

Commodore's Club Bylaws

BY-LAWS OF COMMODORE'S CLUB HOMEOWNERS' ASSOCIATION, INC. (AS AMENDED AT THE ANNUAL MEETING OF THE ASSOCIATION ON MARCH 19, 2004)

(Articles III, IV, V, VI and VII have been annotated with Directors' Notes as of January 5, 2005.)

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ARTICLE I

NAME AND LOCATION

The name of the corporation is COMMODORE'S CLUB HOMEOWNERS' ASSOCIATION, INC. (hereinafter referred to as the "Association"). The principal office of the corporation shall be located as specified in a resolution of the Board of Directors, but meetings of members and directors may be held at such places within the State of Florida, County of St. Johns, as may be designated by the Board of Directors.

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ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to the Commodore's Club Homeowners' Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants and Restrictions for Commodore's Club and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Property" shall mean all real property owned by the Association for the common use and enjoyment of the Owners, including any Common Roads.

Section 4. "Owner" shall mean and refer to the record owners of any lot.

Section 5. "Declarant" shall mean and refer to John D. Bailey, Sr., and Margaret B. Bailey, his wife, and Runk Properties, Inc., its successors and assigns if such successors or assigns should require more than one undeveloped lot from the Declarant for the purpose of development. *[Editorial Note: The By-laws have not been amended to reflect the fact that John D. Bailey, Sr., and Margaret B. Bailey no longer have an interest in Commodore's Club. "Declarant" presently refers to Runk Properties, Inc., alone.]*

Section 6. "Declaration" shall mean and refer to the Declaration of Covenants and Restrictions for Commodore's Club applicable to the properties recorded in the office of the Clerk of the Circuit Court, St. Johns County, Florida.

Section 7. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 8. "Lot" shall mean and refer to any lot shown upon any recorded subdivision plat of the properties and any subsequently recorded subdivision plat of any additional contiguous land made subject to this Declaration, with the exception of the Common Property.

ARTICLE III

MEETING OF MEMBERS

Section 1. *Annual Meetings.* The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting shall be held during the month of March at such time and place as shall be determined by the Board of Directors.

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Section 2. *Special Meetings.* Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-half (1/2) of all of the votes of the Class A membership.

Section 3. *Notice of Meetings.* Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. *Quorum.* The presence at the meeting of members entitled to cast, or of proxies entitled to cast, twenty percent (20%) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. *Proxies.* At all meetings of members, each member may vote in person or by proxy. All proxies shall be revocable and shall automatically cease upon conveyance by the member of his/her lot.

Section 6. *Voting by Mail.* As an exception to anything to the contrary contained in Section 4 of this Article or any other provision of these by-laws, members may be required or permitted to vote by mail for the election of members of the Board of Directors. The Board of Directors shall determine whether mail voting is required or permitted for any election and shall establish the governing rules and procedures. The Board may constitute mail as the exclusive method of voting in a particular election or it may combine voting by mail with voting in person or by proxy. For any election of directors where voting by mail is required or permitted, the proxy requirement of Section 4 is deemed to be automatically satisfied without regard to the number of voting representatives actually present at the meeting. No other item of business may be transacted unless there are actually present at the meeting (in person or by proxy) a sufficient number of votes to satisfy the quorum requirement of Section 4. As an exception to the preceding sentences of this section, the Board of Directors shall not authorize voting by mail if, not later than January 15 of the year of the annual meeting, any member of the Board is served with a petition (personally or by certified mail), signed by owners representing at least 10 lots in Commodore's Club, and demanding that the Board refrain from authorizing or requiring that votes for directors be cast by mail. The signature of any one owner will be sufficient.

[Directors' Note: *Under Sec. 720.306(6), Florida Statutes, members of an HOA have the right to attend all membership meetings and to speak at any meeting with reference to all*

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items opened for discussion or included on the agenda. A member shall have the right to speak for at least 3 minutes on any item, provided that he or she submits a written request to speak prior to the meeting. The association may adopt reasonable rules governing the frequency, duration, and other aspects of statements by members. They must be consistent with the foregoing.]

ARTICLE IV

BOARD OF DIRECTORS: COMPENSATION: TERM OF OFFICE.

Section 1. Number. Until the election of directors at the first annual meeting convened after Class B membership ceases, the affairs of this Association shall be managed by a Board of Directors consisting of no less than three or more than five members. Following the first annual meeting after Class B membership ceases, the affairs of this association shall be managed by a Board of Directors, consisting of five members, each of whom shall be a member of the Association.

Section 2. Term of Office. At all annual meetings convened before Class B membership ceases, the members shall elect directors to hold office until the next succeeding annual meeting. At the first annual meeting of the Association convened on or after the day on which Class B membership ceases, the terms of all then-serving directors shall terminate and the membership shall elect directors to fill five vacant seats. Two vacant seats shall be for terms of one year and three vacant seats shall be for terms of two years. At subsequent elections, each vacant seat shall be for a term of two years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his/her successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his/her predecessor.

Section 4. Compensation. No director shall receive compensation for any service he/she may render to the Association. However, any director may be reimbursed for his/her actual expenses incurred in the performance of his/her duties.

[Directors' Note: Florida law (Sec. 720.303(10), Florida Statutes) contains detailed procedures for the recall (removal) of directors. Because of their length, they are not reproduced or summarized here. The statute cited should be consulted.]

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

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Section 1. *Nomination.* Nomination for election to the Board of Directors shall be made by a Nominating Committee. Except in the case of an election conducted exclusively or partially by mail as provided in Section 6 of Article III, nominations may also be made from the floor at the annual meeting. In the case of an election conducted exclusively or partially by mail, the Board of Directors shall institute a procedure whereby members may make nominations in writing during a specified period preceding the distribution of ballots. The names of persons so nominated shall be included on the ballots. The Nominating Committee shall consist of a Chair, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of each annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members until such time as Class B membership ceases. After Class B membership ceases, nominations shall be made from among members. The Nominating Committee shall canvas the membership through mailings, newsletter announcements, bulletin board notices, or other methods deemed appropriate for the purpose of obtaining suggestions for nominees. At the first annual meeting after Class B membership ceases, each nomination by the Nominating Committee or an individual member shall specify whether the nominee is to serve for a one-year term or a two-year term.

Section 2. *Election.* Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

*[**Directors' Note:** Under Sec. 720.306(9), Florida Statutes, any election dispute between a member and an association must be submitted to mandatory binding arbitration with the Division of Florida Land Sales, Condominiums, and Mobile Homes in the Department of Business and Professional Regulation.]*

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. *Regular Meetings.* Regular meetings of the Board of Directors shall be held four times during the "Association year" (the period between consecutive annual meeting of the Association). The first regular meeting (the organizational meeting) shall be held in April of the Association year at a day, time, and place designated by the immediate Past-President of the Association. The other regular meetings shall be held in July, November,

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and February, respectively. The day, time, and place shall be determined by the President of the Association. Notice of a regular meeting shall be given to each director. No regular meeting shall be held earlier than the fourth day following the day on which the last director notified has received his/her notice. Unless a director prior to the meeting insists on the notice requirement, it shall be considered waived.

Section 2. *Special Meetings.* Special meetings of the Board of Directors shall be held when called by The President of the Association or by two directors. Notice of a special meeting shall be given to each director. The notice shall specify the day, time, and place of the meeting. No special meeting shall be held earlier than the fourth day following the day on which the last director notified has received his/her notice. Unless the notice requirement is insisted upon by a director prior to the meeting, it shall be considered waived.

[Directors' Note: *Under Sec. 720.303(2)(b), Florida Statutes, members have the right to attend all meetings of the board of directors and to speak, for at least 3 minutes, on any matter placed on the agenda by petition (as to such a petition, see the next paragraph). The association may adopt in writing reasonable rules expanding the right of members to speak and governing the frequency, duration and aspects of statements by members. Members do not have the right to attend meetings between the board or a committee and the association's attorney, with respect to meetings of the board to discuss personnel matters.*

If votes held by at least 20 percent of the lots in the association petition the board to address a particular item of business, the board must, not later than 60 days after receipt of the petition, take the item up on an agenda. Notice shall be given to all members of the meeting at which the item will be addressed. Notice must be in accord with Sec. 720.303(2)(c) (see note following Sec. 4, below). Your directors believe that, if a meeting will not consider special assessments or the regulation of lot use, the notice may be posted at a conspicuous location in the community. Each member shall have the right to speak for at least 3 minutes on each matter placed on the agenda by petition, provided that the member signs the sign-up sheet, if one is provided, or submits a written request to speak prior to the meeting. Other than addressing the petitioned item at the meeting, the board is not obligated to take any other action requested by the petition.

Section 3. *Quorum.* A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. *Notice to Members of Meetings.* Except in an emergency, members of the Association are entitled to notice of each meeting of the Board of Directors and the Architectural Review Board (ARB). The notice must be (1) posted in a conspicuous

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place in the community at least 48 hours in advance of a meeting or (2) mailed or delivered to each member of the Association at least 7 days in advance of a meeting. Alternatively, notice may be given by providing a schedule of board meetings that specifies the dates and locations of meetings over a period of time or specifies a regular recurring date and location (for example, the third Thursday of each month at the Pavilion). To satisfy the preceding sentence, a schedule of meetings must be posted continuously in a conspicuous place in the community. In addition, it is recommended, but not required, that the schedule be posted periodically in the community newsletter and, if agreeable to the publisher, continuously on the 'Commodore's Club News' website. The method of providing notice set forth in the second sentence of this section must be followed for any meeting that is held on a day other than those set forth in the schedule.

***[Directors' Note:** Under a provision of the Florida statute relating to homeowners associations (Sec. 720.303(2)(c)2., Florida Statutes), an assessment may not be levied at a board meeting unless a written notice of the meeting is provided to all members at least 14 days before the meeting. That notice must state that assessments will be considered at the meeting and the nature of the assessments. If special assessments or rules that regulate the use of lots in the community will be considered at the meeting, the written notice must be mailed, delivered, or electronically transmitted to the members AND posted conspicuously on the property or broadcast on closed-circuit cable television not less than 14 days before the meeting.*

It is not entirely clear, but your directors believe that written notice of a meeting that will consider general assessments (but not special assessments or rules regulating lot use) may be given by posting it conspicuously in the community at least 14 days before the meeting. Otherwise why would the requirement of mail, personal delivery, or electronic transmission be limited to meetings that will consider special assessments and the regulation of lot use?]

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. *Powers. The Board of Directors shall have power to:*

- (a) adopt and publish rules and regulations governing the use of the Common Property and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the rights of a member, a member's family, or a member's tenants, guests, and invitees, or any of them, to use common areas and facilities during any period in which the member shall be in default in payment of any assessment levied by the Association. Such rights may also be suspended and fines imposed for violations of Association rules and regulations, as provided in paragraph (1) of Section 1 of Article XII of the

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Declaration of Covenants of the Association. The voting rights of a member may be suspended for the nonpayment of regular assessments that are delinquent in excess of 90 days. Said suspension shall apply during the entire post-90-day period of delinquency. In no other case may voting rights be suspended.

(c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, independent contractors, and such other employees as they may deem necessary, and to prescribe their duties.

Section 2. *Duties. It shall be the duty of the Board of Directors to:*

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-half (1/2) of the Class A members who are entitled to vote;

(b) supervise all officers, agents, and employees of the Association, and see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject hereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property as to which assessments are not paid within thirty (30) days after the date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(e) procure and maintain adequate liability, hazard and, if required, flood insurance on property owned by the Association;

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(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) cause the Common Property and any improvements constructed thereon to be maintained.

[Directors' Note: *Availability of Records. The official records of the association must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access. Sec. 720.303(5), Florida Statutes. For details consult the statute just cited.*

Annual Budget. The association must prepare an annual budget. The association shall provide each member with a copy of the annual budget or a written notice that a copy is available upon request at no charge to the member. Sec. 720.303(6), Florida Statutes. For details consult the statute just cited.

Annual Financial Report. The association must prepare an annual financial report within 60 days after the close of the fiscal year. The association shall provide each member with a copy or a written notice that a copy of the financial report is available upon request at no charge to the member. Sec. 720.303(7), Florida Statutes. For details on the preparation of financial reports, see the statute just cited.

Contracts in Writing-Competitive Bidding. Pursuant to Sec. 720.3055, Florida Statutes, the following contracts of an association must be in writing:

- (1) Any contract for the purchase, lease, or renting of materials or equipment;*
 - (2) Any contract for the provision of services;*
 - (3) Any other contract that is not to be fully performed within one year after execution.*
- If any of these contracts requires payment by the association in excess of 10 percent of the total annual budget, including reserves, the association must obtain competitive bids. However, the association is not required to accept the lowest bid. An association whose covenants or bylaws provide for competitive bidding for services may operate under that provision in lieu of the above rule if that provision is at least as stringent as that rule.*

The foregoing requirements do not apply to the following contracts:

- (1) Those with employees of the association;*
- (2) Those for attorney, accountant, architect, community association manager, engineering, and landscape architect services*
- (3) Those with a business that is the only source of supply in the county in which the association is located.*

A contract with a manager, if made through competitive bidding, may have a duration of up to 3 years.]

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ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. *Enumeration of Offices.* The officers of this Association shall be a President and Vice-President/Treasurer who shall at all times be members of the Board of Directors, a Secretary, and such other officers as the Board may from time to time by resolution create.

Section 2. *Election of Officers.* The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. *Term.* The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he/she shall sooner resign, or be removed, or otherwise be disqualified to serve.

Section 4. *Special Appointments.* The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. *Resignation and Removal.* Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. *Vacancies.* A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he/she replaces.

Section 7. *Multiple Offices.* The Office of Vice-President/Treasurer may be held by one person. No person shall simultaneously hold more than one of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. *Duties.* The duties of the officers are as follows:

President

The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments; and shall co-sign all checks and promissory notes.

Vice President/Treasurer

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The Vice-President shall act in place of the President in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such duties as may be required of him/her by the Board. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association, keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

Secretary

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; and keep appropriate current records showing the members of the Association together with their addresses.

ARTICLE IX

COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these By-laws and an Architectural Control Committee at such time and in the manner specified in the Declaration. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation, and the By-laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments, as defined in the Declaration, which are

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secured by a continuing lien against the property against which the assessments are made. Any assessments, which are not paid when due, shall be delinquent. If an assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum lawful rate from time to time permitted under the laws of the State of Florida. And the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees incurred in bringing any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Property or abandonment of his/her lot.

ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: COMMODORE'S CLUB HOMEOWNERS' ASSOCIATION, INC.

ARTICLE XIII

AMENDMENTS

Section 1. These By-laws may be amended, at any regular meeting of the members, or any special meeting called for that purpose, by an affirmative vote of two-thirds (2/3) of each class of members existing at the time of and present in person or by proxy at such meeting.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-laws, the Declaration shall control.

ARTICLE XIV

MISCELLANEOUS

The fiscal year of the association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.