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted.
- 5.3 **The Presiding Officer.** The President of the Association, or in his/her absence, the Vice-President, is the presiding Officer at all meetings of the Board. If neither Officer is present, the presiding Officer shall be selected by majority vote of the Directors present.
- 5.4 **Waiver of Notice.** Any Director may waive notice of a meeting before or after the meeting, and such waiver is deemed equivalent to the giving of notice. Attendance at a meeting by any Director constitutes waiver of notice, unless that Director objects to the lack of notice at the beginning of the meeting. If all Directors are present at a meeting, no notice to Directors shall be required.
- 5.5 **Quorum of Directors.** A quorum at a Board meeting shall be attained when a majority of Directors are present in person or by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Directors participating by such electronic methods will be considered present at the meeting.
- 5.6 **Board Meeting Vote Required.** The acts approved by a majority of those Directors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Association Documents or by applicable statutes. A Director who is present at a meeting of the Board is deemed to have voted in favor of every action taken,

unless he/she voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes of each meeting. Directors may not vote by proxy or secret ballot at Board meetings, except that secret ballots may be used in the election or removal of Officers.

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6. COMMITTEES.

6.1 Ad Hoc Committees. The Board of Directors, may, from time to time, create ad hoc committees. Any Member of the Committee may be appointed or removed by the Board of Directors in its sole discretion.

6.2 Powers of Committees. The committees shall act only as committees and the individual Members thereof shall have no power or authority to act on behalf of the Board or the Association.

6.3 Committee Meetings. The provisions of the Association Documents governing the calling and holding of Board meetings shall also apply to the meetings of all committees or other similar bodies specified in the Association Documents, and to any committee or similar body appointed by the Board or any Member thereof, or elected by the Members, to which the Board has delegated its decision-making powers. The meetings of any committee must be conducted with the same formalities as required for meetings of the Board.

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7. FISCAL MATTERS. The following provisions shall supplement the provisions for fiscal management of the Association set forth in the Declaration.

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

7.2 Association Funds. The Association shall maintain its funds in such federally insured accounts at financial institutions in the State of Florida as shall be designated from time to time by the Board. All monies collected by the Association may be commingled, for investment purposes only, in a single fund, or divided into two or more funds, as determined by the Board of Directors. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities and other similar investment vehicles. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board.

7.3 Accounts of the Association. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

A. Receipts and Expenditures. Accurate, itemized, and detailed records of all receipts and

expenditures.

B. Members' Statements. A current account and a period statement of the account for each Member, designating the name and current address of each Member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the Member, the date and amount of each payment on the account, and the balance due.

C. Reports. All tax returns, financial statements, and financial reports of the Association.

D. Financial Information. Any other records that identify, measure, record or communicate financial information.

E. Cash. Cash accounts of the Association shall not be commingled with any other accounts.

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

A. Audits. A formal, certified audit or review of the accounts of the Association, if required by law, by vote of a majority of the voting interests, or by a majority of the Directors, shall be made by a certified public accountant, and a copy of the audit or review report shall be available to all Members.

7.5 Budget. At or before a December meeting each year the Treasurer shall present, and the Board of Directors shall adopt a budget of the Association's estimated revenues and expenses for the coming fiscal year. Once adopted, the Association shall provide to each Member a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the Member. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and revenue and expense classifications.

7.6 Reserves. The Board of Directors may establish in the budget one (1) or more reserve accounts for capital expenditures, deferred maintenance, or contingency reserves for unanticipated operating expenses. The purpose of reserves is to provide financial stability and to avoid the need for special assessments. The annual amounts proposed to be so reserved shall be shown in the annual budget. These funds may be spent only for purposes for which they were reserved, unless another use is approved by unanimous consent of the entire Board and not less than a majority of the Members present, in person or by proxy, at duly called meeting of the membership. The amount to be reserved in any account established shall be computed by means of a formula that is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement

reserve assessments annually to take into account any changes in estimates of cost or useful life of a reserve item.

7.7 Regular Assessments.

A. **Installments.** The regular annual assessment based on an adopted budget shall be paid in monthly installments, in advance, due on the first day of each month of the year. Written notice of the annual assessment shall be sent to the Owners of each Lot prior to the first monthly installment being due, but failure to send (or receive) such notice does not excuse the obligation to pay. If an annual budget for a new fiscal year has not been adopted, or if notice of any increase has not been made at the time the payment for the first monthly installment is due, it shall be presumed that the amount of such installment is the same as the last monthly installment, and payments shall be continued at such rate until a budget is adopted and new annual assessments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each unit's next due monthly installment.

B. **Delinquent.** Any assessments, which are not paid when due, shall be delinquent. If the assessment is not paid within ten (10) days after the due date, interest shall accrue from the due date at the highest rate allowed by law and shall incur a late fee in the highest amount allowed by law.

C. **Application of Payments.** Regardless of any restrictive endorsement all payments on account by a Lot Owner shall first be applied to late fees, interest, costs, attorney fees, other charges, fines and then to regular or special assessments.

D. **Proof of Assessment Payment.** Within ten (10) business days after receipt of request from the Owner, mortgagee or purchaser of a Lot, the Association shall furnish a written statement certifying that all assessments then due from any Lot has been paid, or indicating the amounts then due. Anyone other than the Owner who relies upon such statement shall be protected thereby.

7.8 Special Assessments. The Board of Directors when necessary to meet unusual, unexpected, unbudgeted or non-recurring expenses, or for such other purposes as are authorized by the Declaration and these Bylaws may impose special assessments. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The notice of any Board meeting at which a special assessment will be considered, shall be given as provided in the Association Documents, and the notice to the Owners that the assessment has been levied must contain a statement of the purpose(s) of the assessment. All funds collected must be spent for the stated purpose(s) or returned to the Members in a manner consistent with the law.

7.9 Service Assessments. Service Assessments, as described in the Declaration at section 4.2.C, may be imposed by the Board and shall be payable as determined by the Board from time to time. Delinquent Service Assessments shall draw interest and late fees and shall be a lien on the Lot to which they are applicable. Delinquent Service Assessments

may be enforced and collected in the same manner as other Association assessments, including foreclosure and with the Lot Owner being obligated to pay all costs of collection, including attorney fees.

7.10 Suspension. The Association shall not be required to transfer memberships on its books or to allow the exercise of any rights or privileges of membership on account thereof to any Owner or to any persons claiming under an Owner, unless and until all assessment and charges to which said Owner and his/her Lot are subject, have been paid in full.

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

8.1 Fines; Suspensions. The Board of Directors may levy fines and/or suspensions against Members, or Members' tenants or Guests, or both, who commit violations of Chapters 617 or 720, Florida Statutes, the Association Documents, or whose family members, Guests or Lessees commit such violations. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event, shall any single fine exceed the maximum amount allowed by law. The maximum fine for a continuing violation shall be one thousand dollars (\$1,000.00). If allowed by law, fines shall be secured by a lien on the Owner's Lot. Suspensions of the use of Common Areas, facilities, and common non-essential services (e.g. bulk cable tv and/or internet) may be imposed for a reasonable period of time to deter future violations. The procedure for imposing fines or suspending use rights shall be as follows:

A. Notice. The party against whom the fine and/or suspension is sought to be levied or imposed shall be afforded an opportunity for a 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 that are alleged to have been violated;
3. A short and plain statement of the specific facts giving rise to the alleged violation(s);
4. The possible amounts of any proposed fine and/or possible use rights of Common Areas or facilities to be suspended.

B. Hearing. The hearing shall be conducted before a panel of three (3) Members appointed by the Board, none of whom may then be serving as Directors, or who are employees of the Association, or are the spouse, parent, child, brother or sister of a Director or employee. At the hearing the party against whom the fine and/or suspensions may be levied shall have a reasonable opportunity to respond, to present evidence, and to

interests of the Association which vote may be evidenced by written agreement, proxy or consent, at a duly called meeting, any one or more of the following amendments to these Bylaws may be approved and become effective.

1. **55 or over**. Any amendment which is necessary to enable the Association to attain or retain the “55 or over Housing Exemption” of the Act.
2. **Refine Amendments**. Any amendment which is necessary to refine those amendments approved by the Association relating to the Act and/or Federal Regulations.
3. **Delete Amendments**. Any amendment which is necessary to delete any or all amendments approved by the Association relating to the Act and/or Federal Regulations.
4. **Relates to the Act and/or Federal Regulations**. Any amendment which is made which otherwise relates to the Act and/or Federal Regulations.
5. **Required due to Regulations**. Any amendment which may be required due to regulations adopted from time to time by the Federal National Mortgage Association.

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10. **MANAGERS AND EMPLOYEES.**

10.1 **Restrictions for Managers and Employees.**

- A. **No Compensation.** A Manager or an employee shall accept no payment or compensation for services rendered from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise;
- B. **Disclosure.** Any financial or other interest which a Manager or an employee may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors.

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11. **MISCELLANEOUS.**

- 11.1 **Gender; Number.** Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, as the context requires.
- 11.2 **Severability.** If any portion of these Bylaws is void or becomes unenforceable, the remaining provisions shall remain in full force and effect.

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



The foregoing constitute the Amended and Restated Bylaws of Mariner's Cove Homeowners Association of Lee County, Inc., and were duly adopted at the meeting of the Board of Directors held on 2/15/2018 , 2018.

Date: 3/5/2018 , 2018

These amendments were adopted by the Members and the number of votes cast for the amendments was sufficient for approval.