



BYLAWS  
OF  
EMERALD BY THE SEA CONDOMINIUM ASSOCIATION, INC.  
(A Texas nonprofit corporation)

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**BYLAWS OF  
EMERALD BY THE SEA CONDOMINIUM ASSOCIATION**

**ARTICLE I. PURPOSES; DEFINED TERMS**

**Section 1.1 Purposes of Association**

The Emerald By the Sea Condominium Association, a Texas nonprofit corporation and condominium association (the "Association"), is organized exclusively to exercise the rights and powers and to perform the duties and obligations of the Association in accordance with the Declaration of Emerald By The Sea Condominiums, which has been recorded in the Real Property Records of Galveston County, Texas (the "Declaration"), the Certificate of Formation of the Association (the "Certificate"), these bylaws (these "Bylaws"), and the laws of the State of Texas, as each may be amended from time to time

**Section 1.2 Purpose of Bylaws**

These Bylaws provide for the governance of the Association formed to administer the Condominium known as Emerald By The Sea Condominium located in the City of Galveston, Galveston County, Texas, subject to and more fully described in the Declaration

**Section 1.3 Definitions**

Capitalized terms not defined herein or in the Declaration shall have the meaning specified or used in the Texas Uniform Condominium Act (Texas Property Code, Chapter 82) (the "Act")

"Member in Good Standing" means the Declarant and (a) a Member who is not delinquent in the payment of any assessment or other amount levied by the Association against the Member's Unit or any interest, late charges, costs or reasonable attorney's fees added to such assessment under the provisions of the Declaration or an applicable supplemental amendment or as provided by law, (b) a Member who does not have any condition in or on his Unit which violates any provision of the Declaration or any applicable amendment thereof which has progressed to the stage of a written notice of a hearing to be held by the Board, or beyond, and which remains unresolved as of the date of determination of the Member's standing, (c) a Member who has not failed to pay any fine levied against the Member and/or the Member's Unit pursuant to the provisions of the Declaration and Bylaws, and (d) a Member who has not failed to comply with all terms of a judgment obtained against the Member by the Association, including the payment of all sums due the Association by virtue of such judgment.

## ARTICLE II. MEMBERS

### Section 2 1 Membership

The members of the Association (the "Members") shall consist solely of the Owners of Units of the Condominium created by the Declaration

### Section 2 2 Annual Meeting

An annual meeting of the Members of the Association shall be held during the month of April of each year, or at such other time and at a place as the Board of Directors of the Association shall determine. After termination of the Declarant Control Period, at annual meetings, the Members shall elect directors of the Association ("Directors") in accordance with these Bylaws and may also transact such other business of the Association as may properly come before them

### Section 2 3 Special Meetings

Except as otherwise provided by law or the Declaration, a special meeting of the Association may be called by the President, a majority of the members of the Board of Directors, or by Unit Owners having at least 20 percent of the votes entitled to be cast at such meeting. Such meeting shall be held within 30 days after being called. No more than two special meetings may be held during any 30-day period. Business transacted at any special meeting of Members shall be limited to the purposes stated in the notice of the meeting given in accordance with the terms of Section 2 5

### Section 2 4 Place of Meetings

Meetings of the Association shall be held at the Condominium or at a suitable place convenient to the Members, as determined by the Board of Directors

### Section 2 5 Notice of Meetings, Waiver

Notice of each meeting of Members, stating the place, day, and hour of any meeting and, in case of a special meeting of Members, the purpose or purposes for which the meeting is called, shall be given at least 10 days but not more than 60 days prior to such meeting. Notices shall also set forth any other items of information deemed appropriate by the Board of Directors. If a Unit is owned by more than one person, notice to one co-owner shall be deemed notice to all co-owners. Notice may be given either personally, by electronic telecommunication, by facsimile transmission, or by mail, by or at the direction of the persons calling the meeting, to each Member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the Member at the address shown on the Association's records. If transmitted by telecommunication or facsimile, notice shall be deemed

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delivered on successful transmission. Whenever any notice is required to be given to a Member, a written waiver of the notice, signed by the person or persons entitled to such notice, whether before or after the time stated in the notice, shall be equivalent to the giving of such notice. Attendance by a Member, whether in person or by proxy, at any meeting of the Association shall constitute a waiver of notice by such Member of the time, place, and purpose of such meeting. If all Members are present at any meeting of the Association, no notice shall be required and any business may be transacted at such meeting.

### Section 2.6 Ineligibility

The Board of Directors may determine that no Member may (i) vote at meetings of the Association or (ii) be elected to serve as a Director if the Member is not a Member in Good Standing or the Member's financial account with the Association is in arrears or is in substantial violation of any or the provisions or the Governing Documents on the record dates provided below, provided each ineligible Member shall be given notice of the arrearage and an opportunity to become eligible. The Board of Directors may specify the manner, place, and time for payment for purposes of restoring eligibility. The Board of Directors may determine, in its sole discretion, whether or not an owner is in "substantial violation".

### Section 2.7 Record Dates

(a) *Determining Voting Eligibility* The Board of Directors shall fix a date as the record date for determining the Members entitled to vote at a meeting of the Association. The record date may not be more than 60 days before the date of a meeting of the Association at which Members will vote.

(b) *Determining Rights Eligibility* The Board of Directors shall fix a date as the record date for determining the Members entitled to exercise any rights other than those described in the preceding paragraph. The record date may not be more than 60 days before the date of the action for which eligibility is required, such as nomination to the Board of Directors.

(c) *Adjournments* A determination of Members entitled to notice of or to vote at a meeting of the Association is effective for any adjournment of the meeting unless the Board of Directors fixes a new date for determining the right to notice or the right to vote. The Board of Directors must fix a new date for determining the right to notice or the right to vote if the meeting is adjourned to a date more than 90 days after the record date for determining Members entitled to notice of the original meeting.

### Section 2.8 Voting Members List

The Board of Directors shall prepare and make available a list of the Association's voting Members in accordance with Section 22.158 of the Texas Business Organizations Code.

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### Section 2 9 Quorum

At any meeting of the Association the presence in person or by proxy of Members entitled to cast at least twenty (20) percent of the votes that may be cast shall constitute a quorum. Members present at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal, during the course of the meeting, of Members constituting a quorum.

### Section 2 10 Votes

The vote of a majority of the votes entitled to be cast by Members in Good Standing, whether present or represented by proxy at any meeting at which a quorum is present, shall be binding upon all Members for all purposes, unless the vote of a greater number is required by the Declaration, these Bylaws or by law. The right of a Member to vote at any meeting of the Association is subject to the following limitations:

(a) *Co-Owned Units* If only one of the multiple owners of a Unit is present at a meeting of the Association, that person may cast the vote or votes allocated to that Unit. If more than one of the multiple owners is present, the vote or votes allocated to that Unit may be cast only in accordance with the owners' unanimous agreement. Multiple owners are in unanimous agreement if one of the multiple owners casts the votes allocated to a Unit and none of the other owners of the Unit makes prompt protest to the person presiding over the meeting.

(b) *Corporation-Owned Units* If a Unit is owned by a corporation, the vote appurtenant to that Unit may be cast by any officer of the corporation in the absence of express notice of the designation of a specific person by the board of directors or bylaws of the owning corporation. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of a corporation or partnership is qualified to vote.

(c) *Association-Owned Units.* Votes allocated to a Unit owned by the Association may not be cast pursuant to such Unit's Allocated Interest.

### Section 2 11 Proxies

Votes allocated to a Unit may be cast in person or by written proxy. To be valid, each proxy shall (i) be signed and dated by a Member or his or her attorney-in-fact, (ii) identify the Unit to which the vote is appurtenant; (iii) name the person in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the purpose or meeting for which the proxy is given, (v) not purport to be revocable without notice; and (vi) be delivered to the Secretary or to the person presiding over the Association meeting for which the proxy is designated. Unless the proxy specifies a shorter or longer time, it shall terminate eleven (11)

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months after date it is signed. To revoke a proxy, the granting Member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled shall be valid when such meeting reconvenes.

### Section 2.12 Conduct of Meetings

The President, or any person designated by the Board of Directors, shall preside over meetings of the Association. The Secretary shall keep, or cause to be kept, the minutes of the meeting which shall record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. Votes shall be tallied by tellers appointed by the person presiding over the meeting.

### Section 2.13 Order of Business

Unless the notice of meeting states otherwise, the order of business at meetings of the Association shall be as follows.

- (1) Determine votes present by roll call or check-in procedure
- (2) Announcement of quorum
- (3) Proof of notice of meeting
- (4) Reading and approval of minutes of preceding meeting
- (5) Reports
- (6) Election of Directors (when required)
- (7) Special business, if any
- (8) New business

### Section 2.14 Adjournment of Meeting

At any meeting of the Association, the vote of a majority of the Members present at that meeting, either in person or by proxy, may adjourn the meeting.

## **ARTICLE III. BOARD OF DIRECTORS**

### Section 3.1 Powers and Duties

The Board of Directors shall have all the powers and duties necessary for the administration of the Association and for the operation and maintenance of the Condominium. The Board of Directors may do all such acts and things except those which, by law or the Governing Documents, are reserved to the Members and may not be delegated to the Board of Directors.



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### Section 3 2    Number and Term of Office

After termination of the Declarant Control Period, all directors must be Members. The Board of Directors shall consist of three (3) members. After termination of the Declarant Control Period, each director shall be elected for a term of three (3) years. At the initial meeting of Owners, one (1) Director shall be elected for a term of three (3) years and the two (2) remaining Directors shall be elected to serve terms of two (2) years and one (1) year, respectively. Thereafter, at the annual meeting of Owners, the Owners shall elect a Director to serve a term of three (3) years to fill the position of the Director whose term has expired at the time of the annual meeting. A Director takes office upon the adjournment of the meeting or balloting at which he or she is duly elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his or her successor is duly elected or appointed. The number of Directors may be changed by amendment of these Bylaws, but shall not be less than three (3).

### Section 3 3    Qualification

No person shall be eligible for election or appointment to the Board of Directors unless such person is a Member in Good Standing and Owner of a Unit. Co-owners of a single Unit may not serve on the Board of Directors at the same time. Co-owners of more than one Unit may serve on the Board of Directors at the same time, provided the number of co-owners serving at one time does not exceed the number of Units they co-own. No Member may be elected or appointed as a Director if any assessment against the Member or such Member's Unit is delinquent at the time of election or appointment. No Member may continue to serve as a Director if any assessment against the Member or such Member's Unit is delinquent more than 60 days. Further, a Member who is a registered sex offender or who has been convicted of a crime of moral turpitude may not serve on the Board.

### Section 3 4    Election

Directors shall be elected annually by the Members. The election of Directors shall be conducted at the annual meeting of the Association, at any special meeting called for that purpose, or by mail, facsimile transmission, or a combination of mail and facsimile transmission.

(a) Prior to termination of the Declarant Control Period, directors shall be appointed by the Declarant pursuant to the terms of the Declaration, as incorporated herein by reference.

(b) Except for directors appointed by the Declarant, directors shall be elected by a majority vote of the Members.

(c) Election of the Fully Elected Board may be by any mail ballot, by vote of a majority of the Members in person or by proxy at a properly called meeting at which a quorum is present, or by any combination of the same.

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Notwithstanding anything contained herein to the contrary, in an election of directors by Members other than the Declarant, in which election there are more candidates than vacant positions and where two or more candidates receive the same number of votes resulting in a tie, the winner of the election shall be chosen by lot (i.e., the names of the candidates who are running for a director position and have received the same number of votes shall be written on separate pieces of paper by the presiding officer of the meeting, the pieces of paper shall be folded by the presiding officer and placed in a container provided by the then-serving Board of Directors, the presiding officer shall ask for a volunteer Member from the audience of Owners to pick any one piece of paper from the container and the person whose name is picked shall be declared the winner of such election)

### Section 3.5 Vacancies

Vacancies on the Board of Directors caused by any reason, except the removal of a Director by a vote of the Association, shall be filled by a vote of more than one-half of the remaining Directors, even though less than a quorum, at any meeting of the Board of Directors. Each Director so elected shall serve out the remaining term of his or her predecessor, or until his or her replacement is duly elected.

### Section 3.6 Removal of Directors

At any annual meeting or special meeting of the Association, any one or more of the Directors may be removed with or without cause by Members, whether present in person or by proxy at such meeting, representing at least two-thirds of the votes entitled to be cast, and a successor shall immediately be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

### Section 3.7 Organizational Meeting of the Board of Directors

Within thirty (30) days after the annual meeting, the Directors shall convene an organizational meeting for the purpose of electing officers. The time and place of such meeting shall be fixed by the Board of Directors and announced to the Directors.

### Section 3.8 Regular Meetings of the Board of Directors

Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by the Board of Directors, but at least one such meeting shall be held each calendar quarter. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by telephone or written communication, at least three days prior to the date of such meeting.

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### Section 3.9 Special Meetings of the Board of Directors

Special meetings of the Board of Directors may be called by the President or, if he or she is absent or refuses to act, the Secretary, or by any two Directors. At least three days' notice shall be given to each Director, personally or by telephone or written communication, which notice shall state the place, time, and purpose of such meeting.

### Section 3.10 Conduct of Meetings

The Board of Directors, at each organizational meeting, shall appoint one of their number as President of the Board of Directors. The President of the Board of Directors shall preside over all meetings of the Board of Directors and the Secretary shall keep, or cause to be kept, a record of all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) may govern the conduct of Association proceedings when not in conflict with Texas law, the Certificate of Formation, the Declaration, or these By-Laws.

### Section 3.11 Quorum

At all meetings of the Board of Directors, a majority of Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If less than a quorum is present at any meeting of the Board of Directors, the majority of those present may adjourn the meeting from time to time. At any such reconvened meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

### Section 3.12 Presumption of Assent

Any Director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting and unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by certified mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

### Section 3.13 Open Meetings

Regular and special meetings of the Board of Directors shall be open to Members of the Association, but Members who are not Directors may not participate in any deliberations or discussions unless the Board of Directors expressly so authorizes such participation at the

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meeting. The Board of Directors may adjourn any meeting and reconvene in closed executive session to discuss and vote upon actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, matters involving the invasion of privacy of individual Unit Owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board of Directors. The nature of any and all business to be considered in closed executive session shall first be announced in open session.

### Section 3.14 Appointment of Committees

The Board of Directors, by resolution, may from time to time designate standing or ad hoc committees to advise or assist the Board of Directors with its responsibilities. The resolution shall establish the purposes and powers of each committee created, provide for the appointment of its members, as well as a chairman, and provide for reports, termination, and other administrative matters deemed appropriate by the Board of Directors.

### Section 3.15 Ex-Officio Directors

The Board of Directors may designate any one or more persons as ex-officio members of the Board of Directors. A person designated as an ex-officio member of the Board of Directors shall be entitled to notice of and to attend meetings of the Board of Directors. The ex-officio member shall not be entitled to vote unless otherwise provided in the Declaration or these Bylaws.

## ARTICLE IV. OFFICERS

### Section 4.1 Designation

The principal offices of the Association shall be the President, the Secretary, and the Treasurer. The Board of Directors may appoint one or more Vice Presidents and such other officers and assistant officers as it deems necessary. Any two offices may be held by the same person, except the offices of President and Secretary. If an officer is absent or unable to act, the Board of Directors may appoint a Director to perform the duties of that officer and to act in place of that officer, on an interim basis. All officers must be Members and actual occupants or residents of a Unit as their principal homestead throughout their term as an officer.

### Section 4.2 Election of Officers

The officers shall be elected no less than annually by the Directors at the organizational meeting of the Board of Directors and shall hold office at the pleasure of the Board of Directors. Except for resignation or removal, officers shall hold office until their respective successors have been designated by the Board of Directors.

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### Section 4 3 Removal and Resignation of Officers

A majority of Directors may remove any officer, with or without cause, at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for that purpose. A successor may be elected at any regular or special meeting of the Board of Directors called for that purpose. An officer may resign at anytime by giving written notice to the Board of Directors. Unless the notice of resignation states otherwise, it is effective when received by the Board of Directors and does not require acceptance by the Board of Directors. The resignation or removal of an officer who is also a Director does not constitute resignation or removal from the Board of Directors.

### Section 4 4 President

As the chief executive officer of the Association, the President shall (i) preside at all meetings of the Association, (ii) have all the general powers and duties which are usually vested in the office of President of a corporation organized under the laws of the State of Texas, (iii) have general supervision and direction, of the business of the Association, subject to the control of the Board of Directors, and (iv) see that all orders and resolutions of the Board of Directors are carried into effect.

### Section 4 5 Secretary

The Secretary shall (i) keep or cause to be kept the minutes of all meetings of the Board of Directors and of the Association, (ii) have charge of such books, papers, and records as the Board of Directors may direct, (iii) maintain or cause to be maintained a record of the names and addresses of the Members for the mailing of notices, and (iv) in general, perform all duties incident to the office of Secretary.

### Section 4 6 Treasurer

The Treasurer shall (i) be responsible for Association funds, (ii) keep or cause to be kept full and accurate financial records and books of account showing all receipts and disbursements; (iii) prepare or cause to be kept all required financial data and tax returns; (iv) deposit or cause to be deposited all monies or other valuable effects in the name of the Association in such depositories as may from time to time be designated by the Board of Directors, (v) prepare the annual and supplemental budgets of the Association, (vi) review the accounts of the managing agent on a monthly basis in the event such managing agent is responsible for collecting and disbursing Association funds, and (vii) perform all the duties incident to the office of Treasurer.

### Section 4 7 Authorized Agents

Except when the Governing Documents require execution of certain instruments by certain individuals, the Board of Directors may authorize any person to execute instruments on

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behalf of the Association. In the absence of Board of Directors designation, the President and the Secretary shall be the only persons authorized to execute instruments on behalf of the Association

### ARTICLE V. RULES

#### Section 5 1 Rules

The Board of Directors shall have the right to establish and amend, from time to time, reasonable rules and regulations for (i) the administration of the Association and the Governing Documents, (ii) the maintenance, management, operation, use, conservation, appearance, and beautification of the Condominium, and (iii) the health, comfort, and general welfare of the Residents, *provided, however*, that such rules may not be in conflict with law or the Governing Documents. The Board of Directors shall, at all times, maintain the then-current and complete rules in a written form which can be copied and distributed to the Members. Rules need not be recorded in the county's real property records.

#### Section 5 2 Adoption and Amendment

Any rule may be adopted, amended, or terminated by the Board of Directors, provided that the rule and the requisite Board of Directors approval are properly recorded as a resolution in the minutes of the meeting of the Board of Directors

#### Section 5 3 Notice and Comment

The Board of Directors shall give written notice to an Owner of each Unit of any amendment, termination, or adoption of a rule, or shall publish same in a newsletter or similar publication which is circulated to the Members, at least 10 days before the rule's effective date. The Board of Directors may, but shall not be required, to give similar notice to Residents who are not Members. Any Member or Resident so notified shall have the right to comment orally or in writing to the Board of Directors on the proposed action.

#### Section 5.4 Distribution

Upon request from any Member or Resident, the Board of Directors shall provide a current and complete copy of rules. Additionally, the Board of Directors shall, from time to time, distribute copies of the current and complete rules to an Owner of each Unit and, if the Board of Directors so chooses, to non-Member Residents

### ARTICLE VI. ENFORCEMENT

The violation of any provision of the Governing Documents shall give the Board of Directors the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in the Governing Documents

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(a) to enter the Unit or Limited Common Element in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting owner, any structure, thing, or condition (except for additions or alterations of a permanent nature that may exist in that Unit) that is existing and creating a danger to the Common Elements contrary to the intent and meaning of the provisions of the Governing Documents. The Board of Directors shall not be deemed liable for any manner of trespass by this action, or

(b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

(c) Any controversies, claims or disputes involving the Developer of Emerald Bay, the Sea Condominium, the Association, the Directors, or any Members, which cannot be resolved by good faith negotiations shall be resolved by mandatory and binding arbitration administered by the American Arbitration Association (the "AAA") pursuant to the Federal Arbitration Act (Title 9 of the United States Code) in accordance with the Commercial Arbitration Rules of the AAA. If Title 9 of the United States Code is inapplicable to any such claim or controversy for any reason, such Arbitration shall be conducted pursuant to the Texas General Arbitration Act and in accordance with the Commercial Arbitration Rules of the AAA. All decisions by the Arbitrator shall be final, and any judgment upon the award rendered by the Arbitrator may be confirmed, entered and enforced in any court having proper jurisdiction.

### ARTICLE VII. OBLIGATIONS OF THE OWNERS

#### Section 7.1 Proof of Ownership

Except for those Owners who initially purchase a Unit from Declarant, any person, on becoming an Owner of a Unit, shall furnish to the Board of Directors evidence of ownership in the Unit, which copy shall remain in the files of the Association. A Member shall not be deemed to be a Member in Good Standing nor be entitled to vote at any annual or special meeting of the Association unless this requirement is first met. This requirement may be satisfied by receipt of a Board of Directors-approved form that is completed and acknowledged by a title company or attorney at time of conveyance of the Unit or any interest therein. The Association shall be entitled to charge a reasonable fee for the registration of the transfer of ownership.

#### Section 7.2 Owners' Addresses

Not later than the 30th day after the date of acquiring an interest in a Unit, the Unit Owner shall provide the Association with (i) the Unit Owner's mailing address, telephone number, (ii) the name and address of the holder of any lien against the Unit; (iii) the name and telephone number of any person occupying the Unit other than the Unit Owner, and (iv) the name, address, and telephone number of any person managing the Unit as agent of the Unit Owner. A Unit Owner shall notify the Association not later than the 30th day after the date the Owner has notice of a change in any of the foregoing information, and shall provide the

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information on request by the Association from time to time. If an Owner fails to maintain a current mailing address with the Association, the address of that Owner's Unit shall be deemed to be his or her mailing address.

### Section 7.3 Registration of Mortgagees

A Unit Owner who mortgages his or her Unit shall furnish the Board of Directors with the name and mailing address of his or her mortgagee.

### Section 7.4 Assessments

All Owners shall be obligated to pay all amounts due the Association, including but not limited to assessments imposed by the Association to meet the Common Expenses.

### Section 7.5 Compliance With Governing Documents

Each Owner shall comply with the provisions and terms of the Governing Documents, and any amendments thereto. Further, each Owner shall always endeavor to observe and promote the cooperative purposes for which the Condominium was established.

## ARTICLE VIII. ASSOCIATION RECORDS

### Section 8.1 Records

The Association shall use its best efforts to keep the following records:

- (a) Minutes or a similar record of the proceedings of meetings of the Association.
- (b) Minutes or a similar record of the proceedings of meetings of the Board of Directors.
- (c) The name and mailing address of each Member, the currency and accuracy of the information being the responsibility of the Members.
- (d) The name and mailing address of each mortgagee, the currency and accuracy of the information being the responsibility of each Member and such Member's mortgagee.
- (e) Financial records and books of account for the Association that comply with generally accepted accounting principles and that are sufficiently detailed to enable the Association to prepare a resale certificate as provided for in the Act.
- (f) The plans and specifications used to construct the Condominium.



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- (g) The plans and specifications acquired by the Association over time for improvements to the Condominium
- (h) The Condominium Information Statement and any amendments thereto
- (I) Voting records, proxies, and correspondence relating to amendments to the Declaration
- (j) Copies of income tax returns prepared for the Internal Revenue Service
- (k) Copies of the Governing Documents and all amendments to any of these. Also, for at least four years, a record of all votes or written consents by which amendments to the Governing Documents were approved

### Section 8.2 Inspection of Books and Records

A Unit Owner, on written demand stating the purpose of the demand, has the right to examine and copy, in person or by agent, accountant, or attorney, at any reasonable time, for any proper purpose, the books and records of the Association relevant to that purpose, at the expense of the Unit Owner.

### Section 8.3 Resale Certificates

Any officer of the Association may prepare, or cause to be prepared, certify, and execute resale certificates in accordance with Section 82.157 of the Act. The Association may charge a reasonable fee for preparing a resale certificate. The Association may refuse to furnish a resale certificate until the fee is paid. Any unpaid fees may be assessed against the Unit for which the resale certificate is furnished.

## **ARTICLE IX. INDEMNIFICATION AND INSURANCE**

### Section 9.1 Indemnification

Each person who is or was a Director, officer, or committee member of the Association, or any person who, while a Director, or officer, or committee member of the Association, is or was serving at the request of the Association as a Director, officer, committee member, partner, venture, proprietor, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise, and the heirs, executors, or administrators or estate of such person, shall be indemnified by the Association to the fullest extent permitted or authorized by the Act or any successor provision, as amended from time to time, against any liability, cost, or expense incurred by such person in his or her capacity as a Director, officer, or committee member, or arising out of his or her status as a Director, officer, or committee member. The rights granted pursuant to this Article IX shall be deemed contract rights, and no repeal or amendment of this

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Article IX shall have the effect of limiting or denying any such rights with respect to actions taken or proceedings arising prior to any such amendment or repeal

### Section 9 2 Advance Payments

The Association may, but shall not be obligated to, pay expenses incurred in defending a civil or criminal act, suit or proceeding arising out of a Director's, officer's, or committee member's capacity or status as Director, officer, or committee member in advance of the final disposition of such action, suit, or proceeding, without any determination as to the person's ultimate entitlement to indemnification, *provided, however*, that the payment of such expenses incurred by any such person in advance of the final disposition of a proceeding shall be made only upon delivery to the Association of both a written affirmation by such person of his or her good-faith belief that he or she has met the standard of conduct necessary for indemnification under this Article IX and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it is ultimately determined that such person is not entitled to be indemnified under this Article IX or otherwise

### Section 9 3 Appearance as a Witness

Notwithstanding any other provision of this Article IX, the Association may, but shall not be obligated to, pay or reimburse expenses incurred by a Director, officer or committee member in connection with his or her appearance as a witness or other participation in a proceeding at a time when he or she is not a named defendant or respondent in the proceeding

### Section 9.4 Indemnification of Employees and Agents

The Association, by adoption of a resolution of the Board of Directors, may, but shall not be obligated to, indemnify and advance expenses to an employee or agent of the Association to the same extent and subject to the same conditions under which the Association may indemnify and advance expenses to Directors, officers and committee members under this Article IX

### Section 9 5 Non-Exclusive

The indemnification provided by this Article IX shall not be exclusive of any other rights to which those seeking indemnification may be entitled as a matter of law or under any agreement or otherwise

### Section 9 6 Insurance

The Association may, but shall not be obligated to, maintain insurance at its expense, to protect itself and any person who is or was a Director, officer, committee member, employee, or agent of the Association or is or was serving at the request of the Association as a Director, officer, committee member, partner, venture, proprietor, employee, agent, or similar functionary

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of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise against any liability asserted against him or her and any liability, cost, or expense incurred by him or her in such capacity or arising out of his or her status as such a person, whether or not the Association would have the power to indemnify such person against that liability under this Article IX or the Act

### **ARTICLE X. DECLARANT PROVISIONS**

#### **Section 10 1 Conflict**

The provisions of this Article X shall control over any provision to the contrary elsewhere in these Bylaws

#### **Section 10 2 Board of Directors**

During the period of Declarant control, Section 8 4 of the Declaration shall govern the number, qualification, and appointment of Directors. The initial Directors shall be appointed by Declarant and need not be Unit Owners or Residents. Directors appointed by Declarant may not be removed by the Unit Owners and may be removed by Declarant only. Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee.

#### **Section 10 3 Organizational Meeting**

Within 60 days of the end of the period of Declarant control, or sooner at Declarant option, Declarant shall call an organizational meeting of the Members for the purpose of electing Directors, by ballot of Members. Notice of the organizational meeting shall be given as if it were notice of an annual meeting.

### **ARTICLE XI. AMENDMENT OF BYLAWS**

These Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of a majority of the Board of Directors and the consent of the Declarant until the expiration of the Declarant Control Period, or by two-thirds (2/3) of the votes entitled to be cast, of the Association present, in person or by proxy, at any regular or special meeting. Notwithstanding the above, the percentage of votes or other approval necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

**ARTICLE XII. GENERAL PROVISIONS**

**Section 12.1 Contracts**

The President shall have the power and authority to execute, on behalf of the Association, contracts or instruments in the usual and regular course of business, and in addition the Board of Directors may authorize any officer or officers, agent or agents, of the Association to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors or these Bylaws, no officer, agent, or employee shall have any power or authority to bind the Association by any contract or engagement, or to pledge its credit or to render it peculiarly liable for any purpose or in any amount.

**Section 12.2 Checks, Drafts, etc.**

All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by such officers, agents or employees of the Association as shall from time to time be authorized pursuant to these Bylaws or by resolution of the Board of Directors.

**Section 12.3 Depositories**

All funds of the Association shall be deposited from time to time to the credit of the Association in such banks or other depositories as the Board of Directors may from time to time designate, and upon such terms and conditions as shall be fixed by the Board of Directors. The Board of Directors may from time to time authorize the opening and maintaining within any such depository as it may designate, of general and special accounts, and may make such special rules and regulations with respect thereto as it may deem expedient.

**Section 12.4 Corporate Seal**

The corporate seal, if any, shall be in such form as the Board of Directors shall approve, and such seal, or a facsimile thereof, may be impressed on, affixed to, or in any manner reproduced upon, instruments of any nature required to be executed by officers of the Association.

**Section 12.5 Compensation**

A Director, officer, Member, or Resident shall not be entitled to receive any pecuniary profit from the operation of the Association, and no funds or assets of the Association may be paid as a salary or as compensation to, or be distributed to, or inure to the benefit of, a Director, officer, Member, or Resident; *provided, however*, that.

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(a) Reasonable compensation may be paid to a Director, officer, Member, or Resident for services rendered to the Association, save and except for services rendered in the capacity of a Director or officer ;

(b) a Director, officer, Member, or Resident may, from time to time, be reimbursed for his or her actual and reasonable expenses incurred on behalf of the Association in connection with the administration of the affairs of the Association, provided such expense has been approved by the Board of Directors; and

(c) This provision does not apply to distributions to Unit Owners permitted or required by the Declaration or the Act

### Section 12 6 Action by Non-Unanimous Written Consent

Unless otherwise restricted by law, the Certificate, or these Bylaws, any action required or permitted to be taken at any meeting of the Members, members of the Board of Directors, or members of any committee of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action to be so taken, is signed by a sufficient number of Members, members of the Board of Directors, or committee members as would be necessary to take that action at a meeting at which all of the Members, members of the Board of Directors, or committee members were present and voted. Such written consent shall bear the date of the signature of each Member, member of the Board of Directors, or committee member who signs the consent, and such written consent shall not be effective unless, within sixty (60) days after the date of the earliest dated consent, a consent or consents signed by the required number of Members, members of the Board of Directors, or committee is delivered to the Association. Delivery shall be by hand or certified or registered mail, return receipt requested. Prompt notice of the taking of any action by Members, members of the Board of Directors, or committee members without a meeting by less than unanimous written consent shall be given to all Members, members of the Board of Directors or committee members who did not consent in writing to the action. This Section may not be used to avoid the requirement of an annual meeting.

### Section 12 7 Meetings by Conference Telephone

The Members, members of the Board of Directors, or members of any committee of the Board of Directors may participate in and hold a meeting of the Members, members of the Board of Directors, or committee members by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

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### Section 12.8 Conflicting Provisions

If any provision of these Bylaws conflicts with any provision of the laws of the State of Texas, such conflicting Bylaws provision shall be null and void, but all other provisions of these Bylaws shall remain in full force and effect. In the case of any conflict between the Certificate and these Bylaws, the Certificate shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

### Section 12.9 Severability

Invalidation of any provision of these Bylaws, by judgment or court order, shall in no wise affect any other provision which shall remain in full force and effect.

The effect of a general statement shall not be limited by the enumerations of specific matters similar to the general.

### Section 12.10 Fiscal Year

The fiscal year of the Association shall be set by resolution of the Board of Directors, and is subject to change from time to time as the Board of Directors shall determine. In the absence of a resolution by the Board of Directors, the fiscal year shall be the calendar year.

### Section 12.11 Waiver

No restriction, condition, obligation, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

### Section 12.12 Business Judgment Rule

Any act or thing done by any Director, Officer, or Committee Member taken in furtherance of the purposes of the corporation, and accomplished in conformity with the procedures set forth in the Declaration, Certificate of Formation, the laws of the State of Texas, and/or these By-laws, shall be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing done shall not be a breach of duty on the part of the Director, Officer, or Committee Member if they have been done within the exercise of their discretion and judgment.

The Business Judgment Rule means that a court shall not substitute its judgment for that of the Director, Officer or Committee Member. A court shall not re-examine the quality of the decisions made by the Director, Officer, or Committee Member by determining the reasonableness of the decision as long as the decision is made in good faith in what the Director, Officer, or Committee Member believes to be the best interest of the corporation.

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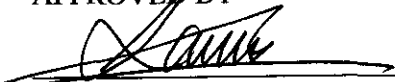
### Section 12 13. Owner Conflict

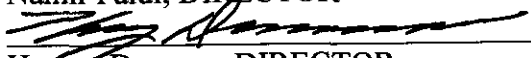
If an Owner is involved in litigation with the Association as to a conflict of interpretation of the Declaration, the Certificate of Formation for the Association, Rules and Regulations promulgated by the Association, or these By-Laws, and/or the amount of delinquent assessments, that Owner may not participate in any Association meeting or activity

### Section 12 14. Dissolution/Winding Up Termination

The corporation may be wound-up/dissolved pursuant to the Texas Business Organizations Code, or its successor statute. If the corporation is wound-up or dissolved, the assets shall be dedicated to a public body or conveyed to a non-profit corporation with similar purposes.

APPROVED BY

  
\_\_\_\_\_  
Namir Faidi, DIRECTOR

  
\_\_\_\_\_  
Harvey Denman, DIRECTOR

  
\_\_\_\_\_  
Joe Wheat, DIRECTOR

# CERTIFICATE OF SECRETARY

I HEREBY CERTIFY that the foregoing is a true, complete, and correct copy of the Bylaws of Emerald By the Sea Condominium Association, Inc., a Texas nonprofit corporation, as adopted by the initial Board of Directors at its organization meeting where a quorum was present held on the 25th day of July, 2007

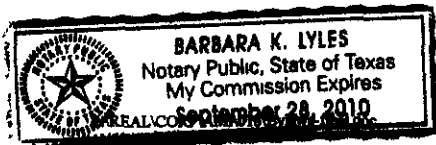
IN WITNESS WHEREOF, I hereunto set my hand this the 2nd day of AUGUST, 2007

EMERALD BY THE SEA CONDOMINIUM ASSOCIATION

By [Signature], Secretary

THE STATE OF TEXAS           §  
   §  
 COUNTY OF Harris           §

Before me, the undersigned authority, on this 2nd day of August, 2007, personally appeared Joe Wheat, as Secretary of Emerald By the Sea Condominium Association, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same on behalf of the Association



[Signature]  
 Notary Public in and for the State of Texas

**FILED AND RECORDED**



OFFICIAL PUBLIC RECORDS

Mary Ann Daigle

2007052439

August 09, 2007 10 48 45 AM

FEE \$108 00

Mary Ann Daigle, County Clerk  
 Galveston County, TEXAS