

**PROPOSED**  
**AMENDED AND RESTATED**  
**BYLAWS**  
**OF**  
**RIVERWIND HOMEOWNERS ASSOCIATION, INC.**

(Underlining indicates new language and striking through indicates deletion of existing language.)

The purpose of these Amended and Restated Bylaws is to continue the purpose of the original Bylaws recorded in the Indian River County public records at Official Records Book 1589, Page 318, et. seq.

Riverwind Homeowners Association, Inc. is the ~~nonprofit~~ not-for-profit corporation organized to enforce the Declaration of Restrictions, Easements, and Covenants of Riverwind (the "Declaration"), consisting of homes in Indian River County, Florida, ~~being developed by (the "Developer").~~

**Article 1**  
**Offices**

The principal office of the Association shall be in the State of Florida. The Association shall designate a registered office in accordance with Florida law and shall maintain it continuously. The Association may have offices at such other places within and without the State of Florida as the Board of Directors may from time to time determine.

**Article 2**  
**Members**

**Section 1. Membership Class.** There shall be ~~two~~ one classes of membership:

a. ~~Voting Members.~~ The Association shall have Voting Members who shall have all the rights and privileges of Members of the Association. A Voting Member may not be removed. The initial Voting Members shall consist of those persons named as initial Voting Members in the Articles of Incorporation, who have been chosen by the Developer. The initial Voting Members have the right to admit other persons as Voting Members.

b. ~~Non-voting Members.~~ The Association shall have Non-voting Members of the Association who shall consist of all of those persons who are, from time to time, "Owners. The term "Owners" shall mean record fee simple title holders of Lots in

Riverwind, on which homes/units may be constructed as set forth in the Declaration of Restrictions, Easements and Covenants recorded in Indian River County, Florida, (hereinafter referred to as "Declaration of Restrictions"). ~~Unless otherwise specifically stated in these Bylaws to the contrary, all references to "Members" relate to Voting Members and not to Non-voting Members.~~

**Section 2. Votes. Transfer of control.** ~~The Developer shall have complete control of the Association until such time as ninety percent (90%) or more of the lots/units in all phases of the "Community", as defined in the Declaration of Restrictions, that will ultimately be operated by the Association have been conveyed by Developer to third parties. Within three (3) months after ninety percent (90%) or more of the lots in all phases of the Community that will ultimately be operated by the Association have been conveyed by Developer to third parties, Developer shall relinquish control of the Association to the then lot owners, and the lot owners, other than Developer, are entitled to elect at least a majority of the directors to the Board of Directors of the Association. At such time as Developer relinquishes control of the Association, the lot owners assume control of the Association as Voting Members subject to the terms and conditions of the Declaration of Restrictions, and such other instruments governing the Association and its members. The Developer, after relinquishing control of the Association to the lot owners, The Owner(s) of a lot shall be entitled to one (1) vote for each lot owned that the Developer owns.~~

~~Notwithstanding the foregoing, Developer shall be entitled to elect at least one member of the Board of Directors of the Association as long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the lots comprising all phases of the Community. After Developer relinquishes control of the Association, as provided above, Developer may exercise the right to vote any Developer-owned voting interests in the same manner as any other member, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors.~~

**Section 3. Transfer of Membership.** The rights of each Owner shall be appurtenant to his or her ownership of a lot, may not be separated from said ownership, and shall automatically pass to the heirs, successors and assigns (including mortgagees) of an Owner upon the recordation of the change in ownership of the lot in the Public Records of Indian River County, Florida, and in the records of the Association.

**Section 4. Annual Meetings.** The purpose of the annual meeting of Members is to elect Directors and to transact such other matters as may properly come before the Members. The annual meeting of the Members of the Association shall be held at the times and places designated by the Board of Directors or the President of the Association. The annual meeting of Members for any year shall be held no later than thirteen (13) months after the last annual meeting of Members. However, failure to hold an annual meeting timely shall in no way affect the terms of Officers or Directors of the Association or the validity of actions of the Association.

**Section 5. Special Meetings.** Special Meetings must be held when called by the Board of Directors of the Association or by at least twenty five percent (25%) of the total voting interests of the Association. Business conducted at a Special Meeting is limited to the purposes described in the notice of the meeting.

**Section 6. Place of Meeting.** The Board of Directors may designate any place, either within or without the State of Florida, as the place of meeting for any meeting of Members. If no designation is made, then the place of meeting shall be the principal office of the Association in the State of Florida.

**Section 7. Notice of Meeting.** Written or printed notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered personally or by mail not less than ten (10) days nor more than sixty (60) days before the date of the meeting. Notice shall be given by or at the direction of the President or the Secretary or the persons calling the meeting to each member of record entitled to vote at the meeting. If mailed, such notice shall be deemed to have been delivered when deposited in the United States Mail addressed to the Member at his address as it appears on the records of the Association with postage thereon prepaid.

**Section 8. Waiver of Notice.** A written waiver of notice signed by a Member, whether before or after a meeting, shall be equivalent to the giving of such notice. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member attends for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

**Section 9. Voting Record.** ~~If the Association has six (6) or more Voting Members of record,~~ The officers having charge of the membership records of the Association shall make, at least three (3) days before each meeting of Members, a complete list of the Members entitled to vote at such meeting or any adjournment thereof. The list shall be kept on file at the registered office of the Association or at the principal place of business of the Association and any Member shall be entitled to inspect the list at any time during usual business hours. The list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member at any time during the meeting. If the requirements of this section have not been substantially complied with, then upon demand of any Member in person or by proxy, the meeting shall be adjourned until the requirements are complied with. If no such demand is made, failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

~~The Board of Directors of the Corporation shall fix a record date for the purpose of determining members entitled to notice, to vote, to express consent or dissent from any proposal, or for any other proper purpose. Such record date shall not be more than 30 days nor less than 10 days prior to the date of such meeting or consent, as the case~~

~~may be, is to be made. In the event no record date is fixed, the record date for the determination of members entitled to vote at a meeting of members shall be the close of business on the day next preceding the day on which notice is given, or if no notice is given, the day prior to the meeting being held. Establishment of a record date shall apply to any adjournment of any meeting, unless a new record date is fixed by the Board of Directors of the Corporation.~~

**Section 10. Member Quorum and Voting.** ~~Unless otherwise required in the Articles of Incorporation or Declaration, Thirty percent (30%) of the total voting interest shall constitute a quorum at a meeting of Members. When a specified item of business is required to be voted on by a class of Members, unless otherwise required in the Articles of Incorporation or Declaration, a majority of the Members of such class shall constitute a quorum for the transaction of such items of business by that class. If a quorum is present, unless otherwise provided by law or in the Articles of Incorporation or Declaration, the affirmative vote of a majority of the Members at the meeting entitled to vote on the subject matter shall be the act of the Members. After a quorum has been established at the Members' meeting, the subsequent withdrawal of Members, so as to reduce the number of Members entitled to vote at the meeting below the number required for a quorum, shall not affect the validity of any action taken at the meeting or any adjournment thereof. If a quorum is not present when a meeting starts, then a majority of the Members at the meeting may adjourn the meeting from time to time without further notice until a quorum is present.~~

**Section 11. Votes.** Each Voting Member shall be entitled to one vote on each matter submitted to the Members; provided, however, that there shall only be one vote per lot. If a lot is owned by two or more Voting Members, then the Owners of that lot shall designate in writing one Owner as its proxy to cast its vote and represent the lot. If a lot is owned by a corporation, trust, or other non-natural person who is a Voting Member, then it shall designate, in writing, a natural person as its proxy to cast its vote and represent the lot.

**Section 12. Proxies.** The members shall have the right to vote in person or by proxy. To be valid, a proxy must be dated, must state the date, time and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. A proxy is only effective for the specific meeting for which it was originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires 90 days after the date of the meeting for which it was originally given. A proxy is revocable at any time at the pleasure of the person who executes it. If the proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his/her place.

### **Article 3 Board of Directors**

**Section 1. General Powers.** Subject to the limitations of the Articles of Incorporation,

these Bylaws, and the Florida Not For Profit Corporation Act concerning corporate action that must be authorized or approved by the Members of the Association, all corporate powers shall be exercised by or under the authority of the Board of Directors, and the management affairs of the Association shall be controlled by the Board of Directors.

**Section 2. Number, Qualifications, Election and Tenure.** The number of Directors shall be ~~five (5)~~ the number of Directors elected from time to time in accordance with these Bylaws, but shall never be less than three. ~~The number of Directors may be increased or decreased from time to time by election in accordance with these Bylaws.~~ The Directors must need not be Members of this Association or residents of Riverwind. Directors shall be elected by the Voting Members at the annual meeting of Members as provided in Section 8 below and shall serve until the next succeeding annual meeting and until their successors have been elected and qualified.

**Section 3. Meetings.** A meeting of the Board of Directors of the Association occurs whenever a quorum of the Board of Directors gathers to conduct association business. All meetings of the Board of Directors must be open to all members, except for meetings between the Board of Directors and its attorney with respect to proposed or pending litigation when the contents of the discussion would otherwise be governed by the attorney-client privilege or meetings of the Board to discuss personnel matters.

Notices of all Board of Director meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in emergency. Provided, however, that written notice of a meeting wherein a special assessment will be considered or at which an amendment to rules regarding Parcel use will be considered, must be given to the Members and posted fourteen (14) days in advance. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each Board of Director meeting must be either published in a newspaper of county circulation, or mailed or delivered to each member at least seven (7) days before the meeting, except in an emergency.

An assessment may not be levied at a Board of Director meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Directors may not vote by proxy or by secret ballot at Board of Director meetings, except that secret ballots may be used in the election of officers.

This Section also applies to the meetings of any committee or other similar body, ~~including anybody~~ vested with the power to approve or disapprove Association expenditures or architectural decisions with respect to a specific lot within the subdivision, and supersedes any other provision hereinafter.

**Section 4. Quorum and Voting.** A majority of Directors in office shall constitute a quorum for the transaction of business. The vote of a majority of Directors present at a meeting at which a quorum is present shall constitute the action of the Board of

Directors. If less than a quorum is present, then a majority of those Directors present may adjourn the meeting from time to time without notice until a quorum is present.

**Section 5. Vacancies.** Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors even though it is less than a quorum of the Board of Directors, unless otherwise provided by law or the Articles of Incorporation. A Director elected to fill a vacancy shall hold office until the expiration of the term only until the next election of Directors by the Members. ~~Any directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting of Members or a special meeting of Members called for that purpose.~~

**Section 6. Removal.** At any meeting of Members called expressly for that purpose, any director serving on the Board of Directors may be removed from office, with or without cause, by majority vote of the Voting Members. New Directors may be elected by the Members for the unexpired terms of Directors removed from office at the same meetings at which such removals are voted. If the Members fail to elect persons to fill the unexpired terms of removed Directors, and if the Members did not intend to decrease the number of Directors to serve on the Board, then the vacancies unfilled shall be filled in accordance with provisions in these Bylaws for vacancies.

**Section 7. Presumption of Assent.** A Director of the Association who is present at a meeting of the Board of Directors 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 because of an asserted conflict of interest.

**Section 8. Directors shall be elected as follows:**

a. At least sixty (60) days prior to the date of the annual meeting, the Association shall send to all Members a notice of the date of election and a request that all Members desiring to be candidates for the Board of Directors submit their name in writing along with a one (1) page summary of the candidate's qualifications.

b. All Members desiring to be candidates must submit their name and one-page summary of qualifications at least forty (40) days prior to the annual meeting, which must be delivered or mailed so as to be received at the Association office by the forty (40) day deadline. Notices received after the deadline will not be considered.

c. The election shall be by written ballot. Along with the notice of the annual meeting as required under Article 2, each Member shall be sent the summaries of qualifications of all the candidates, a written ballot and envelopes for returning the ballot. The ballot may be cast in person at the annual meeting or may be mailed or delivered to the Association office as provided in Section d below, but must be received prior to the annual meeting in order to be counted in the election.

d. The ballot must be placed in an inner envelope with no identifying markings and mailed or delivered to the Association in an outer envelope bearing identifying information reflecting the name of the Member, the lot or parcel for which the vote is being cast, and the signature of the lot or parcel owner casting that ballot. If the eligibility of the Member to vote is confirmed and no other ballot has been submitted for that lot or parcel, the inner envelope shall be removed from the outer envelope bearing the identification information, placed with the ballots which were personally cast, and opened when the ballots are counted. If more than one ballot is submitted for a lot or parcel, the ballots for that lot or parcel shall be disqualified. Any vote by ballot received after the closing of the balloting may not be considered.

e. There will be no nominations from the floor. Each Member shall be entitled to cast votes for as many candidates as there are vacancies to be filled.

f. In the event that the number of candidates equals the number of vacancies, or is less than the number of vacancies to be filled, no balloting will be necessary.

g. There shall be no cumulative voting.

#### **Article 4 Officers**

**Section 1. Officers.** The Officers of this Association shall be a President, Vice President, Secretary and Treasurer, each of whom shall be elected by the Board of Directors. A Chairman of the Board, additional Vice Presidents, and such other officers and assistant officers as may be deemed appropriate may be elected by the Board of Directors from time to time. Any two or more offices may be held by the same person except that the same person cannot be President and Secretary. A failure to elect a President, Vice President, Secretary or Treasurer shall not affect the existence of the Association.

**Section 2. Election and Term of Office.** The Officers of the Association shall be elected annually by the Board of Directors at its meeting after each annual meeting of Members. If the election of Officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each Officer shall hold office until his successor shall have been duly elected and shall have qualified, or until his death, or until he shall resign or shall have been removed in the manner hereinafter provided.

**Section 3. Removal.** Any Officer may be removed from office at any time, with or without cause, on the affirmative vote of a majority of the Board of Directors whenever, in its judgment, the best interests of the Association will be served thereby. ~~Removal shall be without prejudice to any contract rights of the person so removed, but election of an Officer shall not of itself create contract rights.~~

**Section 4. Vacancies.** Vacancies in offices, however occasioned, may be filled at any time by election by the Board of Directors for the unexpired terms of such offices.

**Section 5. Duties.** The Chairman of the Board, or the President if there is no Chairman of the Board, shall preside at all meetings of the Board of Directors and of the Members. The President shall be the chief executive officer of the Association, and have the responsibility for the general management of the affairs of the Corporation, and carry out the resolutions of the Board of Directors. During the absence or disability of the President of the Corporation, the vice-president, or, if more than one, the executive vice-president shall have all the powers and functions of the president. The vice-president shall perform such duties as may be prescribed by the Board of Directors from time to time. The treasurer shall have the care and custody of all the funds in the name of the Corporation in such bank accounts as the Board of Directors may from time to time determine. The secretary shall keep the minutes of the Board of Directors and members, and all books and records of the Corporation, and serve all notices for the Corporation that shall have been authorized by the Board of Directors. Subject to the foregoing, the Officers of the Association shall have such powers and duties as usually pertain to their respective offices and such additional powers and duties specifically conferred by law, by the Articles of Incorporation, by these Bylaws, or as may be assigned to them from time to time by the Board of Directors.

**Section 6. Salaries.** The salaries, if any, of the Officers shall be fixed from time to time by the Board of Directors, and no Officer shall be prevented from receiving such salary by reason of the fact that he is also a Director of the Association.

**Section 7. Delegation of Duties.** In the absence or disability of any Officer of the Association or for any other reason deemed sufficient by the Board of Directors, the Board may delegate its powers or duties to any other Officer or to any other Director.

## **Article 5**

### **Executive And Other Committee**

**Section 1. Creation of Committees.** The Board of Directors may, by resolution passed by a majority of the whole Board, designate an Executive Committee and one or more other committees.

**Section 2. Executive Committee.** The Executive Committee (if there is one) shall consult with and advise the Officers of the Association in the management of its affairs and shall have and may exercise, to the extent provided in the resolution of the Board of Directors creating such Executive Committee, such powers of the Board of Directors can be lawfully delegated by the Board.

**Section 3. Other Committees.** Such other committees shall have such functions and may exercise such power of the Board of Directors as can be lawfully delegated and to



the extent provided in the resolution or resolutions creating such committee or committees.

**Section 4. Meetings.** Regular meetings of the Executive Committee and other committees may be held without notice at such time and at such place as shall from time to time be determined by the Executive Committee or such other committees and special meetings of the Executive Committee or such other committees may be called by any member thereof upon two (2) days notice to the other members of such committee, or on such shorter notice as may be agreed to in writing by each of the other members of such committee, given either personally or in the manner provided in these Bylaws pertaining to notice for Directors' meetings.

**Section 5. Vacancies.** Vacancies on the Executive Committee or on other committees shall be filled by the Board of Directors then in office at any regular or special meeting of the Board of Directors.

**Section 6. Quorum.** At all meetings of the Executive Committee or other committees, a majority of the committee's members then in office shall constitute a quorum for the transaction of business.

**Section 7. Manner of Acting.** The acts of a majority of the members of the Executive Committee or other committees present at any meeting at which there is a quorum shall be the act of such committee.

**Section 8. Minutes.** The Executive Committee (if there is one) and the other committees shall keep regular minutes of their proceedings and report the same to the Board of Directors when required.

## **Article 6**

### **Books, Records And Reports**

**Section 1. Reports to Members.** The Association shall send an annual financial report to the Members of the Association not later than four months after the close of each fiscal year of the Association as provided by Florida Statute 720.303(7)(2015) as amended from time to time. ~~Such report shall include a balance sheet as of the close of the fiscal year of the Association and a revenue and disbursement statement for the year ending on such closing date.~~ Such financial statements shall be prepared from and in accordance with the books of the Association.

**Section 2. Inspection of Corporate Records.** Any person who is a Voting Member of the Association shall have the right, in accordance with Florida Statute 720.303(5)(2015), as amended from time to time, ~~for any proper purpose and at any reasonable time, on written demand stating the purpose thereof to examine and make copies from the relevant books and records of accounts, minutes, and records of Members of the Association. Upon the written request of any Voting Member, the~~

~~Association shall mail to such Member a copy of the most recent balance sheet and revenue and disbursement statement. If such request is received by the Association before such financial statements are available for its last fiscal year, the Association shall mail such financial statements as soon as they become available. In any event, the financial statements must be mailed within four months after the close of the last fiscal year. Additionally, balance sheets and revenue and disbursement statements shall be filed in the registered office of the Association, shall be kept for at least five years, and shall be subject to inspection during business hours by any Voting Member, in person or by agent, as permitted under law.~~

## **Article 7**

### **Non-profit Operation**

The Association will not have or issue shares of stock. No dividends will be paid. No part of the income or assets of the Association will be distributed to its Members, Directors, or Officers without full consideration. The Association may contract in due course with its Members, Directors, and Officers without violating this provision.

## **Article 8**

### **Fiscal Year**

The fiscal year of the Association shall be the period selected by the Board of Directors as the taxable year of the Association for federal income tax purposes.

## **Article 9**

### **Seal**

The corporate seal shall bear the name of the Association between two concentric circles and in the inside of the inner circle shall be the year of incorporation.

## **Article 10**

### **Indemnification**

The Association shall indemnify each Officer and Director, including the former Officers and Directors, to the full extent permitted by the Florida General Corporation Act and the Florida Not For Profit Corporation Act, as amended.

## **Article 11**

### **Amendments**

~~These Bylaws may be altered, amended or replaced, and new Bylaws may be adopted upon written consent from at least two-thirds (2/3) of the Members, by the Board of Directors; provided that any Bylaws or amendments thereto as adopted by the Board of Directors may be altered, amended or repealed at any meeting of the Members called expressly for that purpose, at which a quorum is present, by majority vote of the~~

~~Members, or a new Bylaws in lieu thereof may be adopted by the Members. No Bylaws altered, amended or repealed by vote of the Members, or new Bylaws adopted by the Members may be altered amended or repealed by vote of the Board of Directors for a period of two (2) years after the action of the Members. A copy of each amendment to these Bylaws, certified by the Secretary of the Corporation, shall be filed of record in the Public Records of Indian River County, Florida. Furthermore, if the Articles of Incorporation of the Association are amended, a copy of the amendment certified by the Secretary of State of Florida shall be filed for record in the Public Records of Indian River County, Florida. No amendment may remove, revoke, or modify any right or privilege of the Developer without the written consent of the Developer or the assignee of such right or privilege.~~

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

If any provision of these Bylaws is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder of these Bylaws shall not be invalidated thereby and shall be given full force and effect. If any provision of these Bylaws may be construed two or more ways, one of which would render the provision invalid, and the other of which would render the provision enforceable, then such provision shall have the meaning which renders it valid and enforceable.

**WE HEREBY CERTIFY** that the foregoing Amended and Restated Bylaws of Riverwind Homeowners Association, Inc. were duly adopted by the Board of Directors at a Board Meeting held on \_\_\_\_\_, 2016.

**IN WITNESS WHEREOF**, the undersigned has caused these presents to be signed in its name by its President, its Secretary and its corporate seal affixed this day of \_\_\_\_\_, 2016.

**WITNESSES AS TO PRESIDENT:**

**RIVERWIND HOMEOWNERS  
ASSOCIATION, INC.**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_, President

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2016,  
by \_\_\_\_\_, as President of Riverwind Homeowners Association, Inc.  
[ ] who is personally known to me, or [ ] who has produced identification [Type of  
Identification: \_\_\_\_\_].

**Notarial Seal**

\_\_\_\_\_  
Notary Public

**WITNESSES AS TO SECRETARY:**

**RIVERWIND HOMEOWNERS  
ASSOCIATION, INC.**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Secretary

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

**CORPORATE  
SEAL**

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2016,  
by \_\_\_\_\_, as Secretary of Riverwind Homeowners Association, Inc.  
[ ] who is personally known to me, or [ ] who has produced identification [Type of  
Identification: \_\_\_\_\_].

**Notarial Seal**

\_\_\_\_\_  
Notary Public