

**RESTATED**

**BYLAWS**

**OF**

***VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC.***

**A corporation not for profit**

**under the laws of the State of Florida**

**1. Identity.** These are the Bylaws of **VIVIENDA WEST CONDOMINIUM ASSOCIATION, INC.**, hereinafter called the "Association", a corporation not for profit under the laws of the State of Florida, organized pursuant to the provisions of Chapter 718, Florida Statutes, as amended to the date hereof, hereinafter referred to as the "Condominium Act".

1.1 **The Office** of the Association shall be at 699 Vivienda West Boulevard, Venice, Florida 34293.

1.2 **The Fiscal Year** of the Association shall be the calendar year unless otherwise designated by the Board of Directors.

1.3 **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.

**2. Members' Meetings.**

2.1 **The Annual Members' meeting** shall be held at a time, place and date, to be set at the discretion of the Board of Directors, for the purpose of electing Directors and transacting any other business authorized to be transacted by the Members.

2.2 **Special Members' Meetings** shall be held whenever called by the President or Vice President or Secretary upon receipt of a written request from Members entitled to cast ten (10%) percent of the votes of the entire membership, or by any such Officer upon the direction of a majority of the entire Board of Directors or as otherwise required by law.

2.3 **Notice of All Members' Meetings** stating the time and place, identification of agenda items and the object for which the meeting is called shall be given by the President or Vice-President or Secretary unless waived in writing. Such notice shall be in writing to each Member at his address as it appears on the books of the Association and shall be mailed not less than fourteen (14) nor more than forty-five (45) days prior to the-date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings. Notice of meetings shall be posted conspicuously on the Condominium property not later than fourteen (14) continuous days in advance of such meeting for the Members' attention.

2.4 **A Quorum at Members' meetings** shall consist of persons entitled to cast a majority of the votes of the entire membership. The acts approved by a majority of the votes present at a meeting, at which a quorum is present shall constitute the acts of the Members, except when approval by a greater number of Members is required by the Declaration of Condominium, the Articles of Incorporation, or these Bylaws.

2.5 **Voting.**

(a) In any meeting of Members, the Owners of Condominium Units shall be entitled to cast one vote for each Condominium Unit owned.

(b) If a Condominium Unit is owned by one person, his right to vote shall be established by the record title to his Unit. If any Condominium Unit is owned by more than one person, or is under lease, the person entitled to cast the vote for the Condominium Unit shall be designated by a certificate signed by all of the record Owners of the Condominium Unit and filed with the Secretary of the Association. If a Condominium Unit is owned by a corporation, the person entitled to cast the vote for the Condominium Unit shall be designated by a certificate signed by the President or Vice President and attested to by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the Ownership of the Condominium Unit concerned. A certificate designating the person entitled to cast the vote of a Condominium Unit may be revoked by any Owner of a Condominium Unit. If such a certificate is not on file, the Owner in attendance at the meeting shall cast a vote, or if more than one Owner is in attendance, the Owner designated by those in attendance shall cast the vote.

2.6 **Proxies.** Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be valid only for the particular meeting designated in the proxy and must be filed with the Secretary before the appointed time of the meeting or any adjournment of the meeting.

Unit Owners shall not vote by general proxy but may vote by limited proxy except as provided in the Condominium Act.

Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves; to waive financial statement requirements; to amend the Declaration; to amend the Articles of Incorporation or Bylaws; and for any other matter for which the Condominium Act requires or permits a vote of the Unit Owners. Proxies shall in no event be used in electing the Board of Directors.

2.7 **Adjourned Meetings.** If any meeting of the Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.8 **The Order of Business** at annual Members' meetings, and as far as practical at other Members' meetings shall be:

- (a) Call for ballots not yet cast to be collected.
- (b) Election of Directors.
- (c) Election of Inspectors of election.
- (d) Calling of the roll and certifying of proxies.
- (e) Proof of notice of meeting or waiver of notice.
- (f) Reading and disposal of any unapproved minutes.
- (g) Reports of Officers.
- (h) Reports of committees.
- (i) Unfinished business.
- (j) New business.
- (k) Adjournment.

2.9 **Minutes**. Minutes of all meetings of Unit Owners shall be kept in a businesslike manner and available for inspection by Unit Owners and Board members at all reasonable times.

2.10 **Unit Owner Rights**. Unit Owners shall have the right:

(a) To participate in meetings of Unit Owners with reference to all designated agenda items. However, the Association may adopt reasonable rules governing the frequency, duration and manner of Unit Owners participation. A Unit Owner does not have the right to speak with respect to items not specifically designated on the agenda; however, the Board may permit a Unit Owner to speak on such items.

(b) To tape, record or videotape a meeting of the Unit Owners subject to rules as promulgated by the Board of Directors.

### 3. **Directors**.

3.1 **Membership**. All members of the Board of Directors elected by Unit Owners shall be Members of the Association.

3.2 **Election of Directors**. Election of Directors shall be conducted in the manner required by law.

3.3 The **term** of each Director's service shall extend for one (1) year, or until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

The Board of Directors shall consist of not less than three (3) nor more than five (5) Directors, which number shall be determined by the Board prior to the sixty (60) day notice of Unit Owners for election of Directors. If the Board does not determine the number of Directorships prior to the sixty (60) day notice for election of Directors, then the number of

Directorships remains the same.

3.4 **The Organization Meeting** of a newly-elected Board of Directors shall be held within ten (10) days of their election at such place and times as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary.

3.5 **Regular Meetings** of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

3.6 **Special Meetings** of the Directors may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the Directors. Not less than three (3) days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

3.7 **Waiver of Notice**. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

3.8 **A Quorum at Directors'** meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Declaration of Condominium, the Articles of Incorporation, or these Bylaws.

3.9 **Adjourned Meetings**. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. No further notice need be given to Directors of an adjourned meeting.

3.10 **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 of that meeting shall not constitute the presence of such Director for the purpose of determining a quorum.

3.11 **The Presiding Officer of Directors'** meetings shall be the Chairman of the Board if such an Officer has been elected; and if none, the President shall preside. In the absence of the presiding Officer, the Directors present shall designate one of their number to preside.

3.12 **The Order of Business** at Directors' meetings shall be:

- (a) Calling of roll.
- (b) Proof of due notice of meeting.
- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of Officers and committees.

- (e) Election of Officers.
- (f) Unfinished business.
- (g) New Business.
- (h) Adjournment.

3.13 **Directors' Fees** if any, shall be determined by Members of the Association, and approval of any such fees shall require the affirmative vote of not less than two-thirds (2/3) of the entire membership of the Association.

3.14 **Minutes**. Minutes of all meetings of Directors shall be kept in a business-like manner and available for inspection by Unit Owners and Board members at all reasonable times.

3.15 **Open Meetings**. Except in emergency situations, meetings of the Board of Directors shall be open to all Members and notice of meetings shall be posted conspicuously on the Condominium property at least forty-eight (48) hours in advance for the attention of the Members.

3.16 **Vacancies**. A vacancy in any Directorship shall be filled by the Board of Directors or as otherwise required by law.

3.17 **Board of Administration**. The affairs of the Association shall be managed by a Board of Directors.

3.18 **Unit Owners Rights**. Unit Owners have the right:

(a) To attend all meetings of the Board of Directors and any committee thereof at which a quorum of the members of the committee are present. A Unit Owner does not have the right to speak with respect to items not specifically designated on the agenda; however, the Board may permit a Unit Owner to speak on such items. The Association may adopt reasonable rules governing the frequency, duration and manner of Unit Owner statements at Board meeting and committee meetings.

(b) To tape record or video tape meetings of the Board of Directors subject to rules as promulgated by the Board of Directors.

3.19 **Notice to Unit Owners**. Written notice to Unit Owners is required for:

(a) **Board of Directors Meetings**. Notices of all meetings of the Board of Directors shall be posted conspicuously on the Condominium property at least forty-eight (48) continuous hours preceding the meeting, except in an emergency. Any item not included on the notice may be taken upon an emergency basis by at least a majority plus one of the members of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board.

(b) **Meeting to Adopt Annual Budget.** The Members may be given written notice of the time and place of the meeting at which the Board of Directors will consider the annual budget. A copy of the proposed annual budget of common expenses and proposed assessments must be mailed to the Members not less than fourteen (14) days prior to such meeting, together with written notice of such meeting. The meeting shall be open to the Unit Owners.

(c) **Non-Emergency Special Assessment or Amendments to Rules Meeting.** Written notice of any meeting at which non-emergency special assessments, or at which amendments to rules regarding Unit use will be considered shall be mailed or delivered to the Unit Owners and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association.

3.20 **Compensation.** Neither Directors nor Officers shall receive compensation for their services as such.

3.21 **Voting.** Directors may not vote by proxy or by secret ballot at Board meetings except that Officers may be elected by secret ballot. A vote or abstention for each Member present shall be recorded in the minutes.

4. **Powers and Duties of the Board of Directors.** All of the powers and duties of the Association existing under the Condominium Act, Declaration of Condominium, Articles of Incorporation, and these Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Condominium Unit Owners where such approval is specifically required. Without limiting the powers and duties of the Board of Directors, it shall have the following express powers, in addition to all others herein granted, and provided for by the Declaration of Condominium and the Condominium Act, to-wit:

(a) To enter into a long-term management contract, providing for the management of Condominium property.

(b) To enter into contracts for the purpose of making available to the Owners of Condominium Units such services as, but not limited to maintenance and security service.

5. **Officers.**

5.1 **The Executive Officers** of the Association shall be a President, who shall be a Director, a Vice-President, who shall be a Director, a Treasurer and a Secretary, all of whom shall be elected annually, by the Board of Directors, and there may also be such Assistant Secretaries and Assistant Treasurers as the Board of Directors may from time to time determine upon. Any person may hold two or more offices except that the same person shall not hold the office of President and Vice President, nor shall the President or a Vice President also be Secretary or an Assistant Secretary. Any Officer may be removed peremptorily with or without cause by a vote

of a majority of the Directors present at any duly constituted meeting. A vacancy in any office shall be filled by the remaining Board members as permitted by law.

5.2 **The President** shall be the chief executive Officer of the Association. He shall have all of the powers and duties usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the Members from time to time, as he, in his discretion, may determine appropriate to assist in the conduct of the affairs of the Association.

5.3 **The Secretary** shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving and serving of all notice to the Members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix it to instruments requiring a seal when duly signed.

He 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 and as may be required by the Directors or the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent, and shall otherwise assist the Secretary.

5.4 **The Treasurer** shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and he shall perform all other duties incident to the office of Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer when the Treasurer is absent and shall otherwise assist the Treasurer.

5.5 **No Compensation** shall be paid to any Officer of the Association except with the approval of a majority of the membership, reflected by a vote taken at a duly constituted membership meeting. Nothing herein shall be construed so as to prohibit or prevent the Board of Directors from employing any Director or Officer as an employee of the Association at such compensation as the Board shall determine upon, nor shall anything herein be construed so as to preclude the Board from contracting with a Director or Officer or with any corporation in which a Director or Officer of the Association may be a stockholder, Officer, Director or employee, for the management of the Condominium for such compensation as shall be mutually agreed between the Board and such Officer or Director.

6. **Fiscal Management.** The provisions for fiscal management of the Association set forth in the Declarations of Condominium and Articles of Incorporation shall be supplemented by the following provisions:

6.1 **Accounts.** An account shall be maintained for the Condominium administered by the Association. Receipts and expenditures shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be common expenses:

(a) **Current Expenses,** which shall include all receipts and expenditures within the

year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves, to additional improvements or to operations. The estimated balance in this fund at the end of each year may be applied to reduce the assessments for current expense for the succeeding year at the discretion of the Board of Directors.

(b) **Reserve for Deferred Maintenance**, which shall include funds for maintenance items that occur less frequently than annually.

(c) **Reserve for Replacement**, which shall include funds for repair or replacement required because of damage, depreciation or obsolescence.

(d) **Betterments**, which shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the common elements.

(e) **Operations**, which shall include gross revenues from the use of common elements and from other sources. Only the additional direct expense required by any revenue producing operation will be charged to this account, and any surplus from any operation shall be used to reduce the assessments for current expense for the year during which the surplus is realized, or, at the discretion of the Board of Directors, in the year following the year in which the surplus is realized. Losses from operations shall be met by special assessments against Condominium Unit Owners, which assessments may be made in advance in order to provide a working fund.

(f) **Statutory Reserves**. In addition to annual operating expenses the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement costs and for any other items for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve assessments annually to take into account any extension of the useful life of a reserve item caused by deferred maintenance.

(g) **Reserve Funds** and any interest accruing thereon shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the voting interests present at a duly called meeting of the Association.

(h) **Commingling**. All funds shall be maintained separately in the Association's name. Reserve or operating funds of the Association may be commingled for purposes of investment, but separate ledgers must be maintained for each account. No manager or business entity required to be licensed or registered under Florida law and no agent, employee, Officer, or



Director of a Condominium Association shall commingle any Association funds with this fund or with the funds of any other Condominium Association or community Association as defined in the Florida Statutes.

6.2 **Budget.**

(a) **Adoption by Board of Directors.** The Board of Directors shall adopt a budget for the Condominium administered by the Association for each calendar year that shall include the estimated funds required to defray the common expenses and to provide and maintain funds for reserves for the Condominium. The adoption of a budget for the Condominium shall comply with the requirements hereinafter set forth:

(1) **Notice of Meeting.** A copy of the proposed budget of common expenses shall be mailed to each Unit Owner not less than fourteen (14) days prior to the meeting at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting.

(2) **Recall of Directors and Revision of Budget.**

a. **Special Membership Meeting.** If a budget is adopted by the Board of Directors which requires assessment against the Unit Owners in any year exceeding one hundred and fifteen (115%) percent of such assessments for the preceding year, as hereinafter defined, upon written application of ten (10%) percent of the Unit Owners, a special meeting of the Unit Owners shall be held within thirty (30) days of delivery of such application to the Board of Directors or any member thereof. The notice of said meeting shall state the purpose of the meeting being to consider and enact a revision of the budget at the special meeting the Unit Owners shall consider and adopt a budget. The budget shall be adopted by a vote not less than a majority of the Unit Owners present and voting.

b. **Recall of Directors.** The recall of any and all members of the Board of Directors elected by any Condominium shall be conducted pursuant to the requirements of the Condominium Act.

c. **Revision of Budget.** The revision of the budget adopted by the Board of Directors shall require the affirmative vote of not less than a majority of all Directors. If the budget is amended after adoption, a copy of the amended budget shall be furnished to each Member.

(3) **Approval of Budget by Membership.** Notwithstanding the foregoing, the Board of Directors may, in any event, propose a budget to the Unit Owners at a meeting of Members or by writing and if such budget or proposed budget be approved by the Unit Owners at the meeting or by majority of their whole number by a writing, such budget shall not thereafter be reexamined by the Unit Owners in the manner hereinabove set forth, nor shall the Members be entitled to recall any Board members in the manner hereinabove set forth.

(4) **Budget Requiring Assessments Against Unit Owners Exceeding One Hundred Fifteen (115%) Percent of Assessments for the Preceding Year.** In determining whether a budget requires assessment against Unit Owners in any year exceeding one hundred and fifteen (115%) percent of assessments for the preceding year, there shall be excluded in the computations any provision for reasonable reserves made by the Board of Directors in respect of repair or replacement of the Condominium property or in respect of anticipated expenses by the Condominium Association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded from such computation assessments for betterments to the Condominium property if the Bylaws so provide or allow the establishment of reserves, or assessments for betterments to be imposed by the Board of Directors.

(b) **Adoption of Budget by Membership.** In the event that the Board of Directors shall be unable to adopt a budget for the Association in accordance with the requirements of sub-paragraph (a) above, the Directors may call a special membership meeting for the purpose of considering and adopting the budget for the Association, which meeting shall be called and held in the manner provided for such special membership meetings in paragraph (2) above, and such budget adopted by the membership, upon the approval of the majority of the Board of Directors, shall become the budget of the Association for such year.

6.3 **Assessments.** Assessments against the Condominium Unit Owners for their share of the items of the budget shall be made for the calendar year annually in advance on or before December 20th preceding the year for which the assessments are made. Such assessments shall be due in equal installments, payable on the first day of each month of the year for which the assessments are made. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment, and monthly installments on such assessment shall be due upon each installment payment date until changed by an amended assessment. In the event the annual assessment is proven to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the calendar year for which an amended assessment is made shall be payable in as many equal installments as there are full months of the calendar year left as of the date of such amended assessment, each such monthly installment to be paid on the first day of the month, commencing the first day of the next ensuing month. Provided, nothing herein shall serve to prohibit or prevent the Board of Directors from imposing a lump sum assessment in case of any immediate need or emergency.

6.4 **Acceleration of Assessments Installments Upon Default.** If a Condominium Unit Owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice to the Condominium Unit Owner, and the then unpaid balance of the assessment shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the Condominium Unit Owner or not less than ten (10) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

6.5 **The Depository of the Association** shall be such lending Institution(s) as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited, provided such lending institution(s) is (are) insured by the FDIC or FSLIC. Withdrawal of monies from Association accounts shall be only by checks signed by such persons as are authorized by the Directors.

6.6 **Fidelity Bonds** shall be required by the Board of Directors for the President, Secretary and Treasurer of the Association and for all persons authorized to sign checks for Association funds in such amount as shall be determined by the Board but in any event not less than as required by law. The premiums on such bonds shall be paid by the Association.

6.7 **Accounting.** An audit, review, compilation or other accounting of the accounts of the Association may be made from time to time as directed by the Board of Directors. A copy of any such accounting shall be furnished to each Member of the Association not less than thirty (30) days after its receipt by the Board.

6.8 **Special Assessments.** Special assessments for common expenses or emergencies that cannot be paid from the quarterly assessments for common expenses shall be made only after notice of the need for such proposed special assessment is given to the Unit Owners. After such notice and upon approval of the voting interests by a majority of the Board of Directors, the special assessment shall become effective and it shall be due and payable at such time and in such manner as the Board of Directors of the Association may require in the notice of such special assessment.

The specific purpose or purposes of any special assessment approved in accordance with the above provision shall be set forth in a written notice to such assessment sent or delivered to each Unit Owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the Board, be applied as a credit towards future assessments.

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

8. **Amendments.** A resolution for the adoption of a proposed amendment of these Bylaws may be proposed by either the Board of Directors of the Association or by the Members of the Association. Members may propose such an amendment by instrument in writing directed to the President or Secretary of the Board signed by not less than ten (10%) percent of the membership. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided for, the President, or in the event of his refusal or failure to act, the Board of Directors, shall call a meeting of the membership to be held not less than fourteen (14) days nor later than sixty (60) days thereafter for the purpose of considering said amendment. Members not present in person at the meeting considering the amendment may express their vote in

writing by proxy providing such proxy is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) Not less than fifty-one (51%) percent of the Votes of the entire membership; or

(b) In the alternative, an amendment may be made by an agreement signed and acknowledged by all Condominium Owners in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Public Records of Sarasota County, Florida.

8.1 **Proviso.** Provided, however, that no amendment shall discriminate against any Condominium Unit Owner nor against any Condominium Unit or class or group of Units unless the Condominium Unit Owners so affected consent. No amendment shall be made that is in conflict with the Condominium Act, the Articles of Incorporation, or any of the provisions of the Declaration of Condominium.

8.2 **Execution and Recording.** A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment to the Declaration and Bylaws, which certificate shall be executed by the Officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are duly recorded in the Public Records of Sarasota County, Florida.

9. **Miscellaneous Provisions.**

9.1 **Rules and Regulations.** The Board of Directors may adopt reasonable rules and regulations to be uniformly applied to all Members governing the details of the operation and use of the common elements.