

BY-LAWS
OF
SANTA MARIA DOCK COOPERATIVE, INC.
A Corporation Not For Profit

I. IDENTITY.

A. These are the By-Laws of SANTA MARIA DOCK COOPERATIVE, INC., (the "Association"), a Florida corporation not for profit, the Articles of Incorporation (the "Articles") of which were filed in the office of the Secretary of State of Florida on December 6, 1991. The Association has been organized for the purpose of providing dock space/boat slip space for members who shall be entitled, solely by reason of their membership to proprietary leases for such space owned or leased by the Association.

B. The provisions of these By-Laws are subject to the provisions of the Articles. A copy of the Articles and a copy of these By-Laws will be recorded in the Public Records of Lee County, Florida. The terms and provisions of the Articles shall control wherever the same may conflict herewith.

C. All members of the Association and their invitees, including, without limitation, all present or future lessees and sublessees of boat dock/boat slip space ("Units") and other persons using Association Property or any of the facilities thereof in any manner, are subject to these By-Laws, and the Articles.

D. The office of the Association shall be at 6640 Estero Blvd., Ft. Myers Beach, Florida 33931 or at such other place as may be established by resolution of the Board of Directors.

E. The fiscal year of the Association shall be the calendar year.

F. The seal of the Association shall bear the name of the Association, the word "Florida", the words, "Corporation Not For Profit", and the year of incorporation. An impression of the seal is as follows:

II. MEMBERSHIP, VOTING, QUORUM, AND PROXIES.

A. The qualification of members of the Association (the "Members"), the manner of their admission to membership and termination of such membership, and voting by Members, shall be as set forth in Article IV of the Articles, the provisions of which are incorporated herein by reference.

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B. A quorum at meetings of Members shall consist of persons entitled to cast at least one-third (1/3) of the Voting Interests of the entire membership.

C. The Voting Interest of the holder(s) of a membership certificate held by more than one natural person, as tenants in common, joint tenants (including a husband and wife as tenants by the entirety), a partnership, or any other association of natural persons, or by a corporation, a trust, or any other entity shall be cast or otherwise exercised, at all meetings at which members of the Association are entitled to vote or otherwise act, by one natural person designated by the holder(s) of such certificate as the "Primary Representative" thereof. In each instance where a membership is proposed to be transferred or is otherwise to become vested in more than one natural person (including a husband and wife as tenants by the entirety), a partnership, or any association of natural persons, or a corporation, a trust, or any other entity, the prospective holder(s) shall, by written instrument acceptable to the Association, designate one natural person as the Primary Representative (the "Voting Certificate"). Unless designated otherwise the Primary User of the Unit, as designated by the Association will be deemed to be the Primary Representative and to have been so designated. The Voting Certificate designating the Primary Representative shall be filed with the Association, and the person so designated shall be and remain the Primary Representative until such designation has been revoked by written instrument executed by the holder(s) of the Certificate or by lawful assignment of the proprietary lease of the Unit. The Primary Representative shall be the only person entitled to cast or exercise, in person or by proxy, the Voting Interest of the holder(s) of such Membership Certificate at any meeting of members or in connection with any action concerning which members of the Association shall be required or allowed to vote or otherwise act.

D. Evidence of the approval or disapproval of the holder(s) of a Certificate upon any matter, whether or not the subject of an Association meeting, shall be given to the Association by the same person who would cast the Voting Interest of such holder if in an Association meeting.

E. Except where otherwise required under the provisions of the Articles, these By-Laws, or where the same may otherwise be required by law, the affirmative vote of the persons holding a majority of the Voting Interests represented at any meeting of the Members duly called and at which a quorum is present, shall be binding upon the members.

F. Voting Interests may be cast in person or by proxy. Proxies may be made by any person holding a Voting Interest and shall be effective only for the specific meeting for which given and any lawfully adjourned meetings thereof. In no event shall any

proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the holder of the Voting Interest executing it.

III. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP.

A. The annual meeting of Members shall be held, at the office of the Association or such other place as may be specified in the notice of the meeting, on the first Monday of March of each year or within thirty (30) days thereof for the purpose of electing Directors and of transacting any other business authorized to be transacted by the Members.

B. Special meetings of 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 Members representing a majority of the Voting Interests or as otherwise required herein or by law.

C. Notice of all meetings of Members shall be given by the Secretary or, in the absence of the Secretary, another officer of the Association, to each Member (unless waived in writing). Each notice shall be written or printed and shall state the time and place of and purpose for which the meeting is called. The notice of any meeting to consider assessments shall specifically state that fact and the nature of the assessment. Each notice shall be given to each Member not less than fourteen (14) days nor more than sixty (60) days prior to the date set for the meeting, and shall be mailed or delivered personally to each Member. If delivered personally, receipt of the notice shall be signed by the Member, indicating the date received. If mailed, such notice shall be mailed via United States mail, addressed to the Member at his Post Office address as it appears on the records of the Association, with postage thereon prepaid. Such notice shall be deemed properly given when deposited in the United States Mail, postage prepaid, addressed as hereinabove described, to the member, and proof of such mailing shall be given by the affidavit of the person giving the notice. Any member may, in writing signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before, at or after the holding of the meeting, shall be deemed equivalent to the filing of such notice to such Member. Each notice shall in addition be posted in a conspicuous place upon Association Property at least fourteen (14) days prior to said meeting. The Secretary of the Association shall provide an affidavit to be included in the official records of the Association affirming that notices of such Association meeting were mailed or hand-delivered in accordance with the By-Laws of the Association and applicable law, to each member at the address last furnished to the Association. If any meeting of Members cannot be held because a Quorum is not present, or because a greater percentage of the membership is required to constitute a

quorum for particular purposes is not present, whenever the latter percentage of attendance may be required as set forth in the Articles or these By-Laws, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance if greater than a quorum, is present.

D. At meetings of Members, the President, shall preside, or in the President's absence, the Members present shall select a chairman of the meeting.

E. The order of business at annual meetings of Members, and, as far as practical, at other meetings of Members, shall be:

- (1) Calling of the roll and certifying of proxies
- (2) Proof of notice of meeting or waiver of notice
- (3) Reading or waiver of reading of minutes of previous meeting of Members
- (4) Reports of Officers
- (5) Reports of Committees
- (6) Appointment by Chairman of Inspectors of Election
- (7) Election of Directors
- (8) Unfinished business
- (9) New business
- (10) Adjournment

IV. BOARD OF DIRECTORS.

A. The first Board of Directors shall consist of three (3) persons who are so identified in the Articles; succeeding Boards of Directors shall consist of not less than three (3) persons (and if more than three, shall always be an odd number) and shall be elected and composed as provided in the Articles and these By-Laws.

B. Directors shall be elected in the following manner:

(1) Commencing with the election of the first Board to succeed the first Board as designated by the Developer, Developer shall designate that number, and the identity, of the members of the Board which it shall be entitled to designate in accordance with the Articles and these By-Laws, and upon such

designation by Developer, by written instrument presented to the meeting at which such election is held, the persons so designated by Developer shall be deemed and considered for all purposes Directors of the Association, and shall henceforth hold the offices and perform the duties of such Directors until their successors shall have been elected or designated, as the case may be, and qualified in accordance with the provisions of these By-Laws. 254

(2) All members of the Board whom Developer shall not be entitled to designate under these By-Laws shall be elected by a plurality of the votes cast at the annual meeting of the members, immediately following the designation of the members of the Board whom Developer shall be entitled to designate. 254

(3) Vacancies on the Board may be filled, to expire on the date of the next annual meeting, by the remaining Directors; except that, should any vacancy in the Board be created in any directorship previously filled by any person designated by Developer, such vacancy shall be filled by Developer designating, by written instrument delivered to any officer of the Association, the successor Director, who shall fill the vacated directorship for the unexpired term thereof.

(4) If, at the time of the first annual meeting of members, members other than the Developer, are entitled to elect some or all of the Directors, the terms of office of the majority of the Board to be elected receiving the highest plurality of votes shall be two years, and the terms of office of the remaining Director(s) elected by the next highest plurality of votes shall be one year; if, at the time of the first annual meeting of members, Developer is entitled to designate some or all Directors, Developer shall have the right to designate for two year terms that number of Directors which, together with the Directors elected by other members, if any, a majority of the Directors. The remaining Directors designated by the Developer shall have a term of office of one (1) year; the intention being that the terms of office of Directors be staggered after the first annual meeting, with Directors elected by members other than the Developer to serve the initial two-year term. Directors shall hold office for the terms to which elected or designated, and thereafter until their successors are duly elected, or designated by Developer, and qualified or until removed in the manner elsewhere herein provided or as provided by law.

(5) In the election of Directors, there shall be appurtenant to each membership as many votes for Directors as there are Directors to be elected; provided, however, that no member may cast more than one vote for any person nominated as a Director; it being the intent hereof that voting for Directors shall be non-cumulative.

(6) In the event that Developer selects any person or persons to serve on any Board, Developer shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or other persons to serve on the Board. Replacement of any person or persons designated by Developer to serve on any Board shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons designated as successor or successors to the persons so removed from the Board. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Developer to any officer of the Association.

C. The organizational meeting of a newly elected Board shall be held within fifteen (15) days of their election or designation, at such time and place as shall be fixed at the meeting at which they were elected.

D. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors, and shall be open to all members of the Association. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least seven (7) days prior to the day named for such meeting, unless notice is waived; notice shall also be posted in a conspicuous place at the Association Property at least forty-eight (48) hours prior to said meeting. The notice of any Board meeting at which assessments to be made against members are to be considered shall so state and shall also set forth the nature of the assessment.

E. Special meetings of the Board may be called by the President, and must be called by the Secretary at the written request of a majority of the Board of Directors. Not less than three (3) days' notice of a special meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting. Such notice shall also be posted in a conspicuous place at the Association Property at least forty-eight (48) hours prior to said meeting.

F. Any Director may waive notice of a meeting before, at or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

G. A quorum at meetings of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as may be specifically otherwise provided in the Articles or these By-Laws. If any meeting of the Board cannot be held because a quorum is not

present, or because the greater percentage of the Directors required to constitute a quorum for particular purposes is not present, wherever the latter percentage of attendance may be required as set forth in the Articles or these By-Laws, the Directors who are present may adjourn the meeting from time to time until a quorum or the required percentage of attendance if greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

H. The presiding officer of meetings of the Board shall be the President of the Association. In the absence of the President, the Directors present shall designate one of their number to preside.

I. All of the powers and duties of the Association shall be exercised by the Board, including those existing under the law of Florida, the Articles and these By-Laws. Such powers and duties shall be exercised in accordance with the Articles and these By-Laws, and shall include, without limitation, the right, power and authority to:

(1) Make, levy and collect assessments against Members to defray the costs of the Association, and to use the proceeds of assessments in the exercise of the powers and duties of the Association;

(2) Maintain, repair, replace, operate and manage the Association Property wherever the same is required to be done and accomplished by the Association for the benefit of Members;

(3) Repair and reconstruct improvements after casualty;

(4) Make and amend regulations governing the use of Association property, real and personal, provided that such regulations or amendments thereto shall not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles;

(5) Approve or disapprove proposed members and lessees of Units and to exercise or waive the Association's right of first refusal of each proposed Assignment of a Unit in the manner hereinafter specified. The President or Vice president of the Association are and shall be authorized to approve (but not disapprove) any proposed member or lessee, or to waive (but not exercise) the Association's right of first refusal, and to execute, on behalf of the Association, appropriate documents to evidence same;

(6) Acquire, own, hold, operate, lease, encumber, convey, exchange, manage, and otherwise trade and deal with Association Property, real and personal, as may be necessary or convenient in the operation and management of the Association and in accomplishing the purposes set forth herein and in the Articles.

(7) Contract for the management of the Association and in connection therewith to delegate such of the powers and duties of the Association as may be deemed appropriate, except those which may be required to have approval by the Board or Members of the Association, or which may not be delegated by law;

(8) Enforce by legal means the provisions of the Articles, these By-Laws, the Proprietary Lease Agreements and all regulations governing use of property if hereafter adopted;

(9) Pay all taxes and assessments which are liens against any part of the Association Property and the appurtenances thereto, and to assess the same against the members and their respective leasehold rights subject to such liens;

(10) Carry insurance for the protection of the members and the Association against casualty and liability;

(11) Pay all costs of power, water, sewer and other utility services rendered to the Association.

(12) Employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association.

J. Should any member of the first Board be unable to serve for any reason, the Developer shall have the right to select and designate a successor to act and serve for the unexpired term of the Director who is unable to serve.

K. Directors may be removed from office in the manner provided by applicable Florida law.

V. ADDITIONAL PROVISIONS - MEETINGS OF MEMBERS AND DIRECTORS.

A. Notwithstanding anything contained in these By-Laws to the contrary, any meeting of Members or the Board may be held at any place, within or without the State of Florida, designated in the notice of any such meeting, or notice of which is waived.

B. A member may take any action by written proxy which has been duly registered with the Secretary, provided no proxy will be valid except for the meeting for which it was given, or adjournment thereof, and in no event more than ninety (90) days after the date of the first meeting for which it was given.

C. To the extent now or from time to time hereafter permitted by the laws of Florida, the Board may take any action which they might take at a meeting of the Board without a meeting; provided, that a record of all such actions so taken, signed by each Director, shall be filed and retained in the minute book of the Association.

D. To the extent now or from time to time hereafter permitted by the laws of Florida, Members may take any action which they might take at a meeting of the members of the Association without a meeting.

E. Minutes of all board and membership meetings shall be retained in a secure place, available for review by the membership, for a period of at least seven (7) years from the date of the meeting.

VI. OFFICERS.

A. The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall deem advisable from time to time. The President shall be elected from the membership of the Board, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person. The Board may from time to time elect such other officers, and designate their powers and duties, as the Board may deem necessary properly to manage the affairs of the Association. Officers may be removed from office by the Board.

B. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of a corporation not for profit, including but not limited to the power to appoint committees from among the Members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. He shall have such additional powers as the Board may designate.

C. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

D. The Secretary shall keep the minutes of all proceedings of the Board and the Members. He shall attend to the giving and serving of all notices to the Members and Board, and such other notices as may be required by law. He shall have

custody of the seal of the Association and affix the same 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 a corporation not for profit and as may be required by the Board and the President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

E. The Treasurer shall have custody of all of the property of the Association, including funds, securities and evidences of indebtedness. He shall keep the assessment rolls and accounts of the members; 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.

F. The compensation of all officers and employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director as an employee of the Association, nor preclude contracting with a Director for the management of the Association Property.

VII. FISCAL MANAGEMENT.

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

A. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each membership. Such account shall designate the name and mailing address of the member(s), any lienholder(s) of each membership certificate and/or proprietary lease, the amount of each assessment against the membership, the amount of each assessment and due date thereof, and all amounts paid, and the balance due upon each assessment.

B. The Board shall adopt, for, and in advance of, each calendar year, a budget showing the estimated costs of performing all of the functions of the Association for the year. Each budget shall show the total estimated expenses of the Association for that year and shall contain an itemized breakdown of the Common Expenses, which shall include, without limitation, the costs of operating and maintaining the Association Property and wages and salaries of Association employees, management, legal and accounting fees, office supplies, public utility services not metered or charged separately to members, premiums for insurance carried by the Association and any reserve account and/or funds which may be established from time to time by the Board. The budget shall be prepared in the form and contain categories, including reserves, as required from time to time by general accepted accounting principals. Each budget shall also show the proportionate share of

the total estimated expenses to be assessed against and collected from the members the due date(s) and amounts of installments thereof. Copies of the proposed budget and proposed assessments shall be transmitted to each Member on or before December 1 of the year prior to the year for which the budget is made. If any budget is subsequently amended, a copy shall be furnished to each affected Member. Delivery of a copy of any budget or amended budget to a Member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of the budget and assessments levied pursuant thereto. Nothing herein contained shall be construed as a limitation upon the additional assessment in the event that any budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

C. A copy of the proposed annual budgets of the Association shall be mailed to the members not less than fourteen (14) days prior to the meeting of the Board at which the budget will be considered, together with a notice of the time and place of the meeting. Such meeting of the Board shall be open to members. If a budget is adopted by the Board which requires assessment of the members in any budget year exceeding 115% of such assessments for the preceding budget year, upon written application of persons holding 10% of the Voting Interests, a special meeting of the members shall be held upon not less than ten (10) days' written notice to each member, but within thirty (30) days of the delivery of such application of the Board or any member thereof, at which special meeting members may consider only and enact only a revision of the budget. Any such revision of the budget shall require a vote of persons holding not less than two-thirds (2/3rds) of the Voting Interests. The Board may in any event first propose a budget to the members at any such meeting of members or by writing, and if such budget or proposed budget be approved by persons holding majority of the Voting Interests at such meeting or in writing, such budget may not thereafter be reexamined by the members in the manner hereinabove set forth. If a meeting of members has been called and a quorum is not attained or a substitute budget is not adopted by the members, the budget adopted by the Board of Directors shall go into effect as scheduled.

D. In determining whether assessments exceed 115% of similar assessments in the prior budget year, there shall be excluded in the computation any provision for reasonable reserves made by the Board in respect of repair and replacement of Association Property, or in respect of anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis; and, there shall be excluded from such computation, assessments or betterments to the Association Property. Provided, however, that so long as Developer is in

control of the Board of Directors the Board shall not impose an assessment for a budget year greater than 115% of the prior budget year's assessment without approval of persons, other than the Developer holding a majority of the Voting Interests.

E. Upon adoption of budgets, the Board shall cause a written copy thereof to be delivered to each member. Assessments shall be made against members pursuant to procedures established by the Board, and in accordance with terms of the Articles. Members shall be liable to pay assessments not less often than quarterly. Provided, however, that the lien or lien rights of the Association shall not be impaired by failure to comply with procedures established pursuant to these By-Laws.

F. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board, in which all monies of the Association shall be deposited. Withdrawal of monies from such bank(s) shall be only by check signed by such persons as are designated by the Board.

G. A review of the accounts of the Association shall be made annually by a Certified Public Accountant, and a copy of the report together with a financial report in the form required by law shall be furnished to each member not later than sixty (60) days following the year for which the report is made.

H. Fidelity bonds shall be required by the Board from all officers, employees and/or agents of the Association handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors, but shall be at least the amount required by law. The premiums on such bonds shall be paid by the Association. However, such bonds shall not be mandatory if the Florida Statutes do not require them.

VIII. PARLIAMENTARY RULES.

Roberts' Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles, these By-Laws or the laws of Florida.

IX. AMENDMENTS TO BY-LAWS.

Amendments to these By-Laws shall be proposed and adopted in the following manner:

A. Amendments to these By-Laws may be proposed by the Board, acting upon vote of a majority of the Directors, or by persons holding a majority of the Voting Interests whether meeting as members or by instrument in writing signed by them.

B. Upon any amendment or amendments to these By-Laws being proposed by the Board or Members, such proposed amendment or amendments shall be transmitted to the President of the Association, or acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the Members for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as herein set forth; provided, that proposed amendments to the By-Laws may be considered and voted upon at annual meetings of the members.

C. In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of the persons holding Voting Interests not less than two-thirds (2/3rds) and a copy of such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the Public Records of Lee County, Florida, within fifteen (15) days from the date on which any amendment or amendments have been affirmatively approved by the Members.

D. At any meeting held to consider such amendment or amendments to these By-Laws, the written vote of any person holding a Voting Interest shall be recognized if such person is not present at such meeting in person or by proxy, provided such written vote is delivered to the Secretary at or prior to such meeting.

E. Notwithstanding the foregoing provisions of this Article IX, no amendment to these By-Laws which shall abridge, amend or alter the right of Developer to designate members of each Board of Directors of the Association, as provided in Article IV hereof, may be adopted or become effective without the prior written consent of Developer.

X. VOLUNTARY BINDING ARBITRATION. In the event of a dispute between one or more members and/or the Association arising from the operation of the Association, the parties may submit the dispute to voluntary binding arbitration. If any dispute over the enforcement or interpretation of Association Rules and Regulations should arise, either between two or more members, or between the Association and one or more members, it is intended that such dispute be resolved by agreement or by voluntary binding arbitration, and not by resort to the courts. For this purpose, no party to such a dispute shall be entitled to recover attorney's fees as a prevailing party in any lawsuit involving the disputed matters unless the party has, before filing the lawsuit, offered in writing to submit the dispute to voluntary binding arbitration. If the other party accepts the offer, both parties shall proceed

without undue delay to submit the issue to arbitration, and no lawsuit may be filed until the arbitration process has been concluded. If the other party refuses the offer, he shall not be entitled to recover attorney's fees in the lawsuit. Nothing herein shall be construed to prevent the Association from recovering attorney's fees in any action brought to collect unpaid assessments, including fines, or to require the Association to submit assessment collection disputes to arbitration.

XI. PROPRIETARY LEASES.

A. The Board of Directors shall adopt a formal proprietary lease to be used by the Association for the leasing of all boat docks or boat slips to be leased to members under proprietary leases. Such proprietary leases shall be for such terms, with or without provisions for renewals, and shall contain such restrictions, limitations, and provisions in respect to the assignment thereof, the subletting of the premises thereby leased, and the transfer of the memberships in the Association to which such leases are appurtenant, as well as such other terms, provisions, conditions, and covenants as the Board of Directors may determine.

After a proprietary lease in the form so adopted by the Board of Directors has been executed and delivered by the Association, all proprietary leases (as distinct from house rules) subsequently executed and delivered shall be in the same form, except with respect to date of commencement of the lease term, unless any change or alteration is approved by members entitled to at least two-thirds (2/3rds) of the then authorized membership votes in the Association.

B. (1) The Board of Directors is responsible for determining the amounts to be collected from the lessee of each unit by way of assessment for common expenses. Overall requirements for common expenses will be established on adoption of the budget of common expenses for that year, as provided elsewhere in these By-Laws. Assessments will be payable quarterly in advance, based on the proportionate share of common expenses allocated to each unit.

(2) The "proportionate share of common expenses" corresponding to any membership shall be based on the size of leased property in relation to all other leased property. Such proportion itself will be fixed except as otherwise provided in these By-Laws. Included as appendix "A" of these By-Laws is a current listing showing with respect to each membership the proportionate share assigned to each membership.

C. Proprietary leases shall be assigned or transferred only in compliance with, and shall never be assigned or transferred in violation of, the terms, conditions, or provisions of such proprietary leases. A duplicate original of each proprietary lease shall always be kept on file in the principal office of the Association or with the managing agent of the Association.

No assignment of any lease or transfer of membership in the Association shall take effect as against the Association for any purpose until (a) a proper assignment has been delivered to the Association, (b) the assignee has assumed and agreed to perform and comply with all the covenants and conditions of the assigned lease or has entered a new lease for the remainder of the term, (c) the membership to which the lease is appurtenant has been transferred to the assignee, (d) all sums due have been paid to the Association, and (e) all necessary consents have been obtained. Action of the Board of Directors with respect to the written application for consent to a proposed assignment or sublease must be taken within thirty (30) days after receipt of such written application.

Where either Diamondhead Property Development, Inc., a Florida corporation with offices at 6640 Estero Blvd., Ft. Myers Beach, Florida 33931, called the developer, or a nominee of the developer, is a lessee, consent to an assignment or transfer of its or his lease and the membership to which it is appurtenant will be required only from the managing agent, who shall consent to such assignment or transfer only when the assignee or transferee is a reputable person of good financial standing.

No person to whom the interest of a lessee or member may pass by law shall be entitled to sign any lease, transfer a membership, or sublet or use a unit, except on compliance with requirements of the lease and these By-Laws.

D. The Board of Directors shall have authority, before any assignment of a proprietary lease takes effect as against the Association as lessor, to charge a fee to cover administrative costs, but not to exceed Fifty Dollars (\$50.00), and to impose such other conditions as it may determine, in connection with each such proposed assignment.

E. In the event any proprietary lease in force is lost, stolen, destroyed, or mutilated, the Board of Directors may authorize the issuance of a new proprietary lease, require the holder, or the legal representative of such holder, to make an affidavit or affirmation setting forth such facts as to the loss, destruction, mutilation as it deems necessary, and to give the Association a bond, in such reasonable sum as it directs, indemnifying the Association against any liability or loss that is sustained by the issuance of such new proprietary lease.

F. The Association shall at all time have a lien on each leasehold interest together with the members' share in the corporate assets appurtenant to that lease, for all unpaid assessments, and interest thereon, due the Association from the member holding the proprietary lease, and for reasonable attorney's fees incurred by the Association incident to the collection of such amounts for enforcement of such lien. Unless and until such member or lessee defaults in the payment of any assessment, or any other indebtedness or obligation, the proprietary lease shall continue to stand in the name of the member on the books of the Association, and the member shall be entitled to exercise all membership rights as though such lien did not exist. On default of the payment of any such obligation, however, the Association shall have the right to foreclose the lien in the manner provided by statute, in addition to other remedies available to it by law or under these By-Laws.

XII. EMINENT DOMAIN.

A. If all or any part of the Association Property is taken, injured, or destroyed by eminent domain, each member will be entitled to participate, through the Association, in the proceedings incident thereto. However, any damages shall be for the taking, injury, or destruction as a whole, and will be collected by the Board of Directors. If those members entitled to exercise two-thirds (2/3rds) or more of the total voting power of the Association duly and promptly approve the repair and restoration of the Association Property, the Board of Directors will contract for repair and restoration, and will disburse the proceeds of the award in appropriate progress payments to contractors engaged in repair and restoration. If the proceeds of the award are insufficient to defray the entire expense of repair and restoration, the excess of the expense over the proceeds will be treated as a common expense. In the event that those members entitled to exercise two-thirds (2/3rds) or more of the total Voting Interests in the Association do not duly and promptly approve the repair and restoration of the Association Property, the net proceeds will be divided by the Board of Directors among all members in proportion to their interests, as the case may be, paying out of the share of each member the amount of any unpaid liens on his or her membership or lease, in the order of priority of the liens.

B. If all or any part of any leased property is taken, injured, or destroyed by eminent domain, each member so affected will be entitled to participate directly in the proceedings incident thereto. Any damages will be payable directly to the member or members.

XIII. RECORDS.

A. The manager, managing agent, and Board of Directors will keep detailed records of all action of the manager, managing agent, and Board of Directors, as well as minutes of the meetings of the Board of Directors, minutes of the meetings of the members, and financial records and books of account for the Association, including a chronological record of all receipts and disbursements. A separate account will also be kept for each unit containing, among other things, the amount of each assessment against the unit, the date when due, amounts paid thereof, and the balance remaining due. The Board of Directors will also prepare a quarterly written report summarizing receipts and disbursements of the Association, copies of which will be made available to all members. Additionally, an annual report of receipts and disbursements of the Association, reviewed by an independent certified public accountant, will be rendered by the Board of Directors to all members and lien holders requesting it, promptly after the end of each fiscal year.

XIV. MISCELLANEOUS.

A. All notices required or permitted to be sent to the Board of Directors will be sent by registered or certified mail in care of the manager or managing agent, or if there is no manager or managing agent, to the office of the Board of Directors at 6640 Estero Blvd., Ft. Myers Beach, Florida 33931, County of Lee, State of Florida, or to such other address as the Board may, from time to time, designate. All notices required or permitted to be sent to any member will be sent by registered or certified mail to the Association or to such other address as the owner may have designated in writing to the Board of Directors. All notices to lienholders on units will be sent by registered or certified mail to their respective addresses, as maintained by the Secretary. All notices will be deemed to have been given when mailed, except notices of change of address which will be deemed to have been given when received.

B. No restriction, condition, obligation, or provisions contained in these By-Laws will be deemed to have been abrogated or waived by reason of any failure to enforce it, irrespective of the number of violations and failures to enforce that may occur.

C. If any provision or provisions of these By-Laws is or are declared invalid, the invalidity will in no way impair or affect the validity, enforceability, or effect of the remaining provisions of these By-Laws.

D. Captions are inserted in these By-Laws for convenience and reference only, and will not be taken in any way to limit or describe the scope of these By-Laws or any provision thereof.

E. The Proprietary Lease for units and Assignment thereof shall be substantially in the form set forth on Exhibit "C" attached hereto and by reference incorporated herein. A Memorandum of Proprietary Lease shall be recorded in the Public Records of Lee County, Florida, as evidence of a members leasehold interest in his unit.

The foregoing were adopted as the By-Laws of Santa Maria Dock Cooperative, Inc., a corporation not for profit under the laws of the State of Florida, at the first meeting of the Board of Directors on the 5th day of December, 1991.


ROBERT J. SWANSON


DAVID A. LAWRENCE


DONALD J. FLUEGEL

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