Avalon of Naples III Condominium Association, Inc.

Bylaws



Cardinal Management Group of Florida, Inc.

EXHIBIT "D"

BY-LAWS OF

AVALON OF NAPLES III CONDOMINIUM ASSOCIATION, INC.

A corporation not for profit organized under the laws of the State of Florida

1. Identity. These are the By-Laws of Avalon of Naples III Condominium Association, Inc., (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, and organized for the purpose of administering that certain condominium located in Collier County, Florida, and known as Avalon of Naples III, a Condominium (the "Condominium").

1.1. Principal Office. The principal office of the Association shall be 5800 Lakewood Ranch Blvd., Sarasota, Florida, 34240, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept in Collier County, Florida or at such other place as may be permitted by the Act from time to time.

1.2. Fiscal Year. The fiscal year of the Association shall be the calendar year.

1.3. Seal. The seal of the Association shall bear the name of the corporation, the word "Florida," the words "Corporation Not for Profit," and the year of incorporation.

2. Definitions. For convenience, the By-Laws shall be referred to as the "By-Laws" and the Articles of Incorporation of the Association as the "Articles". The term "Act" means the Florida Condominium Act (Chapter 718, Florida Statutes) as it exists on the date the Declaration is recorded in the Public Records of Collier County, Florida. The other terms used in these By-Laws shall have the same definition and meaning as those set forth in the Declaration for the Condominium unless herein provided to the contrary, or unless the context otherwise requires.

3. Members.

3.1. Annual Meeting. The annual members' meeting shall be held on the date, at the place located upon the condominium property and in all events within 45 miles of the condominium] and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than thirteen (13) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors and to transact any other business authorized to be transacted by the members, or as stated in the notice of the meeting sent to Unit Owners in advance thereof. Unless changed by the Board of Directors, the first annual meeting shall be held during January of the year following the date of filing of the Declaration, at such time, place and date as the Board shall determine.

3.2. Special Meeting. Special members' meeting shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon

receipt of a written request from a majority of the members of the Association or upon receipt of a written application of twenty percent (20%) of the voting interests to the Board or such other percentage as may be required by the Act. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting. Special meetings may also be called by Unit Owners in the manner provided for in the Act.

3.3 Notice of Meeting, Waiver of Notice. Written notice of a meeting of members, which shall incorporate an identification of agenda items and state the time and place and the purpose(s) for which the meeting is called, shall be given by the President or Secretary. A copy of the notice shall be posted at a conspicuous place on the Condominium Property at least fourteen (14) continuous days preceding the meeting. The notice of the meeting shall be sent by mail to each Unit Owner, unless the Unit Owner waives in writing the right to receive notice of the annual meeting by mail. The delivery or mailing shall be to the address of the member as it appears on the roster of members. The posting and mailing of the notice shall be effected not less than fourteen (14) days prior to the date of the meeting. Proof of posting shall be given by affidavit, and proof of mailing of the notice shall be given by affidavit or the retention of a post office certificate of mailing.

(a) Notice of specific meeting(s) may be waived before or after the meeting and the attendance of any member (or person authorized to vote for such member) shall constitute such member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

(b) An officer of the Association shall provide an affidavit, to be included in the official records of the Association, affirming that notices of the Association meeting were mailed or hand delivered in accordance with this Section of the Act, to each Unit Owner at the address last furnished to the Association. No other proof of notice of a meeting shall be required.

3.3.1. Special Provisions Relating to Election of Board of Directors. Regular election of the Board of Directors shall occur on the date of the annual meeting. In addition to the foregoing notice provisions, not less than sixty (60) days before a scheduled election, the Association shall mail or deliver to each Unit Owner entitled to a vote a first notice of the date of the election. Any Unit Owner or other eligible person desiring to be a candidate for the Board of Directors shall give written notice to the Secretary not less than forty (40) days before a scheduled election. Upon request of a candidate for the Board of Directors, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least thirty five (35) days before the election, shall be included with the mailing or delivery of the ballot, with the costs of mailing or delivery and copying to be borne by the Association. Thereafter, no less than fourteen (14) days and no more than thirty-four (34) days before a scheduled election, the Association shall mail or deliver a second notice of the meeting and the agenda to all Unit Owners entitled to vote therein, together with a ballot which shall list all candidates.

3.4. Quorum. A quorum at members' meetings shall be attained by the presence either in person or by proxy of at least one-half (1/2) of the persons entitled to cast the votes of members.

3.5. Voting.

(a) Number of Votes. Except as provided in paragraph 3.10 hereof, in any meeting of members, the Owners of Units shall be entitled to cast one (1) vote for each Unit owned. In the event two (2) or more Units shall be combined to create one (1) Unit, the new Unit shall be attributed a fractional interest and share equal to the number of combined Units. The vote of a Unit shall not be divisible.

(b) Majority Vote. The acts approved by a majority of the votes present in person or by proxy, if allowed, at a meeting at which a quorum shall have been attained shall be binding upon all Unit Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles or these By-Laws. As used in these By-Laws, the Articles or the Declaration, the terms "majority of the Unit Owners" and "majority of the members" shall mean a majority of the members themselves and shall further mean more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Unit Owners at which a quorum shall have been attained. Similarly, if some greater percentage of members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of members and not of the members themselves.

(c) Voting Member. If a Unit is owned by one person, the right to vote shall be established by the roster of members. If a Unit is owned by more than one person, those persons (including husbands and wives) shall decide among themselves as to who shall cast the vote of the Unit. In the event that those persons cannot so decide, no vote shall be cast. A person casting a vote for a Unit shall be presumed to have the authority to do so unless the President or the Board of Directors is otherwise notified. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by an appropriate officer of the corporation and filed with the Secretary of the Association. Such person need not be a Unit Owner. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote for a Unit may be revoked by any record owner of an undivided interest in the Unit. If a certificate designating the person entitled to cast the vote for a Unit for which such certificate is required is not on file or has been revoked, the vote attributable to such Unit shall not be considered in determining whether a quorum is present, nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed.

3.6. Proxies. Votes may be cast in person and limited proxies, but not general proxies. However, limited proxies and general proxies may be used for purposes of establishing a quorum. Limited proxies may be used for votes taken to waive or reduce reserve accounts for capital expenditures and deferred maintenance, for votes taken to waive financial statement requirements in accordance with the Act, for votes taken to amend the Declaration, Articles or these By-Laws, or for any other matter for which the members are required or permitted to vote. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meeting 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 is revocable at any time at the pleasure of the person executing it. A proxy must be in writing, signed by the person authorized to cast the vote for the Unit (as set forth in 3.5 above), name the

person(s) voting the proxy and the person authorized to vote for such person(s) and filed with the Secretary of the Association before the appointed time of each meeting for which it is given. Each proxy shall also contain the date, time and place of the meeting for which it is given and shall set forth the matter on which the proxy holder may vote and the manner in which the vote is to be cast. Holders of proxies shall be Unit Owners or the spouse of a Unit Owner. Notwithstanding proxy as prescribed herein, such forms of limited proxy required by the Act as may be amended from time to time shall prevail where in conflict herewith.

3.7. Adjourned Meetings. If any proposed meeting cannot be organized because a quorum has not been attained, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as required above, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the time and date of the meeting.

3.8 Order of Business. If a quorum has been attained, the order of business at annual members' meetings, and, if applicable, at other members' meetings, shall be:

(a) Collection of Election Ballots.

(b) Call to order by President.

(c) Appointment by the President of a chairman of the meeting (who need not be a member or a Director).

(d) Proof of notice of the meeting or waiver of notice.

(e) Reading of minutes.

(f) Reports of officers.

(g) Reports of committees.

(h) Appointment of inspectors of election.

(i) Determination of number of Directors to be elected.

(j) Election of Directors.

(k) Unfinished business.

(l) New business.

(m) Adjournment.

Such order may be waived in whole or in part by direction of the chairman.

COLLIER COUNTY COPY CLERK OF THE CIRCUIT COURT

3.9. Minutes of Meeting. The minutes of all meetings of Unit Owners shall be kept in a book available for inspection by Unit Owners or their authorized representatives and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.

3.10. Action Without a Meeting. Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any annual or special meeting of members, or any action which may be taken at any annual or special meeting of such members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the members (or persons authorized to cast the vote of any such members as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of members at which a quorum of members (or authorized persons) entitled to vote thereon were present and voted. Within ten (10) days after obtaining such authorization by written consent, notice must be given to members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

COLLIER COUNTY FLORIDA CLERK OF THE CIRCUIT COURT

4. Directors

4.1. Membership. Prior to Turnover, the affairs of the Association shall be governed by a Board of not less than three (3) Directors. After Turnover, the affairs of the Association shall be governed by not less than three (3) Directors, the number of Directors to be established from time to time upon majority vote of the membership, provided, however, that the number of Directors shall always be an odd number. Except for Directors appointed by the Developer, Directors shall be Unit Owners or the spouses of Unit Owners, and shall be elected for a staggered term. Upon Turnover, individual Directors shall be elected for a designated one-year term, a two-year term and a three year term.

4.2. Election of Directors. The election of Directors shall be conducted in the following manner:

(a) Election of Directors shall be held at the annual members' meeting, except as provided herein to the contrary.

(b) Any Unit Owner or spouse of a Unit Owner desiring to be a candidate for the Board of Directors shall give written notice of such desire to the Secretary of the Association not less than forty (40) days before a scheduled election. Thereafter, no less than fourteen (14) days and no more than thirty-four (34) days before a scheduled election, the Association shall mail or deliver, along with the agenda and second notice of meeting described in Section 3.3.1 hereof, a ballot which shall list all the candidates. Any Unit Owner or other eligible personal properly serving notice of candidacy may request that the ballot and notice be accompanied by an information sheet provided by the candidate, which information sheet shall be no larger than 8-1/2 inches by 11 inches. The information sheet shall be furnished by the candidate at least thirty-five (35) days before the election and shall be included with the mailing or delivery of the ballot, with the costs of mailing or delivery and copying to be borne by the Association. Nominations for Directors and additional directorships created at the election meeting shall be those contained in the ballot only.

(c) The election shall be by written ballot and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

4.3. Vacancies and Removal

(a) Except as to vacancies resulting from removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors, provided that all vacancies in directorships to which Directors were appointed by the Developer pursuant to the provisions of paragraph 4.16 hereof shall be filled by the Developer.

(b) Any Director elected by the members (other than the Developer) may be removed by concurrence of a majority of the votes of the members at a special meeting of members called for that purpose or by written agreement signed by a majority of the Owners of all Units. In the event that removal of any Director results in less than a majority of the board members being removed, the vacancy in the Board of Directors so created shall be filled by the affirmative vote of a majority of the remaining members of the Board of Directors. The conveyance of all Units owned by a Director in the Condominium (other than appointees of the Developer or Directors who were not Unit Owners) shall constitute the resignation of such Director. In the event that removal of one or more directors results in removal of a majority or more of the members of the Board of Directors, the vacancies shall be filled in accordance with procedural rules adopted by the Division of Florida Condominiums, Timeshares, and Mobile Homes, of the Department of Business and Professional Regulation.

(c) If a vacancy on the Board of Directors results in the inability to obtain a quorum of Directors in accordance with these By-Laws, any Owner may apply to the Circuit Court within whose jurisdiction the Condominium lies for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the Unit Owner shall mail to the Association and post in a conspicuous place on the Condominium Property a notice describing the intended action and giving the Association an opportunity to fill the vacancy(ies) in accordance with these By-Laws. If during such time, the Association fails to fill the vacancy(ies), the Unit Owner may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board of Directors, and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these By-Laws.

4.4. Term. Except as provided herein to the contrary for the staggered terms designated upon election for each identified Director, the term of each Director's service shall extend until the next annual meeting of the members and subsequently until his successor is duly elected and has taken office or until he is removed in the manner elsewhere provided.

4.5. Organizational Meeting. The organizational meeting of newly-elected or appointed Directors shall be held within ten (10) days of their election or appointment at such place and time as shall be fixed by the Directors at the meeting at which they were elected or

appointed. Notice of the organizational meeting shall be posted conspicuously on the Condominium property at least forty-eight (48) hours before the meeting; provided, however, in the event the organizational meeting shall follow the annual meeting in which the Directors were newly elected or appointed, the notice of the annual meeting shall serve as notice of the organizational meeting.

4.6. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least three (3) days prior to the meeting. Regular meetings of the Board of Directors shall be open to all Unit Owners and notice of such meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours in advance for the attention of the members of the Association, except in the event of an emergency.

4.7. Special Meetings. Special meetings of the Directors may be called by the President, and must be called by the President or Secretary at the written request of one-third (1/3) of the Directors. Additionally, if twenty percent (20%) of the voting interests petition the Board of Directors to address an item of business, the Board of Directors shall at its next regular board meeting or at a special meeting of the board, but not later than sixty (60) days after receipt of the petition, place the item on the agenda. Notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than three (3) days prior to the meeting. Special meetings of the Board of Directors shall be open to all Unit Owners and notice of such meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours in advance for the attention of the members of the Association, except in the event of an emergency.

4.7.1 Meetings, Special Assessments, Rules. Written notice of any meeting of Directors at which non-emergency special assessments, or at which amendment to rules regarding Unit use will be proposed, discussed or approved, shall be mailed or delivered to the Unit Owner and posted conspicuously on the Condominium Property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen-day (14 day) notice shall be made by an affidavit executed by the Secretary of the Association and filed among the official records of the Association.

4.7.2. Regular Assessments. Notice of any meeting in which regular assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of such assessments.

4.7.3 Unit Owners Attendance. Meetings of the Board of Directors and any committee thereof at which a quorum of the members of that committee is present shall be open to all Unit Owners. Unit Owners shall have the right to speak at such meetings with reference to all designated agenda items.

4.8. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called, shall constitute such Director's waiver of notice of such meeting.

4.9. Quorum. A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is specifically required by the Declaration, the Articles or these By-Laws.

4.10. Adjourned Meetings. If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

4.11. Joinder in Meeting by Approval of Minutes. A Director 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 the Director votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest. Directors may not vote by proxy or by secret ballot at any meeting of the Board of Directors. A vote or abstention for each Director present shall be recorded in the minutes. The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the approval of that Director of the business conducted at the meeting, but such joinder shall not allow the applicable Director to be counted as being present for purposes of quorum.

4.12. Presiding Officer. The presiding offer at the Directors' meetings shall be the President (who may, however, designate any other person to preside).

4.13. Order of Business. If a quorum has been attained, the order of business at Directors' meetings shall be:

(a) Election of Chairman.
(b) Roll Call.
(c) Proof of due notice of meeting.
(d) Reading and disposal of any unapproved minutes.
(e) Reports of officers and committees.
(f) Election of Inspectors of Election.
(g) Electron of officers.
(h) Unfinished business.
(i) New Business.
(j) Adjournment.

Such order may be waived in whole or in part by direction of the presiding officer.

4.14. Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Unit Owners, or their authorized representatives, and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years. The Annual Meeting shall be held upon the condominium property but, in all events, within 45 miles of the condominium.

4.15. Executive Committee, Other Committees. The Board of Directors may, by resolution duly adopted, appoint an Executive Committee to consist of any member or members of the Board of Directors. Such Executive Committee shall have and may exercise all of the powers of the Board of Directors in management of the business and affairs of the condominium during the period between the meetings of the Board of Directors insofar as may be permitted by law, except that the Executive Committee shall not have power (a) to determine the Common Expenses required for the affairs of the Condominium, (b) to determine the Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium, (c) to adopt or amend any rules and regulations covering the details of the operation and use of the Condominium Property, or (d) to exercise any of the powers specifically reserved to the Unit Owners or Board of Directors. The Board may by resolution also create other committees and appoint persons to such committees and vest in such committees such powers and responsibilities as the Board shall deem advisable.

4.16. Proviso. Notwithstanding anything to the contrary contained in this Section 4 or otherwise, the Board shall consist of at least three (3) but no more than five (5) Directors during the period that the Developer is entitled to appoint a majority of the Directors, as hereinafter provided. The Developer shall have the right to appoint all of the members of the Board of Directors until Unit Owners other than the Developer own fifteen percent (15%) or more of the Units that will be operated ultimately by the Association.

COPY

Florida Statute Section 718.301(1) states and provides for the following:

(1) If unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer are entitled to elect at least one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect at least a majority of the members of the board of administration of an association, upon the first to occur of any of the following events: (a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers; (b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers; (c) When all the units that will be operated ultimately by the association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the developer in the ordinary course of business; (d) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business; (e) When the developer files a petition seeking protection in bankruptcy; (f) When a receiver for the developer is appointed by a circuit court and is not discharged within 30 days after such appointment, unless the court determines within 30 days after appointment of the receiver that transfer of control would be detrimental to the association or its members; or (g) Seven years after the date of the recording of the certificate of a surveyor and mapper pursuant to s. 718.104(4)(e) or the recording of an instrument that transfers title to a

unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit, whichever occurs first; or, in the case of an association that may ultimately operate more than one condominium, 7 years after the date of the recording of the certificate of a surveyor and mapper pursuant to s. 718.104(4)(e) or the recording of an instrument that transfers title to a unit which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit, whichever occurs first, for the first condominium it operates; or, in the case of an association operating a phase condominium created pursuant to s. 718.403, 7 years after the date of the recording of the certificate of a surveyor and mapper pursuant to s. 718.104(4)(e) or the recording of an instrument that transfers title to a unit which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association. After the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.

Within seventy-five (75) days after the Unit Owners other than the Developer are entitled to elect a member or members of the Board of Directors, or sooner if the Developer has elected to accelerate such event as aforesaid, the Association shall call, and give such notice as required for election of directors as set forth under Section 4.2 hereof, of a meeting of the Unit Owners to elect such member or members of the Board of Directors. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so.

At the time that Unit Owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association and shall deliver to the Association, at Developer's expense, all property of the Unit Owners and of the Association held or controlled by the Developer, including, but not limited to, the following items, if applicable:

(a) The original or a photocopy of the recorded Declaration of Condominium, and all amendments thereto. If a photocopy is provided, the Developer must certify by affidavit that it is a complete copy of the actual recorded Declaration.

(b) A certified copy of the Articles of Incorporation of the Association.

(c) A copy of the By-Laws of the Association.

(d) The minute books, including all minutes, and other books and records of the Association, if any.

(e) Any house rules and regulations which have been promulgated.

(f) Resignations of resigning officers and Board members who were appointed by the Developer.

(g) The financial records, including financial statements of the Association, and source documents since the incorporation of the Association through the date of the Turnover. The records shall be audited by an independent certified public account. All financial records shall be prepared in accordance with generally accepted accounting standards and shall be audited in accordance with generally accepted auditing standards as prescribed by the Florida Board of Accountancy. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes, and billings, cash receipts and related records to determine that the Developer was charged and paid the proper amount of assessments. The financial records required hereunder may be provided not later than ninety (90) days after Unit Owners, other than the Developer, elect a majority of the Board of Directors.

(h) Association funds or the control thereof.

(i) All tangible personal property that is the property of the Association or is or was represented by the Developer to be part of the Common Elements or is ostensibly part of the Common Elements, and an inventory of such property.

(j) A copy of the plans and specifications utilized in the construction or remodeling of Improvements and the supplying of equipment, and for the construction and installation of all mechanical components serving the Improvements and the Condominium Property, with a Certificate, in affidavit form, of an officer of the Developer or an architect or engineer authorized to practice in Florida, that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the Condominium Property and the construction and installation of the mechanical components serving the Improvements and the Condominium Property.

(k) A list of the names and addresses, of which the Developer had knowledge at any time in the development of the Condominium, of all contractors, subcontractors, and suppliers utilized in the construction or remodeling of the Improvements and in the landscaping of the Condominium or Association Property.

(l) Insurance polices.

(m) Copies of any Certificates of Occupancy which may have been issued for the Condominium Property.

(n) Any other permits issued by governmental bodies applicable to the Condominium Property in force or issued within one (1) year prior to the date the Unit Owners take control of the Association.

(o) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective.

COLLIER COUNTY FLORIDA COPY OF RECORD

(p) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on the Developer's records.

(q) Leases of the Common Elements and other Leases to which the Association is a party, if applicable.

(r) Employment contracts or service contracts in witch the Association is one of the contracting parties, or service contracts in which the Association or Unit Owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service,

(s) All other contracts to which the Association is a party.

5. Powers and Duties. The Board of Directors shall have the powers and duties granted to it by law, the Declaration, the Act, the Articles, and these By-Laws necessary for the administration of the affairs of the Condominium and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles, or these By-Laws may not be delegated to the Board of Directors by the Unit Owners.

COLLIER COUNTY FLORIDA COPY

6. Officers

6.1. Executive Officers. The initial executive officers of the Association shall be a President, a Vice -President, a Treasurer and a Secretary (none of whom need to be Directors or Unit Owners), all of whom shall be elected by the Board of Directors (which may create and fill other offices as provided herein) and who may be peremptorily removed at any meeting by concurrence of a majority of all of the Directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association.

6.2. President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of President of an association.

6.3. Vice-President. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the Vice-President of an association and as may be required by the Directors or the President.

6.4. The Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the members. The Secretary shall attend to the giving of all notices to the members and Directors and other notices required by law. The Secretary shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. The Secretary shall keep the records of the Association, except those of the Treasurer, and shall

perform all other duties incident to the office of the Secretary of an association and as may be required by the Directors or the President.

6.5. Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a treasurers report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of Treasury and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.

6.6 Other. The Board of Directors may create additional offices from time to time and appoint persons to fill such offices, subject to removal at the discretion of the Board.

6 7 Developer Appointee. No officer appointed by the Directors designated by the Developer may be removed except as provided in Section 4.16 hereof and by law.

7. Compensation. Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or officer as an employee of the Association, nor preclude contracting with a Director or officer for the management of the Condominium or for any other service to be supplied by such Director or officer. Directors and officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties.

8. Resignations. Any Director or officer may resign his or her post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any Director or officer (other than appointees of the Developer or officers who were not Unit Owners) shall constitute a written resignation of such Director or officer.

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

9.1. Budget.

(a) Adoption by Board, Items. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium (which shall detail all accounts and items of expense and contain all items required by the Act), determine the amount of Assessments payable by the Unit Owners to meet the expenses of such Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of the Declaration. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance (to the extent required by law).

These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing, and for any other item for which the deferred maintenance expense, or replacement cost exceeds $10,000.00. The amount of reserves shall be computed by means of a formula which is based upon the estimated remaining useful life and the estimated replacement cost or deferred maintenance expenses of each reserve item. The Association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the remaining useful life of a reserve item caused by deferred maintenance Reserves shall not be required if the members of the Association have, by a vote of the majority of the voting interests voting in person or by limited proxy at a duly called meeting of members, determined for a specific fiscal year to provide no reserves or reserves less adequate than required hereby. If a meeting of Unit Owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget, shall go into effect.

Notwithstanding the foregoing, prior to Turnover of control of the Association by the Developer to the Unit Owners pursuant to the Act and Section 4.16 hereof, the Developer may vote to waive reserves for the first two (2) years of operation of the Association. However, prior to Turnover of control of the Association by the Developer and after the first two (2) years of operation of the Association, reserves may be waived or reduced only upon the vote of all voting interests, other than the Developer, voting in person or by limited proxy at a duly called meeting of members for that purpose.

The adoption of a budget for the Condominium shall comply with the requirements hereinafter set forth:

(i) Notice of Meeting. A copy of the proposed budget of Common Expenses shall be mailed or hand delivered to each Unit Owner at the address last furnished to the Association not less than fourteen (14) days prior to the meeting of the Board of Directors or of the Unit Owners at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting. Evidence of compliance with such fourteen- day (14) notice shall be by an affidavit executed by an officer or the manager of the Association or such other person providing notice of the meeting and filed among the official records of the Association. The meeting must be open to the Unit Owners.

(ii) Special Membership Meeting. If a budget is adopted by the Board of Directors which requires Assessments against such Unit Owners in any year exceeding one hundred fifteen percent (115%) of such Assessments for the preceding year, as hereinafter defined, upon written application of ten percent (10%) of the Unit Owners received by the Board of Directors within twenty-one (21) days after adoption of the budget, a special meeting of the Unit Owners shall be held within thirty (30) days of delivery of such application to the Board of Directors. Each Unit Owner shall be given at least fourteen (14) days written notice of said meeting, which notice shall be provided by hand delivery, or by US Mail, first class, to the address of each Unit Owner last furnished to the Association. At the special meeting, Unit Owners shall consider and adopt a budget. The adoption of said budget shall require a vote of Owners of a majority of all

the Units (including Units owned by the Developer). If a meeting of the Unit Owners has been called as aforesaid and a quorum is not obtained or a substitute budget has not been adopted by the Unit Owners, the budget adopted by the Board of Directors goes into effect as scheduled.

(iii) Determination of Budget Amount. In determining whether a budget requires Assessments against Unit Owners in any year exceeding one hundred fifteen percent (115%) of Assessments for the preceding year, there shall be excluded in the computations any authorized provisions for reasonable reserves made by the Board of Directors in respect of repair or replacement of the Condominium Property or in respect of anticipated expenses of the Association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded further from such computation Assessments for improvements to the Condominium Property.

(iv) Proviso. As long as the Developer is in control of the Board of Directors of the Association, the Board may not impose Assessments for a year greater than one hundred fifteen percent (115%) of the prior year's Assessments, as herein defined, without the approval of a majority of Unit Owners other than the Developer.

(b) Adoption by Membership. In the event that the Board of Directors shall be unable to adopt a budget for a fiscal year in accordance with the requirements of Subsection 9.1(a) above, the Board of Directors may call a special meeting of Unit Owners for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection, or propose a budget in writing to the members, and if such budget is adopted by the members, upon ratification by a majority of the Board of Directors, it shall become the budget for such year.

9.2. Assessments. Assessments against Unit Owners for their share of the items of the budget shall be made for the applicable fiscal year annually at least twenty (20) days preceding the year for which the Assessments are made. Such Assessments shall be due in equal installments, payable in advance on the first day of each quarter of the year for which the Assessments are made. If annual Assessments are not made as required, Assessments shall be presumed to have been made in the amount of the last prior Assessments, and quarterly installments of such Assessments shall be due upon each installment payment date until changed by amended Assessments. In the event the annual Assessments prove to be insufficient, the budget and Assessments may be amended at any time by the Board of Directors, subject to the provisions of Section 9.1 hereof, if applicable. Unpaid Assessments for the remaining portion of the fiscal year for which amended Assessments are made shall be payable in as many equal installments as there are full quarters of the fiscal year left as of the date of such amended Assessments, each such quarterly installment to be paid on the first day of the quarter, commencing the first day of the next ensuing quarter. If only a partial quarter remains, the amended Assessments shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution.

9.3 Assessments for Emergencies. Assessments for Common Expenses for emergencies that cannot be paid from the annual Assessments for Common Expenses shall be due only after ten (10) days notice is given to the Unit Owners concerned, and shall be paid in such manner as the Board of Directors of the Association may require in the notice of such Assessments.

9.4. Late Assessments. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. Assessments and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but there shall be a late charge of $2.00 per day up to a maximum of $20.00 for any sums not paid within ten (10) days of the date due. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Parcel, with interest, and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien is effective as of the date of the recording of this Declaration and shall be evidenced by the recording of a claim of lien in the Public Records of the County, stating the description of the Condominium Parcel, the name of the record owner, the name and address of the Association, the amount due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The clam of lien shall secure (whether or not stated therein) all unpaid assessments, interest thereon, and costs and attorneys fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final ,judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien.

9.5. Depository. The depository of the Association shall be such bank or banks in the State as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited in the Association's name. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Directors. Reserve and operating funds shall not be commingled.

9.6. Enforcement of Assessments. In the event an Assessment is not paid within ten (10) days of the date same shall be due and payable, the Association, through the Board of Directors, may proceed to enforce and collect said Assessments from the delinquent Unit Owner in any manner provided for by the Act, the Declaration and these By-Laws. Each Unit Owner shall be individually responsible for the payment of Assessments against his Unit and for the payment of reasonable attorneys' fees and costs incurred by the Association in the collection of sums due and enforcement of any lien held by the Association in accordance with the Act.

9.7. Fidelity Bonds. Fidelity bonds shall be required by the Board of Directors for all persons handling or responsible for Association funds in such amount as shall be determined by a majority of the Board but not less than as may be required by the Act. The premiums on such bonds shall be paid by the Association as a Common Expense.

9.8. Accounting Records and Reports. The Association shall maintain accounting records in the State, according to the accounting practices normally used by similar associations or as required by the Act. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to, (a) a record of all receipts and expenditures, and (b) an account for each Unit designating the name and current mailing address of the Unit Owner, the amount of Assessments, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due. Written summaries of the records described in clause (a) above, in the form and manner specified below, shall be supplied to each Unit Owner annually.

No later than April 1 of the year following the end of a fiscal year, the Board shall mail, or furnish by personal delivery, to each Unit Owner a complete financial report of actual receipts and expenditures for the previous twelve (12) months or a complete set of financial statements for the preceding fiscal year prepared in accordance with generally accepted accounting principles. The report shall show the amount of receipts by accounts and receipt classifications and shall show the amount of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

(a) Cost for security.

(b) Professional and any management fees and expenses.

(c) Taxes.

(d) Cost for recreation facilities, if any.

(e) Expenses for refuse collection and utility services.

(f) Expense for lawn care.

(g) Cost for building maintenance and repair.

(h) Insurance costs.

(i) Administrative and salary expenses; and

(j) Reserves for capital expenditures, deferred maintenance, and any other category for which the Association maintains a reserve account or accounts.

CLERK OF THE CIRCUIT COURT CLAY COUNTY

9.9. Application of Payment. All payments made by a Unit Owner shall be applied as provided in these By-Laws and in the Declaration or as otherwise determined by the Board.

9.10. Notice of Meetings. Notice of any meeting where Assessments against the Unit Owners are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such Assessments.

10. Unit Owner Inquiries. In the event that a Unit Owner shall file with the Board of Directors a written inquiry delivered by United States first class mail, return receipt requested, the Board shall, within thirty (30) days of receipt of such complaint, respond in writing to the Unit Owner filing such inquiry. Such response shall either (i) set forth a substantive response to the inquiry, (ii) notify the Unit Owner that a legal opinion has been requested, or (iii) notify the Unit Owner that advice has been requested from the Division of Florida Land Sales, Condominiums and Mobile Homes. In the event that the Board of Directors shall request advice from the Division, the Board of Directors shall, within ten (10) days of its receipt of such advice, provide in writing a substantive response to the Unit Owner. In the event the Board of Directors shall request a legal opinion, the Board of Directors shall, within sixty (60) days after its receipt of the inquiry, provide in writing a substantive response to the Unit Owner.

11. Roster of Unit Owners. Each Unit Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Unit Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other owners shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.

12. Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these By-Laws.

13. Amendments. Except as in the Declaration provided otherwise, these By-Laws may be amended in the following manner:

13.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

13.2. Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than two (2) of the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval

must be by not less than sixty-six and two thirds percent (66 2/3%) votes of the members of the Association and by not less than two (2) members of the entire Board of Directors.

13.3. Proviso. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer and mortgagees in each instance except as required by the Act. No amendment shall be made that is in conflict with the Articles or Declaration. No amendment to this Section shall be valid.

13.4. Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and By-Laws, which certificate shall be executed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Developer alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Developer. The amendment shall be effective when the certificate and a copy of the amendment are recorded in the Public Records of the County with an identification of the first page of the amendment of the Official Records Book and Page of said Public Records where the Declaration is recorded.

14. Rules and Regulations. Attached hereto are initial Rules and Regulations concerning the use of portions of the condominium. The Board of Directors may from time to time, modify, amend or add to such Rules and Regulations, except that subsequent to the date control of the Board is turned over by the Developer to Unit Owners other than the Developer, Owners of a majority of the Units may overrule the Board with respect to any such modifications, amendments or additions. Copies of such modified, amended or additional Rules and Regulations shall be furnished by the Board of Directors to each affected Unit Owner not less than thirty (30) days prior to the effective date thereof. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Developer.

15. Construction. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

16. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these By-Laws or the intent of any provision hereof.

17. Official Records. From the inception of the Association, the Association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the Association:

(a) The plans, permits, warranties, and other items provided by the Developer pursuant to the Act.

(b) A photocopy of the recorded Declaration of Condominium and all amendments thereto.

(c) A photocopy of the recorded By-Laws of the Association and all amendments thereto.

(d) A certified copy of the Articles of Incorporation of the Association or other documents creating the Association and all amendments thereto.

(e) A copy of the current Rules and Regulations of the Association

(f) A book or books containing the minutes of all meetings of the Association, of the Board of Directors, and of Unit Owners, which minutes shall be retained for a period of not less than seven (7) years.

(g) A current roster of all Unit Owners, their mailing addresses, Unit identifications, voting certifications, and if known, telephone numbers.

(h) All current insurance policies of the Association and the Condominium.

(i) A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility.

(j) Bills of sale or transfer for all property owned by the Association.

(k) Accounting records for the Association and the accounting records for the Condominium, according to good accounting practices. All accounting records shall be maintained for a period of not less than seven (7) years. The accounting records shall include, but not be limited to:

(1) Accurate, itemized, and detailed records for all receipts and expenditures.

(2) A current account and a quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each Assessment, the amount paid upon the account, and the balance due.

(3) All audits, review, accounting statements, and financial reports of the Association or Condominium.

(4) All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.

COLLIER COUNTY
CLERK OF THE CIRCUIT COURT
COPY

(l) Ballots, sign-in sheets, voting proxies and all other papers relating to elections, which shall be maintained for a period of one (1) year from the date of the meeting to which the document relates.

(m) All rental records where the Association is acting as agent for the rental of Units.

(n) A copy of the current question and answer sheet as required by the Act.

(o) All other records of the Association not specifically included in the foregoing which are related to the operation of the Association.

The official records of the Association shall be maintained in the County or at such other place as may be permitted by the Act (as it may be amended from time to time).

The official records of the Association shall be open to inspection by any Association member or the authorized representative of each member at all reasonable times. Failure to permit inspection of the Association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorneys' fees from the person in control of the records who, directly or indirectly, knowingly denies access to the records for inspection. The right to inspect records includes the right to make or obtain copies, at the reasonable expense, if any, of the Association member.

18. Arbitration. Any Disputes as defined under the Act and in the Declaration shall be resolved through non-binding arbitration conducted in accordance with the Act.

19. Fire and Life Safety Code Compliance. The Association's Board of Directors may accept a certificate of compliance from a licensed electrical contractor or electrician as evidence of compliance of the Units to the applicable fire and life safety code.

The foregoing was adopted as the By-Laws of Avalon of Naples III Condominium Association, Inc., a corporation not for profit under the laws of the State of Florida, on the 29 day of JANUARY, 2019.

Approved:

President

Secretary