

**BY-LAWS OF ELM CREEK HOMEOWNERS ASSOCIATION, INC.**

**I. DEFINITIONS.**

All defined terms contained herein which are defined in the Declaration of Covenants, Conditions, Restrictions and Easements for Elm Creek ("Declaration") to be recorded in the public records of St. Johns County, Florida, and in the Articles of Incorporation of the Association, shall have the same meanings as such terms are defined in the Declaration and Articles of Incorporation.

**II. LOCATION OF PRINCIPAL OFFICE.**

The office of the Elm Creek Homeowners Association, Inc. ("Association") shall be located at 112 North Ponce de Leon Blvd Unit C, St. Augustine, Florida 32084, or at such other place as may be established by the Board of Directors of the Association from time to time.

**III. VOTING RIGHTS AND ASSESSMENTS.**

**A.** Every person, group of persons, corporation, limited liability company, limited liability partnership or other entity who is a record fee simple owner of a Lot or any other portion of the Property and the Declarant, as long as it owns any Property subject to the Declaration, shall be a member of the Association (the "Members,") as provided in the Articles of Incorporation of the Association, shall have the voting rights as set forth in the Articles of Incorporation, provided that any entity who holds such interest only as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to, and shall not be separated from, ownership of any Lot or parcel within the Property.

**B.** Assessments and installments not paid when due shall bear interest from the date when due in accordance with the Declaration and shall result in the suspension of voting privileges during any period of such non-payment.

**IV. BOARD OF DIRECTORS.**

**A.** A majority of the Board of Directors of the Association (the "Board") shall constitute a quorum to transact business at any meeting of the Board, and the action of the majority present at a meeting at which a quorum is present shall constitute the action of the Board.

**B.** Any vacancy occurring on the Board because of death, resignation, or other termination of services of any Director, shall be filled by the Board, except that the Declarant shall be entitled to fill any vacancy created by the death, resignation, removal or other termination of services of any Director appointed by the Declarant. A Director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office and

thereafter until his successor shall have been elected or appointed, and shall have qualified to sit on the Board.

## **V. ELECTION OF DIRECTORS**

**A.** Nominations for the election of Board members (other than Board members appointed by the Declarant) shall be made by the Nominating Committee described below at Article IX, or any Member may nominate himself or herself at any time up to and including at the meeting in which the election is to be held. The Nominating Committee shall have discretion to make as many nominations as it shall determine.

**B.** The Declarant shall, within fourteen (14) days of the date set for the annual meeting of the Association, provide the Secretary of the Association with the names of the Directors that the Declarant is appointing to the Board.

**C.** Nominations and notification of the vacancies being filled by the Declarant shall be placed on the written ballot referenced in Section D of this Article V.

**D.** All elections to the Board shall be made on written ballots to be voted at the annual meeting, or if the Board shall so elect, by mail, provided such ballots are mailed to the Members not less than fifteen (15) days prior to the date fixed for the annual meeting. The ballots shall (i) describe the vacancies to be filled by the Class A Members, (ii) list the names of those nominated for each vacancy, and (iii) list the names of those appointed to the Board by the Declarant. Each Member may cast the number of votes to which such Member is entitled as provided in the Articles of Incorporation.

**E.** A quorum must be present at a meeting of Members in order for an election of members of the Board to be valid and binding. If the election is conducted by mail, then a sufficient number of ballots to represent a quorum must be received by the Association on or before the date established by the Board for receipt of ballots. If voting is by mail and in person, the number of Members present and those voting via mail must represent a quorum.

**F.** The Members of the Board elected or appointed in accordance with the procedures set forth in this Article V shall be deemed elected or appointed as of the date of the annual meeting of the Members.

## **VI. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.**

**A.** The Board of Directors shall have those powers set forth in Chapter 617 , Florida Statutes (2015), including without limitation, the power to :

- i.** To call meetings of the Members
- ii.** To appoint and remove at its discretion Officers, agents and employees of the Association; and to prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem necessary. Nothing contained in these Bylaws shall be construed to prohibit the employment of any Member, Officer, or Director of the Association in any capacity whatsoever.
- iii.** prepare, and submit to the Owners, annual budgets for revenues, expenditures and reserves for the Association as provided in the Declaration.
- iv.** To establish, levy and assess, and collect the annual and special assessments necessary to operate the Association and carry on its activities, and to create such reserves as may be deemed appropriate by the Board.
- v.** To collect assessments on behalf of any other property owners association entitled to establish, levy and collect assessments from the Members of the Association.
- vi.** To appoint committees, adopt and publish rules and regulations governing use of the Common Areas or any portion thereof and the personal conduct of the Members and their guests thereon, including reasonable admission charges if deemed appropriated.
- vii.** To authorize and cause the Association to enter into contracts for the day-to-day operation of the Association and the discharge of its responsibilities and obligations.
- viii.** To cause the financial records of the Association to be compiled, reviewed, or audited by an independent certified public accountant at such periodic intervals as the Board may deem appropriate.
- ix.** To exercise all powers, duties and authority vested in or delegated to the Association, except those reserved to Members in the Declaration or the Articles of Incorporation of the Association.

x. To have and to exercise any and all powers, rights and privileges which a corporation organized under the corporation not-for-profit law of the State of Florida, by law may now or hereafter have to exercise.

B. It shall be the duty of the Board of Directors:

i. To cause to be kept a complete record of all of its acts and corporate affairs.

ii. To supervise all Officers, agents and employees of this Association to ensure that their duties are properly performed.

iii. With reference to assessments of the Association:

1. To fix the amount of annual assessments against each Class A Member for each annual assessment period at least (30) day in advance of such date or period;

2. To prepare and maintain, or cause to be prepared and maintained, a roster of the Members and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member; and

3. To send, or cause to be sent, written notice of each assessment to every Member subject thereto.

## **VII. DIRECTORS MEETINGS.**

**A.** Regular meetings of the Board shall be held quarterly, the date and time for Board Meetings shall be determined by the Board. Notice of such meetings is hereby waived.

**B.** Special meetings of the Board shall be held when called by the President or Vice President of the Association or by any two (2) Directors, upon three (3) days prior notice to each Director.

**C.** Meetings of the Board of Directors shall be open to the Members. Notices of meetings shall be posted in a conspicuous place within the Property at least forty-eight (48) hours in advance, or mailed to the Membership in accordance with the statute, except in an emergency. Notice of any meeting of the Board of Directors during which assessments are to be established,

shall especially contain a statement that the assessments shall be considered, and a statement of the nature of such assessments.

**D.** The transaction of any business at any meeting of the Board, shall be as valid as though made at a meeting duly held after regular call and notice, if a quorum is present and, if either before or after the meeting, each of the Directors not present signs a waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records of the Association and made a part of the minutes of the meeting.

### **VIII. OFFICERS.**

**A.** The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as may be determined from time to time by the Board, in accordance with the Articles of Incorporation of the Association. The President shall be a member of the Board, but the other Officers need not be.

**B.** The Officers of the Association shall be elected by the Board at the annual meeting of the Board, which shall be held immediately following the annual meeting of the Association. New offices may be created and filled at any meeting of the Board. Each Officer shall hold office until his successor shall have been duly elected.

**C.** A vacancy in any office because of death, resignation, or other termination of service, may be filled by the Board for the unexpired portion of the term.

**D.** All Officers shall hold office for terms of one (1) year.

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

**F.** The Vice President, or the Vice President so designated by the Board if there is more than one Vice President, shall perform all the duties of the President in his absence. The Vice President(s) shall perform such other acts and duties as may be assigned by the Board.

**G.** The Secretary shall be the secretary of the Board, and shall record the votes and keep the minutes of all meetings of the Members and of the Board of Directors in a book to be kept for that purpose by the Secretary, or his appointed agent. The Secretary, or his appointed agent, shall keep all records of the Association and shall record in the book kept for that specific purpose all of the names of the Members of the Association together with their addresses as registered by such Members.

**H.** The Treasurer shall establish bank accounts for the Association and shall receive and deposit in the Association bank accounts all of the monies of the Association, and shall disburse such funds as directed by resolution of the Board, provided however, that a resolution of

the Board shall not be necessary for disbursement made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer may, but need not, be a required signatory on checks and notes of the Association.

**I.** The Treasurer, or his appointed agent, shall keep proper books of account and cause to be prepared at the completion of each fiscal year an annual budget and an annual balance sheet statement, and the budget and balance sheet statement shall be open for inspection upon reasonable request by any Member.

**J.** With the approval of the Board of Directors, any or all of the Officers of the Association may delegate their respective duties and functions to a licensed and qualified property manager, provided, however, such property manager shall at all times be subject to the supervision and control of the Board of Directors.

### **IX. COMMITTEES.**

**A.** The standing committees of the Association shall be the Nominating Committee and the Architectural Control Board. The Nominating Committee and Architectural Control Board shall have the duties and functions as described in the Declaration and as elsewhere described in these Bylaws.

**B.** The Board shall have the power and authority to appoint such other committees as it deems advisable. Any committee appointed by the Board shall consist of a Chairman and two (2) or more other Members and shall include a member of the Board. Committee members shall serve at the pleasure of the Board, and shall perform such duties and functions as the Board may direct.

### **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 Association shall at all times maintain the Declaration, Articles of Incorporation, these Bylaws, and any architectural criteria or rules and the minutes of all meetings of the Members and the Board of Directors and all of its budgets and financial records and reports for not less than seven (7) years.

## **XI. MEETINGS OF MEMBERS.**

**A.** The annual meeting of the Members shall be held prior to April 30<sup>th</sup> of each year, at such time as the Board may designate, or at such other date and time as may be selected by the Board.

**B.** Special meetings of the Members for any purpose may be called at any time by the President, the Vice President, the Secretary or Treasurer, by any two or more members of the Board or upon the written request of Members holding a majority of all the votes allocated to the entire Membership.

**C.** Notice of all meetings of the Members shall be given to the Members by the Secretary. Notice may be given to the Member either personally, by sending a copy of the notice through the mail, postage fully prepaid, to his address appearing on the books of the Association or via e-mail at the e-mail address appearing on the books of the Association. Each Member shall be responsible for registering his mailing address, email address and telephone number with the Secretary and notice of the meeting shall be mailed to him at such address. Notice of the annual meeting of the Members shall be delivered at least forty-five (45) days in advance. Notice of any other meeting, regular or special, shall be mailed at least thirty (30) days in advance of the meeting and shall set forth in general the nature of the business to be transacted; provided however, that if the business of any meeting shall involve any action as governed by the Articles of Incorporation or the Declaration in which other notice provisions are provided for, notice shall be given or sent as therein provided.

**D.** The presence, in person or by proxy, of the Members holding not less than thirty percent (30%) of the total votes in the Association as established by the Articles of Incorporation, shall constitute a quorum of the Membership for any action governed by the Declaration, the Articles of Incorporation, or these Bylaws.

## **XII. PROXIES.**

**A.** Except for elections of the Board of Directors, at all meetings of the Members, each Member may vote in person or by limited or general proxy.

**B.** All proxies shall be in writing and shall state the date of the proxy and the date, time and place of the meeting for which the proxy is given, and must be signed by the authorized Member giving the proxy. A proxy shall be effective only for the specific meeting for which it is given, as such meeting may be lawfully adjourned and reconvened from time to time. No proxy shall extend beyond a period of ninety (90) days from the date of the meeting for which it was original given, and every proxy shall automatically cease upon the sale by the Member of his

interest in the Property. All proxies shall be revocable at any time at the pleasure of the Member who executes same, and may include powers of substitution.

C. For elections of the Board of Directors, the Members shall vote in person at a meeting of the Members, or by a written ballot that each Member personally casts.

**XIII. SEAL.**

The Association shall have a seal in circular form having within its circumference the words: ELM CREEK HOMEOWNERS ASSOCIATION, INC., not for profit, 2021.


**XIV. AMENDMENTS.**

These Bylaws may be amended, altered, or rescinded by majority vote of the Board of Directors at a duly constituted meeting of the Board. Amendments shall be effective on the date of passage by the Board and no amendment need be recorded in the public records of Duval County, Florida. For so long as the Class B Membership shall exist, HUD and VA shall have the right to veto amendments to these Bylaws.

**XV. INCONSISTENCIES.**

In the event of any inconsistency between the provisions of these Bylaws and the Declaration or Articles of Incorporation, the provisions of the Declaration and Articles of Incorporation shall control.

Adopted by the Board of Directors of Elm Creek Homeowners Association, Inc., a Florida corporation, not-for-profit effective the 21 day of December, 2021.

  
\_\_\_\_\_  
[Name] Grant R. Gattney  
Secretary