

**PROPOSED**  
**AMENDED AND RESTATED BYLAWS**

**OF**

**South Beach Property Owners Association of Gulf County, Inc.**

*[Substantial Rewording of the Bylaws. See existing  
Bylaws for present text.]*

**ARTICLE 1 – IDENTITY AND PURPOSE**

These are the Bylaws of **South Beach Property Owners Association of Gulf County, Inc.** (“the Association”), a Corporation not for profit under the laws of the State of Florida. The Articles of Incorporation of the Association were initially filed in the office of the Secretary of the State of Florida on March 11, 1999. The Association has been organized for the purposes of administering the Declaration of Covenants and Restrictions of South Beach Subdivision (“the Declaration”), which is located in Gulf County, Florida.

**1.1 PRINCIPAL OFFICE.** The principal office of the Association shall be located at 1934 State Rd 30-A Port St. Joe FL 32456. The Board of Directors of the Association may change the location or address of the principal office of the Association from time to time.

**1.2 CORPORATE SEAL.** The seal of the Association shall bear the name of the corporation, the word “Florida”, the words “Corporation Not for Profit”, and the year of incorporation (1999). Alternatively, the words “Corporate Seal” or “Seal” may serve as the seal of the Association.

**ARTICLE 2 – DEFINITIONS**

The terms used herein shall have the same definitions as stated in the Declaration and the Homeowners’ Association Act (Chapter 720, Florida Statutes), unless the context requires otherwise. If there is a dispute over the proper definition of a vague or ambiguous term which is not otherwise defined by the Declaration or by the Homeowners’ Association Act, the Association’s Board of Directors shall provide a reasonable definition of the term or may adopt any standard dictionary definition of the term.

**ARTICLE 3 – MEMBERSHIP**

**3.1 Eligibility.** Any person or entity that holds title in fee simple to a lot in the Subdivision shall by virtue of such ownership, automatically be a member of the Association.

**3.2 Change of Membership.** Change of membership in the Association shall be established by recording a deed (or other instrument establishing a fee interest in any Lot in the Subdivisions) in the Public Records at which time the membership of the prior owner is terminated. The prior owner shall notify the Association of the proposed transfer of ownership. The new Owner shall furnish the Association with a certified copy of the deed (or other instrument) within thirty (30) days after transfer of ownership.

**3.3 Restraint upon Assignment of Membership, Shares and Assets.** The membership of an Owner, and the share of a Member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Lot.

#### ARTICLE 4 – VOTING

**4.1 Voting Rights.** The Member or Members who are the record owners of each Lot in the subdivision shall be collectively entitled to one (1) vote for each such Lot. If a Member owns more than one Lot, the Member shall be entitled to one (1) vote for each Lot owned. A vote may not be divided.

**4.2 Voting Procedure.** All determination of requisite majorities and quorums for all purposes under the Declaration, the Articles of Incorporation and these Bylaws shall be made by reference to the number of Lots owned by Members entitled to vote. Decisions of the Association shall be made by a simple majority of votes entitled to be cast by Members represented at a meeting at which a quorum is present, unless a greater percentage is required by the Declaration, the Articles of Incorporation, or these Bylaws. If a Lot is jointly owned and more than one (1) owner is present, the owners may jointly cast the vote for their Lot, but if they are unable to agree on the manner of casting such vote, they shall lose their right to vote on such matter, although the Lot may still be counted for purposes of a quorum.

**4.3 Approval or Disapproval of Matters.** Whenever the decision of a Lot owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if at an Association meeting, unless the joinder of record owners is specifically required by the Declaration or these Bylaws.

**4.4 Proxies.** Votes may be cast in person or by proxy. A proxy shall be in writing and signed by the designated voting representative, or the owner, if no voting representative has been designated. A proxy shall be valid only for the particular meeting designated in the proxy, and must be filed with the Secretary of the Association before the appointed time of the meeting or any adjournments thereof. A properly executed and delivered proxy may be revoked by a writing delivered to the Secretary, prior to the appointed time of the meeting or any adjournments thereof, or by the attendance in person of the persons executing said proxy at any meeting or adjournment

thereof. In no event shall a proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given.

**4.5 Method of Voting.** Subject to the provisions of the Declaration or Chapter 720, Florida Statutes, voting may be by roll call, voice vote or by written ballot; provided, however, that whenever written approval is required by the Declaration or Chapter 720, Florida Statutes, or whenever any amendment to the Declaration is proposed, or when any borrowing of funds, pledge, or other disposition of common properties or assets is proposed, the voting shall be by written ballot. Routine matters such as approval of minutes, adjournment, acceptance of reports, parliamentary questions and social business may be determined by "yeas" and "nays;" except when any five voting Members, or the chairman, require a roll call vote or vote by written ballot.

## ARTICLE 5 – MEMBERS' MEETINGS

**5.1 Place.** Meetings of the Association Members shall be held at such place as the Board of Directors may designate in the Notice of Meeting.

**5.2 Annual Meeting.** The regular meeting to be held between Memorial Day Weekend and June 14 shall be known as the Annual Meeting and shall be for the purpose of electing the Officers and a Board of Directors, receiving reports from the Officers and Committees and disposing of any other business pertinent to the affairs of the Association.

**5.3 Special Meetings of the Members.** Special meetings of the Members shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from voting Members entitled to cast not fewer than twenty (20%) percent of the total number of votes.

**5.4 Notice of Meetings.** Notice of all meetings of the Members, stating the time, place, and objectives for which the meeting is called, shall be given by the President or Vice President or Secretary. All such notices shall be given in writing to each Member at his or her address, as it appears on the books of the Association, or as the Member may have otherwise directed in writing, and shall be mailed, emailed or delivered not fewer than fourteen (14) days nor more than sixty (60) days, prior to the date of the meeting. The notice may also be placed on The Association website. The notice for any meeting at which assessments against Lot owners are to be considered shall contain a statement of the nature of such assessments and that such assessments will be considered. Proof of such mailing or delivery shall be given by affidavit of the person giving the notice.

**5.5 Waiver of Notice.** Any Member may, by written waiver of notice signed by such Member, waive such notice, and such waiver, when filed in the records of the Association (whether executed and filed before or after the meeting), shall be deemed equivalent to the giving of such notice to such Member. A Member's attendance at a meeting shall be deemed a waiver by such



Member of notice of the meeting unless the Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at the meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

**5.6 Quorum.** A quorum for Annual Meetings and Special Meetings shall exist when Members entitled to cast not fewer than thirty percent (30%) either in person, by designated voting representative or by proxy. Persons attending by phone or other electronic means must submit a proxy to be counted for quorum purposes.

**5.7 Adjournment of Meetings.** If the Association cannot hold a meeting because a quorum is not present, a majority of the Members who are present may adjourn the meeting to a time at least five (5) but not more than thirty (30) days from the date called for the original meeting. At the reconvened meeting, if the number required for a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If those in attendance at the original meeting do not fix a time and place for reconvening the meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, the Association shall give the Members notice of the date, time and place for reconvening the meeting, as provided herein.

**5.9 Order of Business.** The order of business at annual meetings of the Members, and as far as practical at other meetings of the members, shall be:

- (a) Calling of the roll and certifying of the proxies.
- (b) Proof of notice of the meeting or waiver of notice.
- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Election of Directors.
- (g) Unfinished business.
- (h) New business.
- (i) Announcements.
- (j) Adjournment.



## ARTICLE 6 ELECTION OF DIRECTORS

**6.1. Number.** The Affairs of **Southbeach Homeowners Association of Gulf County, Inc.** are to be managed by a Board of Directors consisting of not less than three (3) and no more than five (5) Directors. The term of office for Board members shall be two (2) years. The years will be staggered with 2 board members being voted on one year and 3 voted on the next year. Board members shall serve until his/her successor is elected and qualified or until his death, resignation or removal.

**6.2 Director Qualifications.** Every Director shall be at least eighteen (18) years of age and shall be a Member or the designated voting representative for a Lot. A grantor of a trust described in Section 733.707(3), Florida Statutes, or a beneficiary [as defined in Section 737.303(4)(b), Florida Statutes] of a trust which holds title to a Lot shall be eligible to serve as a Director of the Association, provided that said trustee or beneficiary occupies the Lot. A person who is delinquent in the payment of any fee, fine, or other monetary obligation to the association on the day that he or she could last nominate himself or herself or be nominated for the board may not seek election to the Board, and his or her name shall not be listed on the ballot. A person serving as a Board member who becomes more than ninety (90) days delinquent in the payment of any fee, fine, or other monetary obligation to the association shall be deemed to have abandoned his or her seat on the Board, creating a vacancy on the board to be filled according to law.

**6.3 Election of Directors.** The election of Directors shall be held at the Annual Members Meeting, in the manner provided by law and as follows:

(a) First Notice. Not less than forty (40) days prior to a scheduled Annual Meeting of the Members, the Association shall provide to each Member, in the manner provided herein for notices, a First Notice of the Annual Meeting of the Members. The notice shall at a minimum state the date, time and place of the meeting and election. The notice shall also invite candidate nominations for the Board of Directors, which shall be provided to the Nominating Committee as provided herein.

(b) Nominations. The Board of Directors shall appoint a nominating committee by April 1 consisting of at least three (3) or more members for the purpose of recruiting capable candidates to submit their names for election and for recommending candidates for election by the Members. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Any member who is good standing as provided in Article 6.2 of this Declaration may also nominate him or herself for candidacy by notifying the Nominating Committee at least

twenty (20) days in advance of the election. Nominations are not permitted from the floor. The list of nominated candidates shall be included in the Second Notice of the annual meeting.

(c) **Second Notice.** Not less than fourteen (14) days prior to a scheduled Annual Meeting of the Members, the Association shall provide each Member, in the manner provided herein for notices, a Second Notice of the Annual Meeting of the Members. The notice shall at a minimum state the date, time and place of the meeting and election. The Notice shall also contain a limited proxy.

(d) **Election.** The election shall take place at the Annual Meeting. The Director candidates receiving the greatest number of votes cast shall be elected. Voting shall be non-cumulative. Tie votes shall be broken by agreement among the Director candidates who are tied, or absent such an agreement, by lot, such as the flipping of a coin by a neutral third party or the drawing of straws.

**6.4 Vacancies.** Except as to vacancies provided by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors.

**6.5 Removal.** Any Director may be removed with or without cause by concurrence of a majority of the votes of the entire membership at a special meeting of the members called for that purpose or by written recall in accordance with state law. At issue here is majority of the entire membership. Any vacancy in the Board so created shall be filled by the members of the Association at the same meeting unless otherwise provided by law.

**6.6** More than three (3) consecutive absences of a Board member from regular meetings of the Board, unless excused by resolution of the Board, shall automatically constitute a resignation, effective when such resolution is accepted by the Board. The seat of a Director removed by the Board for his failure to attend Board meetings may be filled by the remaining Board members for the balance of that Director's term.

## **ARTICLE 7 BOARD OF DIRECTORS**

**7.1 Authority.** The Association shall be managed and governed by the Board Directors. Without limiting the generality of the preceding sentence, or any power vested in it by law, the Board of Directors shall have the power to:

(a) To employ, dismiss, control and contract for personnel and contractors for the administration of the Association, including but not limited to managers, maintenance personnel,

attorneys, accountants and other professionals, by employment or contract, as the Board may determine.

(b) To create and disband such committees as the Board may from time to time determine as reasonably necessary or useful in and about the administration of the Association and to delegate such authority to such committees as may be reasonable in connection with their purpose, subject always to the provisions of the Declaration, Articles of Incorporation and Bylaws. All committees of the Association shall keep records and conduct meetings in the same manner, to the extent applicable, as is required of the Board of Directors.

(c) To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

(d) To adopt budgets and make special assessments, and to use and expend assessments and other receipts of the Association to carry out the powers and duties of the Association pursuant to the Declaration and these Bylaws.

(e) To require authorization of a majority of the board for any expenditures exceeding \$500 unless they have been budgeted or the Board has given prior approval. The Treasurer's or Association Manager's signature is sufficient on any budgeted expense or necessary expense less than \$500. Two authorized signators are required for checks exceeding \$500. The President, Treasurer and Association Manager may be authorized to sign checks. The Board may require that a fidelity bond be obtained for all Board members handling Association funds. The amount of such bond shall be determined by the Board and the premium paid by the Association.

(f) To grant easements where necessary for utilities and sewer facilities over the Common Area to serve the Association.

(g) To conduct, manage and control the affairs and business of the Association.

(h) To borrow money and to incur indebtedness for the purposes set forth in the Declaration subject to any limitations contained in the Articles of Incorporation, and to cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges hypothecations or other evidences of debt and securities therefor.

(i) To contract for and pay fire, casualty, errors and omissions, blanket liability, the Owners, the Association, the Board of Directors and other interested parties, in accordance with the provisions of the Declaration covering and protecting against such damages or injuries as the Board deems advisable, which may include without limitation, medical expenses of persons injured on the Common Area and Easement Areas, and to bond the agents and employees of any



management body, if deemed advisable by the Board. The Board shall review, not less frequently than annually, all insurance policies and bonds obtained by the Board on behalf of the Association.

(j) To impose fines and suspensions for a violation of the Declaration or Rules and Regulations, the Articles of Incorporation or these Bylaws. The maximum aggregate fine for a continuing violation shall be \$5,000.00. Fines that may become a lien under the law shall be deemed an assessment under Chapter 720, Florida Statutes, and the Declaration and shall be collected in the same manner.

(k) To enter into contracts for the operation, management, administration and maintenance of the Association and the Common Areas.

(l) To assess late fees and to charge interest for the late payment of assessments.

(m) Exercise all powers, duties, and authority of the Association, including those provided by Chapters 617 and 720, Florida Statutes, the Declarations, the Articles of Incorporation and these Bylaws, except those expressly requiring a vote of the Members.

**7.2 Compensation.** The Association shall not compensate a Director or Officer for acting as such. The Association may reimburse any Director or Officer for expenses incurred on the Association's behalf if approved by a majority of the other Directors. In addition, nothing herein shall prohibit the Association from compensating a Director or Officer for services or supplies he or she furnishes to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association. The foregoing also applies to any entity with which a Director or Officer is affiliated.

**7.3 Directors Meetings.** Meetings of the Board of Directors shall be open to all members and shall be held in accordance with the following provisions:

(a) Organizational Meeting. The organizational meeting of a newly-elected Board of Directors shall be held immediately after the close of the Annual Meeting. The outgoing President shall preside at the organizational meeting until a successor is elected.

(b) Regular Meeting. Regular meetings of the Board of Directors shall be held not less frequently than annually and at such a time and place as shall be determined by the President or a majority of the members of the Board of Directors.

(c) Special Meeting. Special meetings of the Board of Directors may be called by the President (or, if he/she is absent or refused to act, by the Vice President) and shall be called by the Secretary at the written request by at least two (2) of the Directors.

(d) Notice of Board Meetings. Notice of all meetings of the Board shall be given to each Member, personally or by mail, telephone, fax or email, at least forty-eight (48) hours prior to the day and time named for such meeting, which notice shall state the date, time and place of the meeting. As to special Board meetings, the purpose of the meeting shall be included with the notice to Directors. A Director or Member may waive notice of a meeting before or after a meeting. Except for emergency meetings and as otherwise provided herein, notice of a Board meeting shall be posted in a conspicuous place within the Subdivision at least forty-eight (48) hours in advance of the meeting. In lieu of posting notice of each regular Board meeting, the Board may publish a schedule of upcoming Board meetings mailed to each Member at least seven (7) days in advance of the first scheduled regular Board meeting. In lieu of posting notice of a special Board meeting, the Board may mail notice of the special Board meeting to each member at least seven (7) days in advance of the special Board meeting. The notice requirements hereof shall not apply to the organizational meeting of the Board nor in the event of an emergency, that is circumstances such that damage to persons or property or other material interests of the Association would occur by a delay of forty-eight (48) hours. Notice of any meeting at which assessments are to be established shall state that fact and the nature of the assessment.

(e) Special Notice of Certain Board Meetings. A nonemergency special assessment may not be levied at a Board meeting nor may any rule regarding the use of Lots in the Subdivision be adopted, amended, or revoked unless a written notice of the Board meeting is provided to all Members at least fourteen (14) days before the meeting, which notice includes a statement that a special assessment will be considered at the meeting and the nature of the special assessment or that a rule regarding Lot use will be considered at the meeting and the nature of that action.

(f) Quorum of Board. At all Board meetings, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless these Bylaws or the Declaration specifically provide otherwise. A meeting at which a quorum is initially present may continue, notwithstanding the withdrawal of Directors, if at least a majority of the required quorum for that meeting approves any action taken.

(g) Actions without Proper Notice. Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if: (i) a quorum is present, and (ii) either before or after the meeting each Director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes.

(h) Telephonic Participation. Members of the Board may participate in a Board meeting by means of telephone or other electronic means, through which all persons participating in the meeting can hear each other at the same time. Participation in this manner shall constitute presence at the meeting for all purposes. Participants attending by electronic means may vote by electronic transmission.

(i) Adjourned Meetings. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

(j) Presiding Officer. The presiding officer of Directors' meetings shall be the President. In the absence or disability of the President, the Vice-President shall exercise and perform the duties of the President. In the absence of both the President and Vice-President, the Directors present shall designate one of their number to preside.

(k) Vote. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election and removal of officers.

(l) Comments. Comments from the floor by Members who are not Directors may be invited and permitted by the President whenever the President deems it appropriate or by vote of the Board of Directors; either with respect to the subject matter being discussed or on other issues, and shall also be allowed when required by law. The board may set a time limit for comments. All comments and engagements are to be civil and guided by Robert's Rules of Orders. Any member who is disruptive in a meeting and/or the board deems is uncivil may be subject to a proposal for a fine and review by the fine committee.

(m) Meetings Open. Meetings of the Board of Directors shall be open to all Members.

(n) Minutes. Minutes of all meetings of the Members of the Association and of the Board must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon by each Director present at a Board meeting must be recorded in the minutes.

(o) Joinder in Meeting by Approval of Minutes. The joinder of a Director in the action of a meeting, by signing and concurring in the minutes thereof shall constitute the concurrence of such Director for the purpose of determining requisite majorities on any action taken and reflected in such minutes or to create a quorum. Directors may join in minutes under this section only after an open meeting, for the purposes herein provided.



## ARTICLE 8 – OFFICERS

**8.1 Executive Officers.** The executive officers of the Association shall be a President, a Vice President, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors. Each executive officers of the Association shall be a Director of the Association. Any person may hold two or more offices, except that the President shall not also be the Secretary. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. Any officer may be peremptorily removed by vote of the Directors at any meeting.

**8.2 President.** The President shall be the chief executive officer of the Association, shall have all the powers and duties usually vested in the office of president of a homeowners association, including but not limited to the power to appoint advisory committees as the President may deem appropriate to assist in the conduct of the affairs of the Association. The President shall serve as chairperson at all Board and Membership meetings, except that the President may designate another person to serve as chairperson. The President shall see that all orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and promissory notes and may affix the corporate seal as may be required on any document.

**8.3 Vice President.** The Vice President shall, in the absence of the President or during periods in which the President is unable to perform the duties of the office, perform the duties of President. If the President shall be removed or resign, die, become legally incompetent or be unable permanently to perform his/her duties as President, the Vice President shall succeed to the Presidency and a Vice President shall be elected by the Board of Directors. In addition, the Vice President shall generally assist the President, and exercise such other powers and perform such other duties as shall be prescribed by the Board of Directors.

**8.4 Secretary.** The Secretary shall keep the minutes of all proceedings of the Directors and the Members and shall attend to the giving and serving of all notice to the Members and Directors, and other notices required by law and the governing documents. In addition, the Secretary shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an Association, as may be required by the Directors or the President. The Assistant Secretary, if such office is created, shall perform the duties of the Secretary, when the Secretary is absent.

**8.5 Treasurer.** The Treasurer shall be responsible for all property of the Association, including funds, securities, and evidence of indebtedness; shall ensure that the financial books of the Association are kept in accordance with Florida Statutes and good accounting practices; cause an annual review of the Association books at the completion of each fiscal year; and shall perform all other duties incident to the office of Treasurer.

**8.6 Resignation.** Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary/Treasurer. Resignation shall take effect on the date of the

receipt of such notice or at any later time specified therein, and unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective. More than three (3) consecutive absences from regular meetings of the Board, unless excused by resolution of the Board, shall automatically constitute a resignation, effective when such resolution is accepted by the Board.

**8.7 Delegation of Functions and Reimbursement.** The Board of Directors may delegate any or all of the functions of the Secretary or Treasurer to a management agent or employee, provided that the Secretary or Treasurer shall in such instance generally supervise the performance of the agent or employee in the performance of such functions. Upon request, the Association may reimburse a Director or officer for reasonable expenses incurred on behalf of the Association.

## ARTICLE 9 – COMMITTEES

**9.1 Appointment and Removal.** In addition to the authority of the President, the Board of Directors may by resolution create committees and may invest in such committees such powers and responsibilities as the Board shall deem advisable. The Board may with or without cause remove committee members.

**9.2 Minutes.** All committees shall keep minutes of their meetings. Minutes shall be provided to the Secretary and shall be maintained as an official record of the Association.

**9.3 Term of Office.** Each member of a committee shall continue as such until the next annual membership meeting and until his or her successor is appointed unless the committee is terminated sooner or the member is removed from the committee, the member resigns, or unless such member shall cease to qualify as a member thereof.

**9.4 Quorum.** Unless otherwise provided in the resolutions of the Board of Directors designating the committee, a committee may meet only when a quorum (a simple majority) is present. The act of a majority of the members present at a committee meeting at which a quorum is present shall be the act of the committee.

**9.5 Scope and Rules.** Each committee shall abide by the scope and stated purpose of the committee as defined by the President or Board of Directors, and may adopt rules for its operation not inconsistent with these Bylaws and with rules adopted by the President or Board of Directors.

**9.6 Reports and Action.** Every committee shall report its findings directly to the Board of Directors. A committee may not take action on behalf of the Association and the Board of Directors unless the Board adopts a written resolution specifically empowering the committee to take such action.

**9.7 Vacancies.** Vacancy in the members of any committee may be filled by the Board of Directors or President, as applicable, in the same manner as provided in the case of original appointments.

**9.8 Nominating Committee.** The Nominating Committee is chosen by the Directors no later than the first (1<sup>st</sup>) day of April. The Nominating Committees shall consist of no less than three (3) persons who are members of the Association and which may include Officers and Board of Directors.

**9.9 Finance Committee.** The Finance Committee shall be appointed by the Board of Directors. The Finance Committee shall audit the preceding year's budget and prepare the upcoming fiscal year.

## ARTICLE 10 – INDEMNIFICATION

Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including legal fees, reasonably incurred by, or imposed upon him in connection with any proceeding or the settlement of any proceeding to which he may be a party, or in which he may become involved by reason of his being or having been a Director or officer of the Association, whether or not he is a Director or officer at the time such expenses are incurred, except when the Directors or officer is adjudged-guilty of willful and wanton misfeasance or malfeasance in the performance of his duties provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights-to which such Director or officer may be entitled.

## ARTICLE 11 – FINANCES

The provisions for fiscal management of the Association set forth in the Declaration and Articles of Incorporation shall be supplemented by the following provisions:

**11.1 Fiscal Year.** The fiscal year of the Association shall be June 1 to May 31<sup>st</sup>.

**11.2 Accounting.** Receipts and expenditures of the Association shall be credited and charged to accounts under the following general classifications, as shall be appropriate, all of which expenditures shall be common expenses:

(a) **Current Expenses.** Current expenses shall include all receipts and expenditures to be made within the year for which the funds are budgeted and may include a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves. The balance in this fund at the end of each year shall be applied to reduce the regular



assessment for current expenses for the succeeding year or to fund reserves. The current expense classification shall be detailed and shall include, but not be limited to, the following subclassifications where applicable:

- (i) Administration of the Association.
- (ii) Management fees.
- (iii) Maintenance.
- (iv) Insurance.
- (v) Security provisions.
- (vi) Operating capital.
- (vii) Contingency funds for advancement of special and service assessments.
- (viii) Other expenses.

(b) Reserves for Deferred Maintenance. Reserves for deferred maintenance shall include funds for maintenance items which occur less frequently than annually, if any.

(c) Additional Accounts. The Board may establish additional accounts for specifically authorized improvements, or other categories consistent with accepted accounting practices.

**11.3 Budget.** The Board of Directors shall adopt an annual budget. A copy of the proposed budget shall be mailed to the owners not less than fourteen (14) days prior to the date of the meeting at which the proposed budget is to be considered. The annual budget shall be funded by an annual assessment paid in one (1) lump sum payment for the year for which the assessment is made. Late fees and interest may be charged on delinquent payments. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors or a special assessment may be levied as provided in the Declaration.

**11.4 Depository.** The funds of the Association may be kept in such bank or banks, savings and loan association or other federally insured depository or depositories as shall be designated from time to time by the Board of Directors. Withdrawal of funds from such accounts shall be only by electronic transfers approved by or checks or other appropriate instruments signed by such persons as are authorized by the Board of Directors.

**11.5 Financial Report.** A complete financial report of the actual, total receipts of assessments and other funds received by the Association, and an itemized listing of the expenditures made by the Association shall be made annually in the manner required by law, and a copy of the report shall be available for members not later than ninety (90) days following the fiscal year for which the report is made.

**11.6 Board of Directors Insurance.** Unless the members vote to forego pursuant to Section 720.3033, Florida Statutes, fidelity bonds or proper liability insurance shall be required by the Board of Directors from all persons authorized to sign checks or otherwise disburse or withdraw Association funds. The bonds or liability insurance shall be determined by the Directors, shall protect the Association against theft or embezzlement of the maximum amount of funds held by the Association at any time and shall in no event be less than one-half of the total annual assessment. The premiums on such bonds shall be paid by the Association as a common expense.

## **ARTICLE 12 – PARLIAMENTARY RULES**

Robert's Rules of Order (latest edition) shall guide the conduct of the Association and Directors' meeting when not in conflict with the Governing Documents or state law. A deviation from Robert's Rules of Order (latest edition) shall not invalidate an otherwise properly approved action.

## **ARTICLE 13 – RECORDS**

**13.1 Inspection and Copying of Records.** Any member wishing to inspect or make copies of the Official Records of the Association must submit a written request to the Secretary not less than ten (10) business days preceding the date upon which the inspection is to be made. The request must state which record or records are to be inspected, and must be signed and dated by the person requesting the inspection. The member making the inspection will be charged for the costs of the inspection, including the costs of supervising the inspection, and any copying costs.

**13.2 Recording.** Any Lot Owner may tape record or videotape meetings of the Board or Membership. Tape recording and videotaping of a meeting shall be in compliance with such reasonable rules as may be adopted, in writing, by the Board. Video and audio recordings shall not be posted to any social media or internet website without prior written Board approval.

**13.3 Member Information.** Members are responsible for supplying to the Association all information necessary to maintain and keep current the records of the Association. The records of the Association shall include information required by Homeowners' Association Act and records necessary for effective operation of the Association. Members shall reply to requests for information from the Association within thirty (30) days of receipt.

## **ARTICLE 14 – AMENDMENTS**

These Bylaws may be amended in the following manner:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(b) Amendments to these Bylaws shall require the approval by at least a majority of the Members voting, in person or by proxy, at a meeting held for such purpose.

(c) When an amendment has been so adopted, a copy of same shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of these Bylaws and referencing the Declaration by its original recording information. The certificate shall be executed by the officers of the Association with the formalities of a deed when such certificate and copy of amendment are recorded in the Public Records of Gulf County, Florida.

#### **ARTICLE 15 – RULES AND REGULATIONS**

The Board of Directors may, from time to time, adopt, amend or add to rules and regulations governing the operation and use of the property. Such rules and regulations may be rescinded at any annual or special meeting of the members upon the approval of not less than fifty percent (50%) of the votes of the entire membership.

#### **ARTICLE 16 – CONSTRUCTION AND CAPTIONS**

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. 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 or the intent of any provision hereof.

#### **ARTICLE 17 – DOCUMENT CONFLICT**

If any irreconcilable conflict should exist, or hereafter arise, the documents shall take precedence and prevail in the following order: (1) Declaration of Covenants, Conditions and Restrictions; (2) Articles of Incorporation; (3) Bylaws; and (4) Rules and Regulations.



**AMENDED AND RESTATED**

**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
SOUTH BEACH SUBDIVISION**

*[Substantial Rewording of the Declaration of Covenants, Conditions, and Restrictions. See Current Declaration of Covenants, Conditions, and Restrictions and amendments thereto for present text.]*

This Declaration of Covenants and Restrictions shall govern SOUTH BEACH SUBDIVISION (herein, "the Subdivision").

**ARTICLE 1  
DEFINITIONS**

For all purposes, the terms used in this Declaration of Covenants, Conditions, and Restrictions (herein, "Declaration"), the Articles of Incorporation of the Association and Association Bylaws (herein, "the Governing Documents"), shall have the meanings stated in the Florida Homeowners Association Act (Section 720, Florida Statutes) and as set forth below, unless the context otherwise requires. Also, throughout the Governing Documents whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of either gender shall be deemed to include both genders. In the event any term in the Governing Documents is deemed ambiguous, then the Board of Directors shall define the term, which definition shall be binding. A term shall not be construed in favor of or against the Association or any owner.

The following words and terms when used in this Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

- (1) **"Act" or "Homeowners' Association Act"** means Chapter 720, Florida Statutes, as amended from time to time.
- (2) **"Architectural Review Committee" or "ARC"** shall refer to the committee established by the Board of Directors of the Association described in Article 8 of this Declaration.
- (3) **"Articles of Incorporation" or "Articles"** means the Articles of Incorporation for South Beach Property Owners Association, a Florida not-for-profit corporation in the form attached hereto as **Exhibit "B"** and incorporated herein by reference, as amended from time to time.
- (4) **"Assessment"** means a charge against a Lot and its owner as defined in Article 5 of this Declaration and Section 720.301(1), Florida Statutes.

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(5) **"Association"** shall mean and refer to South Beach Property Owners Association, Inc., a Florida not-for-profit corporation established for the purposes set forth herein.

(6) **"Board"** shall mean the Board of Directors of the Association, appointed or elected in accordance with the Bylaws of the Association.

(7) **"Bylaws"** shall mean and refer to the Bylaws of South Beach Property Owners Association Inc., in the form attached hereto as **Exhibit "C"** and incorporated herein by reference.

(8) **"Common Area"** shall mean all pedestrian access easements as shown on the Plat and any attachments or appurtenances and the grant of easement across property on the Bay side of subdivision, more particularly described in Official Records Book 224 at Page 526 and/or Plat Book 3 page 50 of the Public Records of Gulf County, Florida, although said easement property is not owned by the Association.

(9) **"Common Expenses"** means all expenses properly incurred by the Association in the performance of its powers and duties.

(10) **"Declaration"** shall mean and refer to this Amended and Restated Declaration of Covenants and Restrictions for South Beach Subdivision, as it may be amended or supplemented from time to time.

(11) **"Home"** means a residence constructed on a Lot.

(12) **"Lot" or "Lots"** shall mean and refer to any numerically numbered plot of land shown upon the subdivision plat of South Beach Subdivision.

(13) **"MARINER'S LANE"** shall mean that sixty-six (66') foot wide right-of-way providing access to lots within the subdivision, as shown per plat. It shall also include a five (5') foot utility easement within the perimeter of said right-of-way which shall be for the use and benefit of the lots within the subdivision and which shall be dedicated for the construction, installation, maintenance, and operation of public or private utilities as defined under Florida Statutes 177.031(b) (1998).

(14) **"Member"** shall mean and refer to all those persons or entities who hold record title to a Lot.

(15) **"Notice"** shall mean delivery of any document by mail with postage prepaid to the last known address according to the records of the Association of the person or entity who appears as Owner in the records of the Association.

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(16) **"Owner" or "Homeowner"** shall mean and refer to record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of the property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(17) **"Plat"** shall mean and refer to the Plat of South Beach Subdivision recorded in the Public Records of Gulf County, Florida, at Plat Book 3, Page 50.

(18) **"Rules"** means the rules governing the use and occupancy of the Common Property and Lots adopted by the Association Board of Directors as provided herein, in the Articles of Incorporation and Association Bylaws.

## **ARTICLE 2 GENERAL CONDITIONS**

**2.1 The Association.** The operation of the Subdivision in accordance with this Declaration and other authority shall be by South Beach Property Owners Association, Inc. (herein, "the Association"). The Association shall own title to common property in the Subdivision not dedicated and accepted by the public.

**2.2 Purposes of Association.** The purposes of the Association include, without limitation, those contained within this Declaration, the Articles of Incorporation, Bylaws and Chapter 720, Florida Statutes.

**2.3 Membership and Voting.** Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot shall be a member of the Association. Each member not suspended pursuant to state law shall be entitled to one (1) vote for each Lot owned. The Bylaws shall provide the method of voting.

**2.4 Duration.** This Declaration shall remain in full force and effect for a period of thirty (30) years from the date this Amended and Restated Declaration is recorded. Upon the expiration of that time said covenants shall be automatically extended for successive periods of ten (10) years; provided, however, there shall be no renewal or extension of this Declaration if during the last year of the initial thirty (30) year period, or during the last year of any subsequent ten (10) year renewal period, Members representing three-fourths (3/4) of the votes of the Association vote in favor of terminating this Declaration at the end of its then current term.

**2.5 Government Regulation.** To the extent any law, ordinance or regulation of the State of Florida and Gulf County shall exceed the requirements hereof, that law, ordinance or regulation shall prevail.



**2.6 Severability.** These Covenants, Conditions and Restrictions are severable and the invalidation of one shall not invalidate any other covenant hereof and each covenant shall be independent to such extent.

### **ARTICLE 3 PROPERTY**

**3.1 Existing Property.** The existing real property which is subject to this Declaration is South Beach Subdivision and is described in **Exhibit "A"** - Plat of South Beach Subdivision".

**3.2 Delegation of Use.** Any Owner may delegate his or her right of enjoyment in the Common Property to members of his or her family, tenants or social guests, subject to the provisions of this Declaration and the Articles of Incorporation, Bylaws and Rules of the Association.

**3.3 No Waiver of Use.** No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release the Lot owned by him or her from the liens and charges thereof by waiver of the use and enjoyment of the Common Property or non-use thereof, or the abandonment of the Lot.

### **ARTICLE 4 EASEMENTS**

**4.1 Owners' Easements of Enjoyment to the Subdivision Property.** Every Owner and his respective licensees, guests, invitees, agents, servants and employees shall have a non-exclusive easement of enjoyment in and to the Common Areas and any recreational facilities, subject to the following:

(a) The right of the Association to suspend the voting rights and right to use of the recreational facilities and other Common Property as provided by law.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the members agreeing to such dedication or transfer has been recorded.

**4.2 Easements on the Plat.** Easements are reserved as depicted on the Plat as may be required for utility service and drainage to serve South Beach Property Owners Association adequately and the Association, may grant permits, licenses and easements over, under or upon the easement areas depicted on the Plat for utility service or drainage or other purposes reasonable necessary or useful for the proper maintenance or operation of South Beach Property Owners Association.

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**4.3 Easements as Appurtenances.** All easements described above or on the plat shall be private easements created solely for the benefit of the Association and Owners, their successors and assigns and all said easements and other rights created herein for an Owner shall be appurtenant to the Lot of that Owner and all conveyances of title to the Lot shall include a conveyance of the easements and rights as are herein provided, even though no specific reference to such easements and rights appear in any such instruments.

## **ARTICLE 5 ASSESSMENTS**

**5.1 Creation of Lien and Personal Obligation of Assessments.** Each Owner of any Lot (by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or conveyance) including without limitation any purchaser at a judicial sale, shall hereinafter be deemed to covenant and agree to all the terms and provisions of this Declaration and to promptly pay to the Association all initiation fees, impact fees, architectural fees, regular annual assessments, special Assessments, and all fines, fees or other charges levied by the Association, as provided herein (for the purposes of this article collectively referred to as "assessments"). No owner may waive or otherwise avoid liability for the assessments provided herein by any means including but not limited to non-use of the Common area or by abandonment. Upon conveyance of a Lot, the new and former Owners of the Lot shall personally be jointly and severally liable for all unpaid fines resulting in a lien, initiation fees, impact fees, architectural fees, assessments, together with interest, late charges, costs and attorney's fees. Any party taking title to a lot where such lien has been recorded by the Association, takes title subject to such lien and the foreclosure of same if all amounts are not paid to the Association. The execution and recording of such notice shall not, however, be required in order for the continuing lien for assessments and related interest, late charges, costs and attorney's fees to be valid, as such lien relates back to the original recording of this Declaration.

**5.2 Purpose of Assessments.** Except as otherwise provided herein with regard to the regular annual assessments, special assessments, fines, fees and other charges levied by the Board shall be used for the purposes of promoting the recreation, health, safety and welfare of the Members and residents of the subdivision and in particular for the improvement and maintenance of the Common Area, the Homes and Lots as elsewhere set forth in greater detail herein, and any easement in favor of the Association, including, but not limited to, the cost of taxes, insurance, security services, Common Area maintenance, repair, restoration, repair or construction, drainage or compliance with any governmental requirements which may be imposed on the Subdivision, labor, equipment, materials, management, operations, maintenance and supervision thereof, protecting and preserving property values, as well as for such other purposes as are permissible activities of, and which may be undertaken by, a corporation not for profit organized and existing under the laws of the State of Florida and a homeowners association under Chapter 720, Florida Statutes, and any expenses that the Board shall reasonably incur on behalf of the Association.

**5.3 Annual Assessments.** The amount and time of payment of regular annual assessments shall be determined by the Board pursuant to the Articles and Bylaws after giving due consideration to the current maintenance, operational and other costs and the future needs of the Association. Assessments may include amounts established for reasonable reserves.

**5.4 Special Assessments for Capital Improvements.** In addition to regular annual assessments, special assessments may be levied by the Board up to \$1,000 in a year and for no more than two consecutive years against all Lots for the purpose of defraying, in whole or in part, any capital improvement or any unbudgeted expense. Should a special assessment be required that exceeds \$1,000 such assessments shall have the assent of fifty percent (50%) of the votes of the members who are voting in person or by proxy received prior to or at a meeting duly called for this purpose.

**5.5 Architectural Review Fee:** Upon the application to ARC of any Owner for review of plans pursuant to Article 8 and the ARC and Association Policy and Procedures, Owner shall pay to the Association any itemized expenses incurred by The Association to carry out the Architectural Review (Including but not all inclusive of copying, mailing, surveys to settle any dispute.)

**5.6 Impact Fee.** After application for approval of a dwelling to be built on any lot and prior to ARC approval, any lot owner shall pay to the Association an impact fee which has been set and published by the board. The Impact Fee shall go into Association reserves for its maintenance obligations. If not paid at within fifteen (15) days of the submission of an application to construct a home on a Lot, this fee shall be collected from the Lot Owner in the same manner as an assessment as provided in Article 5.1.

**5.7 Uniform Assessments.** Regular annual assessments and special assessments shall be uniform, with each Lot bearing an equal share, except that regular annual assessments and special assessments may differ based upon the state of development or the level of services provided. Regular annual assessments shall be collected as provided in the Bylaws. Special assessments shall be due on the date(s) established by the Board.

**5.8 Budget.** The Board of Directors shall prepare an annual budget and make copies thereof available to all members at least thirty (30) days prior to the first day of the upcoming fiscal year. Failure to fix the amount of the regular annual assessment within the time period set forth above will not preclude the Board from fixing the regular annual assessment at a later date. In the event the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year, and the regular annual assessment for the immediately preceding year shall continue for the current year.



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**5.9 Notice.** Upon the adoption of a new budget, amended budget, and/or special assessment, each Owner shall be provided notice of same, by mail, email, or personal delivery.

**5.10 Non-payment of Assessment and Remedies of Association.** If any assessment is not paid on the date due, then such assessment shall become delinquent and shall, together with such interest, late charge, costs and attorney's fees of collection, be a continuing lien on the Lot against which such assessment is made, binding upon the Owner thereof, his or her heirs, personal representatives, tenants, successors and assigns. If any such assessment is not paid within ten (10) days of the due date, then a late charge equal to the greater of five percent (5%) or twenty-five dollars (\$25) of the amount due shall be levied and the assessment shall bear interest from the date of delinquency at the maximum annual rate permitted by law. Any partial payment shall be applied first to interest, late charges, costs and attorney's fees and then to the assessments first due. In any action at law or for foreclosure of a lien, the Association shall be entitled to recovery of attorneys' fees and costs. An action to recover a money judgment for the unpaid assessments made be filed without waiving a claim of lien.

**5.11 Subordination of the Lien To Mortgages.** The lien of the assessments provided hereunder shall be subordinated to the lien of any purchase money mortgage or construction mortgage that is evidenced by a duly recorded Notice of commencement. Sale or transfer of any lot shall not affect the assessment lien; however, the sale or transfer of any lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof in accordance with chapter 720, Florida Statutes, shall result in a lien as set forth in the statute.

## ARTICLE 6 DUTIES AND POWERS OF ASSOCIATION

**6.1 General Duties and Powers of the Association.** In furtherance of its purposes and in addition to the duties and powers enumerated herein and in the Articles and Bylaws, the Association shall have the following powers, which, unless indicated otherwise by the Declaration or Bylaws of the Association, may be exercised by the Board of Directors:

(a) All of the powers conferred upon not-for-profit corporations by common law and Florida Statutes in effect from time to time; and

(b) All of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws and the Declaration, including, without limitation, the following:

(1) The power to fix, levy and collect adequate Assessments against Lots, as provided in and subject to the Declaration;

(2) The power to expend monies assessed and collected for the purpose of paying the expenses of the Association, including without limitation costs and expenses as provided in the Declaration;

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- (3) The power to manage, control, operate, maintain, repair and improve the Common Areas, if any;
- (4) The power to purchase supplies and materials and lease equipment required for the maintenance, repair, replacement, operation and management of the subdivision as provided in the Declaration;
- (5) The power to insure and keep insured Association Property and the Common Areas, if any;
- (6) The power to employ the personnel required for the operation and management of the Association and the subdivision;
- (7) The power to pay utility bills for utilities serving the Common Areas, if any;
- (8) The power to pay all taxes, licenses, assessments or other governmental assessments which are liens against the Association Property or Common Areas, if any;
- (9) The power to establish and maintain a reserve fund for capital improvements, repairs and replacements;
- (10) Subject to applicable laws, ordinances and governmental regulation the power to control and regulate the use of the Lots and Common Areas, if any;
- (11) The power to acquire (by gift, purchase or otherwise), own hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, mortgage, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- (12) The power to make reasonable Rules and Regulations and to amend the same from time to time;
- (13) The power to enforce by any legal means the provisions of these Articles, the Bylaws, the Declaration and the Rules and Regulations promulgated by the Association from time to time;
- (14) The power to borrow money, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; provided that the approval of a majority of the Lot Owners voting, in person or by proxy, shall be required when the amount borrowed, pledged, secured by deed in trust, or hypothecated exceeds ten thousand dollars (\$10,000.00).

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(15) The power to enter into a contract with any person, firm, corporation, or management agent of any nature or kind to provide for the maintenance, operation, and administration of the Association and the subdivision.

(16) The power to appoint committees as the Board of Directors may deem appropriate;

(17) The power to collect delinquent Assessments and fines by suit or otherwise, to abate nuisances and to fine, suspend use or voting rights, enjoin or seek damages from Owners for violation of the provisions of the Declaration, these Articles of Incorporation, the Bylaws or the Rules and Regulations;

(18) Subject to the terms of the Declaration, the power to bring suit and to litigate on behalf of the Association;

(19) The power to provide any and all supplemental municipal services as may be necessary or proper;

(20) The power to possess, employ and exercise all powers necessary to implement, enforce and carry into effect the powers above described.

(21) Emergency Powers as provided in the Articles of Incorporation and Bylaws.

**6.2 Implied Powers.** The Association shall have all power and authority reasonably necessary for it to carry out each and every of its obligations set forth in this Declaration, the Articles or Bylaws, including any right or power reasonably to be implied from the existence of any other right, power, duty or obligation given to it or reasonably necessary to effectuate its obligations hereunder.

## **ARTICLE 7 INSURANCE**

**7.1 Insurance by Association.** The Association shall obtain and continue in effect as a Common Expense the following types of insurance:

(a) Comprehensive policy of public liability insurance covering the Common Property with limits to be approved by the Board, covering claims for personal injury and/or property damage.

(b) A policy of fire and casualty insurance with extended coverage for the full replacement value of all improvements to the Common Property, if determined desirable and feasible by the Board. The Association shall likewise insure tangible personal property owned by it.



(c) Directors and Officers liability insurance.

(d) Such other insurance in such other amounts and coverages as the Board shall from time to time determine to be appropriate and desirable.

**7.2 Owner's Insurance.** Each Owner shall be responsible for obtaining and maintaining their own insurance coverage for lot, homes, household interiors, household contents, personal property, and individual Homeowners personal liability. The Association shall not obtain any such insurance on behalf of an Owner.

**7.3 Destruction of Insured Property.** Immediately after damage or destruction by fire or other casualty to all or any part of the subdivision covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Property. Repair or reconstruction,

as used in this paragraph, means repairing or restoring the Property to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

## ARTICLE 8 ARCHITECTURAL CONTROL

**8.1 Architectural Review Committee.** For the purpose of carrying out the Architectural Review process, the Board shall establish an Architectural Review Committee ("the ARC"), which shall have jurisdiction to review all construction and installation of improvements on any portion of the Subdivision. The ARC shall be a recommending body only. Final approval of all construction and installation of improvements subject to this Article 8 shall be reserved to the Board. The ARC shall consist of not less than three (3) members. The members of the ARC shall be appointed by the Board. A member of the ARC may at the same time serve as a member of the Board, and if the Board determines it may sit as the ARC. Members of the ARC shall serve terms established by the Board. The establishment of the number of members, method of selecting a chairman and other similar provisions for the composition of the ARC shall be as provided from time to time by the Board.

**8.2 Architectural Standards.** The ARC may, with the approval of the Board from time to time, adopt and promulgate architectural standards for the Subdivision. The standards may not be contrary to the provisions of this Declaration or the Bylaws and shall be consistent with the architectural, structural, esthetic and environmental concepts provided in this Declaration, but may be greater or more stringent than standards prescribed in applicable building, zoning, planning or other local governmental codes. All standards shall be adopted and applied on uniform basis, and may be reviewed or expanded from time to time to take cognizance of new materials, techniques and proposals. All architectural standards shall be deemed to include the mandatory architectural obligations, prohibitions and guidelines contained in this Declaration.

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**8.3 Architectural Review Required.** Architectural review shall be required in each of the following circumstances:

(a) Whenever the Owner of a Lot proposes to construct any improvements to a home or structure thereto.

(b) Whenever any exterior alteration or other exterior improvement to an existing home or structure is proposed by an Owner.

(c) Whenever any Owner or the Association proposes to maintain or repair a home or structure in any manner that will result in the application or use of materials of a different type, shade, color or quality than those originally used on the home or structure thereon.

(d) Whenever the improvements to a home or structure have been substantially damaged or destroyed, in whole or in part, by casualty or otherwise, and reconstruction or rebuilding is intended.

(e) Whenever an Owner proposes any change to grading, change in elevation, or clearing of lot. With any change in grading and/or elevation, the owner must show how drainage will be retained on their lot.

(f) For the purposes of this Section, any structure, including but not limited to buildings, fences, roofs, patio covers, driveways, sidewalks, walls, pools, screen cages, enclosures, solar energy devices, antennas, irrigation systems, shall be deemed to be alterations or improvements subject to architectural review.

(g) For the purposes of this Section, the term construction shall include within its definition staking, clearing, excavation, grading, other site work or exterior alterations or modifications of existing improvements.

**8.4 Procedure.** There shall be submitted to the ARC a written application setting forth plans (site, grading, landscape, etc.), colors, materials and other specifications for any activity for which review is required. A written application shall be adopted by the Board, which details all information required from the Owner, including the identity of the individual or company intended to perform the work and the projected commencement and completion date. Except for an Owner serving as his or own contractor, any contractor or service provider performing construction work on a Lot in a subdivision which requires a license shall be properly licensed in the State of Florida and/or local governments, and must provide proof of insurance coverage.

(a) ARC shall not accept partially completed submittal packages, and, at the request of an Owner, shall provide receipt of full submittal in writing to Lot Owner.

(b) The ARC may request additional and supplementary information. The ARC shall, within thirty (30) days after receipt of a complete application, shall submit to the Board either a recommendation on the application to: 1) approve or disapprove, 2) approve in part and disapprove in part, or 3) approve with conditions. The Committee shall specify its reasons for disapproval or conditions and shall annotate its decision by reference to architectural standards, where applicable. If a recommendation is not received by the Board within thirty (30) days, the applicant may submit the application directly to the Board for review. As to an application received by the Board as provided herein, the Board shall: 1) approve or disapprove, 2) approve in part and disapprove in part, or 3) approve with conditions, the application. No work shall proceed except in compliance with this Declaration and architectural approval as provided in this Article 8.

(c) The proposed improvements will be approved if, in the sole opinion of the Board: (1) the improvements will be of an architectural style and of materials that are compatible with the other structures in the Property; (2) the improvements will not violate any restrictive covenant or encroach upon any easement or platted building set back lines; (3) the improvements will not result in the reduction in property value or use of adjacent property; (4) the individual or company intended to perform the work is acceptable to the Board; and (5) the improvements will be substantially completed, including all cleanup, within six (6) months of the date of commencement (eighteen (18) for the construction of a complete house). Any requests for time extensions must be made in writing to the ARC. Such requests shall indicate the current status of the project, the reasons for the time extension request and the new date for completion of the project. A project not completed within the stipulated time period, or a project upon which construction is not continuous, shall be considered a nuisance and a violation of these restrictions, and subject to appropriate action by the ARC or the Association.

(d) In the exercise of its sole discretion or upon the recommendation of the ARC, the Board may require the Owner to provide assurances that the improvements will be completed in accordance with the approved plans. Such assurances may include the posting of a performance bond and/or a completion bond in favor of the Association, independent professional inspection reports or sworn progress reports.

(e) If there shall be a material deviation from the approved plans in the completed improvements, such improvements shall be in violation of this Article 8 to the same extent as if erected without prior approval of the Board. The Association or any Owner may maintain an action at law or in equity for the removal or correction of the non-conforming structure and, if successful, shall recover from the Owner in violation reasonable attorney's fees and costs and any other expenses or fees incurred in the prosecution thereof.



(f) The Board of Directors of the Association has the right, but not the obligation, to grant waivers for minor deviations and infractions of this Declaration upon its own action or at the request of the ARC. The granting of any waiver for any portion of the Property may be given or withheld in the Board's sole discretion and a prior grant of a similar waiver shall not impose upon the Board the duty to grant new or additional requests for such waivers.

(g) The Association and ARC, and any officer, employee, director or member thereof, shall not be liable for damages to any persons submitting plans and specifications for approval by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval, disapproval or failure to approve any plans and specifications. Every person who submits plans and specifications for approval agrees, by submission of such plans and specifications, that it will not bring any action or suit against the Association or ARC, or any officer, employee, director or member thereof, to recover any such damages.

**8.5 Architectural & Site Design Standards & Criteria.** The following architectural and site standards and criteria are imposed upon and shall apply to the Subdivision.

(a) Permitted Structures: The only structures that shall be erected, altered, placed, or permitted to remain on any of the platted Lots, within the property, are the main residence, a guest cottage, a garage, and/or a one-level pool house. Only one of the structures (besides the main residence) may exceed a footprint of 500 square feet. Pole barns are not permitted.

(b) Grading. Construction shall be located in harmony with existing topography with as little disruption to the natural grade as possible. Materials and debris resulting from clearing and grubbing shall be removed from the site promptly. Grading operations shall not adversely affect adjacent properties and finished grading shall be such that the washing of water onto adjacent properties is kept to a minimum. Newly graded areas shall be protected against erosion. Unless an alternative drainage plan for a home site is approved by Gulf County, the Owner shall construct and maintain drainage improvements for each site in accordance with the County approved grading plan prepared by a civil engineer licensed in the State of Florida.

(c) Exterior. The exterior finish and color regime must be submitted to and approved by the ARC.

(d) Setbacks. Front, rear and side lot setback lines shall be as set forth in the Gulf County land development regulations.

(e) Footprint Size. The heated and cooled area of the house shall be no smaller than 1500 sq feet. The maximum size of the footprint will be regulated by Gulf County building codes.

(f) Height. The maximum height of a house is 50 feet.

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- (g) Roof Materials. All roofs must be a metal product.
- (h) The footprint of the structure on (ground level) will be of concrete.
- (i) Awnings. Awnings are permissible provided design materials are approved by ARC.
- (j) Shutters. Storm operable shutters are permitted. The Board or ARC may adopt storm shutter specification and use standards.
- (k) Garages. Garages are permitted; however, the design and details shall be subject to ARC approval in the same manner as other construction details provided for herein. The exterior siding and roof of a Garage shall be of the same materials, design and colors as the home.
- (l) Fences. Fences not higher than six (6) feet tall may be permitted behind the house. No fences are permitted in front of the homes. The front of the home shall be that side facing Mariner Lane.
- (m) Guest Cottages and Pool House. Guest cottages and single level pool houses are permitted; however, the design and details shall be subject to ARC approval in the same manner as other construction details provided herein. All guest cottages must meet all County, State, and Federal regulations along with the requirements of this Declaration. The exterior siding and roof of a Guest Cottage shall be of the same materials, design and colors as the home.
- (n) Driveways. Driveways are permitted; however, the design and details shall be subject to architectural approval in the same manner as other construction details provided for herein. Driveways shall be constructed of a pervious material.
- (o) Parking. Parking areas must be designed to retain the natural character of the homesite and streetscape and shall be constructed of a pervious material.
- (p) Exterior Lighting. Any exterior lighting on a home owner's property shall either be indirect, shielded, or of such controlled focus and intensity as to prevent glare on surrounding properties and unreasonable disturbance to occupants.
- (q) Landscaping. Manicured lawns are permitted. The use of indigenous plants is encouraged.
- (r) Boardwalk. The Association will maintain a boardwalk which serves all of the Lots.

**8.6 Appeal.** Any person aggrieved by a decision of the Board may appeal that decision in whole or in part. Such appeal shall be initiated by filing a notice of appeal in writing with the Board specifying the portions of the decision appealed. Such notice shall be filed not later than fourteen (14) days after the date upon which the decision of the Board is made upon the application. Upon receipt of such appeal, the Board shall schedule a hearing on such matter within forty-five (45) days, at which it may affirm, reverse or modify its decision. For the purposes of this Section, an aggrieved party may be the applicant for review or the Owners of any three (3) or more Lots.

**8.7 Rules and Regulations and Fees.** The ARC may adopt reasonable rules for the conduct of its authority. The Board may establish reasonable fees for architectural review and initiation or impact fees.

**8.8 Records.** The records of all architectural review proceedings shall be maintained by the Association.

**8.9 Address for Notice.** Requests for ARC approval or correspondence with the ARC shall be addressed to the Architectural Review Committee – South Beach Property Owners Association, Inc. and mailed or delivered to the principal office of the current management company or such other address as may be designated from time to time by the ARC. No correspondence or request for approval shall be deemed to have been received until actually received by the ARC in a form satisfactory to the ARC.

## **ARTICLE 9 USE RESTRICTIONS**

In order to provide for congenial occupancy of Lots and Homes within the subdivision and to better protect the values of the Homes, the use of Lots, Homes and Common Areas shall be restricted by and in accordance with the following provisions as long as the subdivision exists:

**9.1 Persons Bound.** All provisions of this Declaration, the Bylaws of the Association and Board adopted Rules and Regulations which govern the conduct of persons shall apply to all Owners, tenants, occupants, guests, invitees, licensees, contractors, and visitors. Every Owner shall cause all tenants, occupants, guests, invitees, licensees, contractors, and visitors of his/her Lot to comply with this Declaration, the Association Bylaws, and any Board adopted Rule or Regulation and shall be responsible for all violations and losses to the Common Areas caused by such tenant, occupants, guests, invitees, licensees, contractors, and visitors, notwithstanding the fact that such tenants, occupants, guests, invitees, licensees, contractors, and visitors are fully liable and may be sanctioned for any violation of this Declaration, the Bylaws of the Association, or Board adopted Rule or Regulation.



**9.2 Residential and Business Uses.** The Lots and the Common Areas shall be used for single family residential purposes only. No trade or business may be conducted on any Lot or on the Common Areas, except that an Owner, tenant or other occupant may have a home office within the Home so long as (1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Home; (2) the business activity conforms to all zoning requirements for the subdivision; (3) the business activity does not involve persons coming onto the subdivision who do not reside in the subdivision or door-to-door solicitation of residents of the Subdivision; and (4) the business activity is consistent with the residential character of the subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the subdivision, as may be determined in the sole discretion of the Board.

**9.3 Nuisances, Offensive or Illegal Activities.** No portion of the subdivision shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition that will be obnoxious to the eye, nor shall any substance, thing, or material be kept upon any portion of the subdivision that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants or surrounding property. No noxious, illegal or offensive activity shall be carried on upon any portion of the subdivision, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the subdivision. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the subdivision or which will increase insurance rates on any Home or on the Common Areas.

**9.4 Exterior and Lot Maintenance.** Lot owners shall keep any building in good repair, comparable to the condition at the time of completion of initial construction, free of mold, mildew, cracks, rot, fading or any other visually unappealing condition. Normal wear and tear excepted. All Lot owners shall be under a duty to repair, replace or remove any building that is damaged or destroyed by any casualty within a reasonable time after the occurrence of any casualty. Removal of a building that is substantially destroyed shall take place within sixty (60) days of destruction unless written approval for an extension has been received from the Board. Repair or replacement shall begin within sixty (60) days, unless the owner has obtained written approval from the Board to extend the time. Any installed landscaping shall be maintained in a well-kept appearance and shall be free of debris. Should any natural debris be deemed to be a hazard to the properties of the Association or members' property, owners shall be under a duty to remove the hazard. Removal should take place withing sixty (60) days of being notified by the Board.

**9.5 Signs.** No signage may be displayed or located on any Lot except a small sign identifying the property name. Such sign shall be less than 2 square feet and attached to the building. For Sale signs may be no larger than 24 inches by 33 inches and placed on the lot not on the right of way. Precautionary signs (beware of dog, security system, no trespassing) no larger than 6 inches by 12 inches may be placed on a lot. Contractors and realtors must remove their signs when construction or sale has been completed.

**9.6 Mailboxes.** Mailboxes are permitted for the delivery of mail.

**9.7 Pools, Patios, and Spas.** Subject to ARC approval and locational and design requirements, swimming pools, patios and spas are permitted. Pool drainage must be shown on the plan and drainage retained on the Owner's property.

**9.8 Trash Containers:** All trash, garbage and the like shall be stored in sanitary, covered containers. Such garbage can containers shall be stored in a way as to not be visible from the street and adjacent Lots and must be stored outside the street right-of-way. Trash receptacle enclosures are encouraged. Rental units must have back door pick up and any rental that allows more than 6 occupants must have a minimum of 3 trash receptacles. No trash, rubbish or garbage shall be disposed of on any land within the subdivision, on the adjoining lands, or in the waters adjacent thereto. No inoperable motor vehicles will be allowed to be kept on any lot or in the street adjacent thereto.

**9.9 Hanging of Laundry:** Permanent clothes drying lines are not permitted on any Lot.

**9.10 Landscaping Sprinklers and Wells.** Except for the purpose of landscaping sprinklers, no individual water supply shall be permitted on any Lot for the purpose of providing household water. All sewage from any building on any Lot shall be disposed of through the approved septic system.

**9.11 Trash Disposal:** All trash, garbage and the like shall be stored in sanitary, covered containers. Such garbage can containers shall be stored in a way as to not be visible from the street and adjacent Lots and must be stored outside the street right-of-way. Trash receptacle enclosures are encouraged. Rental units must have back door pick up and any rental that allows more than 6 occupants must have a minimum of 3 trash receptacles. No trash, rubbish or garbage shall be disposed of on any land within the subdivision, on the adjoining lands, or in the waters adjacent thereto. No inoperable motor vehicles will be allowed to be kept on any lot or in the street adjacent thereto.

**9.12 Electrical and Mechanical Equipment.** All exterior electrical and mechanical equipment shall be concealed from view by walls of the same material as the building or by ARC approved screening or by landscaping. (Refers, but not limited to, to air conditioner units, pool equipment)

**9.13 Utilities.** All utilities shall be underground and concealed from view.

**9.14 Energy Saving Devices:** The installation or addition of solar panels, windmills or other forms of energy-generating equipment is subject to the approval of the ARC, under the procedures established herein. Such equipment shall be installed or constructed in such manner that it will conform to the architectural design of the approved dwelling and shall be concealed from view as much as possible, and shall, as determined by the ARC, its agents, successors or assigns, in their sole discretion, conform to the overall development and aesthetic scheme of South Beach.

Accepted October 10, 2020 by membership

**9.15 Animals.** No animals shall be kept or breed on any Lot for a commercial purpose. The keeping of a dog or any other animal on a Lot is not a right of a Lot Owner but is a conditional license. All persons keeping animals shall be required to clean up after their animals and shall not allow their animals to cause health hazards, noise disturbances, or other nuisances to residents. This conditional license is subject to termination at any time by the Board of Directors of the Association upon finding that a dog or other animal is vicious, is annoying to other residents, or has in any way become a nuisance. The Owner of an animal assumes liability for all damage to persons or property caused by the pet or resulting from its presence at The Cottages at Indian Summer. All animals shall be leashed or confined by a fence when outside of the Home. Animals shall be kept and maintained in compliance with all laws, ordinances, and regulations.

**9.16 Parking/Storage.** No mobile homes or recreational vehicles (RV) may be parked at the residence or on a lot and may not be used as a vacation residence.

**9.17 Construction Rules:** During the construction phase of any new home any damage to the asphalt roadway must be repaired by the homeowner and builder. This includes any road cracking or holes created from heavy equipment. It also includes any digging up of the roadway, or any shoulder damage to the roadway. Failure to repair any damage done will result in assessment to the property owner equal to the amount needed to repair the road. The homeowner and the builder will be required to sign an agreement to this effect prior to construction.

**9.18** Any exterior lighting on a homeowner's property shall either be indirect, shielded, or of such controlled focus and intensity as to prevent glare on surrounding properties and unreasonable disturbance to occupants.

**9.19** Parking is not allowed on the right of way or road except for special events.

**9.20 Rules and Regulations.** The Board of Directors may adopt reasonable rules consistent with this Declaration governing the use of the common areas and Lots including, but not limited to, street parking during events and holidays, golf cart use and parking, the use of fireworks within the subdivision, and a Leave No Tract Policy governing items left on the beach overnight.



## ARTICLE 10 AMENDMENT

Amendments to this Declaration shall be proposed and adopted in the following manner:

**10.1 Proposal.** A proposal for any amendment to this Declaration may be made by the Board of Directors or upon the written request of not less than twenty (20%) percent of the voting interests of the Association. Notice of the subject matter of any proposed amendment shall be included in or with the notice of the meeting of the Members at which the amendment is to be proposed and considered.

**10.2 Approval.** This declaration may be amended at any time, from time to time, upon the execution and recordation of any instrument executed by owners exceeding fifty percent (50%) of such lots subjected to this declaration, provided, that so long as the Association is the owner of any lot or property affected by this declaration or amendment, hereto, no amendment will be effective without the Association's express written joinder and consent.

**10.3 Limitation and Recording.** No amendment shall make any changes in the qualifications for membership or in the voting rights or property rights of Members, without approval in writing by all Members so affected. A copy of each amendment shall be recorded in the Public Records along with a Certificate of Amendment.

## ARTICLE 11 ENFORCEMENT

**11.1 Independent Covenant.** Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of said covenants or restrictions, shall, for any reason, be held to be invalid or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

**11.2 Enforcement.** This Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or by any Owner, their respective legal representatives, heirs, successors, and assigns. The Association shall have the duty to enforce and require compliance of the provisions of this Declaration and any Rules authorized hereby against Owners, their tenants and guests on behalf of the Association membership. Enforcement may be by fines as provided by law and/or proceedings for injunctive relief, declaratory relief and/or damages. The prevailing party in any such action shall be entitled to recover reasonable attorneys' fees and costs. In addition, the Association may enter upon a Lot to correct a violation if an Owner fails or refuses to correct a violation of this Declaration. Entry upon a Lot pursuant to this Section by the Association or its agents or contractors shall not be a trespass. The Association may charge an Owner for any reasonable expense, including attorney's fees and costs, incurred pursuant to

this Section and that charge shall be payable and collectible in the same manner as an assessment by the Association as provided in the Declaration. The failure to enforce any provision of this Declaration or Rules shall in no event be deemed a waiver of the right to enforce as aforesaid thereafter as to the same breach or violation occurring prior or subsequent thereto. Failure to enforce same shall not give rise to any liability on the part of the Association with respect to parties aggrieved by such failure.

**11.3 Election of Remedies.** All rights, remedies and privileges granted to the Association hereunder shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to such other party by Association documents, or at law or in equity.

## **ARTICLE 12 MISCELLANEOUS**

**12.1 Interpretation.** The Board shall have the right except as limited by any other provisions of this Declaration or the Bylaws to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and its good faith, determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the maintenance of Common Areas and the facilities located thereon.

**12.2 Prohibited Actions.** Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity which will violate its non-profit status under applicable state or federal law.

**12.3 Singular, Plural and Gender.** Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

**12.4 Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Property.