

AMENDED AND RESTATED
BY-LAWS OF
ROTONDA WEST ASSOCIATION, INC.

ARTICLE I

GENERAL

Section 1. **NAME:** The name of the Corporation shall be ROTONDA WEST ASSOCIATION, INC. (“hereinafter referred to as the Association”).

Section 2. **PRINCIPAL OFFICE:** The principal office of the Association shall be at Rotonda West, Charlotte County, Florida, or at such other place or places as may be designated by the Board of Directors of the Association.

Section 3. **RESIDENT AGENT/ REGISTERED OFFICE:** For the purpose of service of process, the Association shall designate a resident agent or agents, which designation may be changed from time to time, and his or their office shall be deemed the registered office of the Association for the purpose of service of process.

Section 4. **DEFINITIONS:**

A. As used herein “Rotonda West Property” shall at all times, unless otherwise stated, refer to the following described property, situate, lying and being in Charlotte County, Florida, to wit: the subdivisions known as: Rotonda West-Broadmoor; Rotonda West-Long Meadow; Rotonda West-White Marsh; Rotonda West-Pine Valley; Rotonda West-Pebble Beach; Rotonda West Oakland Hills; and Rotonda West-Pinehurst; as shown on the plats thereof recorded in Plat Book 8, Pages 12A through 12K, Pages 13A through 13L, Pages 15A through 19K, Pages 21A through 21L, and Plat Book 10, Page 3, in the Public Records of Charlotte County, Florida.

B. As used herein “Declaration of Restrictions” shall at all times, unless otherwise stated, refer to the Restatement of the Rotonda West Declaration of Restrictions recorded in the Public Records of Charlotte County, Florida, as same may from time to time be amended.

C. As used herein “Cape Cave” shall at all times, unless otherwise stated, refer to Cape Cave Corporation, a Delaware corporation, authorized to do business in the State of Florida or its successors and assigns.

D. All other terms used herein shall have the same definitions as that provided in the Declaration of Restrictions.

ARTICLE II

DIRECTORS

Section 1. **NUMBER AND TERM:** The Association shall be governed by a Board of Directors consisting of seven (7) directors. Six of these directors will be elected to staggered three (3) year terms by the members entitled to vote at said meeting. Cape Cave shall be entitled, but not required, to appoint one member thereof who need not be a Lot/Tract Owner. Annually, two (2) directors shall be elected for a term of three (3) years to fill those three (3) year terms then expiring. The two candidates receiving the highest vote totals shall be elected to a term of three (3) years. In the event Cape Cave fails to appoint a member to the Board of Directors, the Board of Directors shall by majority vote, appoint said member for a term of one (1) year. Following assignment by Cape Cave to the Association of all reserved rights set forth in Section 28 of the Declaration of Restrictions, in the event that Cape Cave is dissolved without an assignment of reserved authority to a successor entity, or if Cape Cave voluntarily relinquishes its right to appoint a Board member, the Board member appointed by Cape Cave shall resign from the Board and the open seat shall be filled at the next annual meeting for a three (3) year term, thus resulting in three (3) Directors being elected at one of every three annual meetings for a three-year term. After the date of the first annual meeting of the voting membership, the Board of Directors shall have the right at any annual or special meeting called for that purpose to change the number of directors constituting the Board of Directors within the limits set forth herein and in the Articles of Incorporation. Any additional seats created shall be filled at the next annual meeting of the voting membership. Reduction in the number of members of the Board of Directors shall not affect the terms of those members duly elected to the Board of Directors.

Persons seeking to be members of the Board of Directors must be members in good standing pursuant to Chapter 720, Florida Statutes and the Governing Documents, both as amended from time to time, ninety (90) days prior to the notice of election. The following classes of persons shall be eligible to serve on the Board of Directors: (1) Owners (which for purposes of this section shall include the fee title owner(s) of multi-family dwelling units nominated by the condominium or community association in charge of the complex in which the unit is located), (2) co-owners, (3) a designated representative of a corporate owner, (4) a designated representative of a partnership owner, or (5) an owner trustee; provided, however that a lot or unit may only be represented by one person on the Board of Directors at a time.

Election to the Board of Directors shall be by written ballot. At such election the members may cast, in person or by secret absentee ballot in respect to each such vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration of Restrictions or these By-Laws. The persons receiving a plurality of the votes cast for that office shall be elected. Cumulative voting is not permitted.

Section 2. **VACANCY AND REPLACEMENT:** Except as otherwise set forth herein and in the Articles of Incorporation, if the office of any director or directors becomes vacant for any reason, the remaining directors shall choose a successor or successors who shall hold office for the remainder of the unexpired term in respect to which such vacancy occurred.

Section 3. REMOVAL: A director shall no longer be eligible for Board service if he or she is:

A. Delinquent in the payment of any fee, fine, or other monetary obligation to the Association for more than 90 days.

B. Convicted of any felony in this state or in a United States District or Territorial Court, or convicted of any offense in another jurisdiction which would be considered a felony if committed in this state.

A seat vacated by a director based on the foregoing shall be deemed vacant on the date the event set forth above occurs and shall be filled by appointment by the remaining directors.

Section 4. RECALL: Any member of the Board of Directors may be recalled and removed from office with or without cause by a majority of the total voting interests. A meeting may be called by ten percent (10%) of the eligible voting members for the purpose of recall. A mailed notice of such meeting must be accompanied by a dated copy of the signature list setting forth the purpose of the meeting. The meeting will be held not less than fourteen (14) days nor more than sixty (60) days from the date that such mailed notice of the meeting is given.

Section 5. POWERS: The property and business of the Association shall be managed by the Board of Directors which may exercise all corporate powers not specifically prohibited by statute, the Articles of Incorporation, these By-Laws or the Declaration of Restrictions recorded or to be recorded with respect to the Rotonda West Property. The powers of the Board of Directors shall specifically include, but not be limited to, the following:

A. To make and collect annual and/or special assessment charges, fees and fines in accordance with the provisions of these By-Laws and the Declaration of Restrictions recorded and to be recorded with respect to the Rotonda West Property, and to establish the time and manner within which payment of same are due;

B. To use and expend the annual and/or special assessment charges, fees and fines collected for those purposes set forth in the Articles of Incorporation, the Declaration of Restrictions and these By-Laws;

C. To perform all functions set forth in the Articles of Incorporation, and in conjunction with the foregoing, to purchase the necessary equipment and tools necessary or incidental to the maintenance of the waterway system, drainage system, and if necessary, the easement areas related to waterway and drainage purposes within the Rotonda West Property;

D. To enter into and upon the lots, tracts, parcels and building sites when necessary and with as little inconvenience to the owners as possible in connection with the performance of the purposes of the Association, which are to protect, enhance and maintain the community;

E. To collect delinquent annual and/or special assessments, charges, fees and fines by suit or otherwise;

F. To employ such personnel as may be necessary or incidental in order to carry out the purposes and functions of the Association;

G. To enter into such contracts and bind the Association thereby as the Board of Directors may deem reasonable in order to carry out the powers and functions of the Board of Directors;

H. To make reasonable rules and regulations for the collection of annual and/or special assessments, charges, fines and fees and for the operation of the Association; and

I. To make reasonable rules and regulations regarding the use and operation of Common Areas and the use, maintenance and appearance of Lots/Tracts, together with all Dwellings, Additions, Accessory Structures and Improvements thereon.

Section 6. COMPENSATION: Directors, officers and committee members may not directly receive any salary or compensation from the Association for the performance of duties as a director, officer or committee members and may not in any other way benefit financially from service to the Association except as provided in Section 720.303(12), Florida Statutes.

Section 7. MEETINGS:

A. As soon as practicable, but not later than ten (10) days after the annual meeting of the voting membership of the Association, a meeting of the newly elected Board of Directors shall be held, provided a quorum shall then be present. At this first meeting of the Board of Directors, the officers of the Association shall be elected.

B. Regular meetings of the Board of Directors may be held with notice as provided in Article VI herein at such time and at such place as shall from time to time be determined by the Board of Directors.

C. Special meetings of the Board of Directors shall be held whenever called by the direction of the President or by a majority of the Board of Directors or by a majority of the voting membership. The Secretary shall give notice of each special meeting as provided in Article VI herein at such time and at such place as shall from time to time be determined by the Board of Directors.

D. At all meetings of the Board of Directors, a majority of the Board of Directors shall constitute a quorum for the transaction of business and the act of the majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the Articles of Incorporation. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting without notice other than an announcement at the meeting, until a quorum shall be present.

E. Unless otherwise restricted by statute, the Declaration of Restrictions, the Articles of Incorporation or these By-Laws, members of the Board of Directors may participate in a meeting of the Board of Directors by means of conference telephone or similar communications equipment by means of which all personnel participating in such meeting can hear each other,

and such participation shall constitute presence in person at such meeting. Any such proceedings shall be recorded among the minutes of the corporation and made part of the permanent record.

Section 8. ORDER OF BUSINESS: The order of business at all meetings of the Board of Directors shall be as follows:

- A. Call to order;
- B. Pledge of Allegiance;
- C. Roll call;
- D. Approval of minutes;
- E. Treasurer's report;
- F. Reports of officers, employees and contractors;
- G. Reports of committees;
- H. Unfinished business;
- I. New business and communications;
- J. Member input;
- K. Directors input;
- L. Next meeting;
- M. Adjournment.

Section 9. ANNUAL STATEMENT: The Board of Directors will account to all voting members of the Association no less than once each year as to the total annual charges and assessments collected and as to the method of disbursements of said funds.

Section 10. COMMITTEES: The Board of Directors may, by resolution, adopted by its majority, designate such committees consistent with the requirements of the Florida Statutes as may be required. Generally one director, which shall be designated Chairman, shall be elected by the Board of Directors. However, the Board may, at its discretion, decide that a non-director committee chairman would better serve the Association. The Chairman shall nominate such other members to the committee for approval by the Board of Directors. Each such committee shall have such authority as shall be specified in the resolution designating such committee. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. To the extent not inconsistent with these By-Laws, the Board of Directors shall have the power at any time to remove any member of any such committee or committees, with or without cause, and to fill vacancies in and to dissolve such committee or committees. Each committee shall keep regular minutes of its meetings and report same to the Board of Directors at the next regular meeting. The designation of any

committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed by law.

ARTICLE III

OFFICERS

Section 1. OFFICERS: The officers of the Association shall be a President, one or more Vice-Presidents, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. Any two of said offices may be held by one person, except that the President shall not also be the Secretary of the Association. The Board of Directors may appoint such other officers and agents as it shall deem necessary whom shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors. The Board of Directors may appoint and hire consultants as it shall deem necessary. No member, except as an officer of this Association, with the approval of the Board of Directors, shall have any authority to contractually obligate the Association.

Section 2. TENURE OF OFFICERS: All officers of the Association shall hold office until their successors are elected. Any officer elected or appointed by the Board of Directors may be removed at any time with or without cause by the affirmative vote of the majority of the Board of Directors. Any officer of the Association may resign at any time by giving written notice to the Association and unless otherwise specified therein the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in any office of the Association shall be filled by the Board of Directors.

Section 3. THE PRESIDENT:

- A. The President shall preside at all meetings of the voting membership and the directors;
- B. Shall have general and active management of the business of the Association;
- C. Shall have the general powers and duties of supervision and management usually vested in the office of the president of a corporation;
- D. Shall see that all orders and resolutions of the Board of Directors are carried into effect;
- E. Shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Association except where required or permitted by statute to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Association;
- F. Shall have general superintendence and direction of all the other officers of the Association and shall see to the best of his/her ability that their duties are performed properly;
- G. Shall submit a report of the operations of the Association for the fiscal year to the Board of Directors whenever called for by the Board of Directors and from time to time shall

report to the Board of Directors all matters within his/her knowledge which the interests of the Association may require to be brought to their notice;

H. Shall be an ex-officio member of all committees.

Section 4. THE VICE-PRESIDENTS: The Vice-President, or if there be more than one, the Vice-Presidents, according to the order of election or appointment shall be vested with all powers and duties required to perform the duties of the President in his/her absence and such other duties as may be prescribed by the President or the Board of Directors.

Section 5. THE SECRETARY:

A. The Secretary shall keep or cause to be kept the minutes of the meetings of the voting membership and of the Board of Directors meetings in one or more books provided for that purpose;

B. Shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by statute;

C. Shall be the custodian of the corporate records and of the seal of the Association and shall see that the seal of the Association is affixed to all documents the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these By-Laws or as required by statute;

D. Shall have access to the register of the post office address of all members of the Association;

E. In general, shall perform all duties incident to the office of secretary and such other duties as from time to time may be prescribed by the President or the Board of Directors.

Section 6. THE TREASURER:

A. The Treasurer shall keep or cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors;

B. Shall disburse or cause to be disbursed the funds of the Association as ordered by the President or the Board of Directors taking proper vouchers for such disbursements and shall render to the President and Directors at the regular meetings of the Board of Directors, or whenever they may require it an account of all transactions as Treasurer and of the financial condition of the Association;

C. In general, shall perform all duties incident to the office of Treasurer and such other duties as from time to time may be prescribed by the President or the Board of Directors.

ARTICLE IV

MEMBERSHIP

Section 1. **CLASSES OF MEMBERSHIP:** The membership of this Association shall consist of Class A members and one Class B member.

Section 2. **CLASS A MEMBERS:** Any person, partnership or limited partnership, association or corporate entity, except Cape Cave, who is the owner of record of a fee or undivided interest in any Rotonda West Property that is subject to the Declaration of Restrictions shall automatically be and become a Class A member of the Association; provided, however that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member. The Class A members shall be entitled to one (1) vote in the affairs of the Association for each full lot, tract, or parcel of the Rotonda West Property owned by said members. In the event that any such lot, tract or parcel is owned by more than one person, firm, or corporation, the membership relating thereto shall nevertheless have only one (1) vote which shall be exercised by the owner or person designated in writing by the owners as the one entitled to cast the vote for the membership concerned. Class A membership will be appurtenant to and may not be separated from ownership of any Rotonda West Property, and Class A membership in the Association shall cease and terminate upon the sale, transfer or disposition of the member's ownership interest in the Rotonda West Property.

Section 3. **CLASS B MEMBERS:** Cape Cave shall be the only Class B member of this Association. The Class B member shall be entitled to one (1) vote and the right to appoint one (1) member to the Board of Directors so long as it remains a Class B member. Assessments for Class B member will be the normal assessment for maintenance of common areas for each Lot/Tract owned.

Section 4. **VOTING MEMBERSHIP:** Voting membership shall mean the membership entitled to vote in the affairs of the Association at the time that said vote is to be taken.

ARTICLE V

MEETINGS

Section 1. **PLACE:** Meetings of the voting membership shall be held in Rotonda West, Florida, or such other place as may be specified in the notice thereof.

Section 2. **ANNUAL MEETINGS:**

A. The annual meeting of the membership shall be held on the first Thursday of December or at such other time as may be designated by the Board of Directors.

B. The Board of Directors shall cause the Secretary to give written notice of annual meetings (to each member entitled to vote at such meeting) as provided in Article VI herein.

C. At each annual meeting (subject to the provisions of Subparagraph B of this Section), the membership entitled to vote shall elect directors for those vacancies then coming

due. At all annual meetings of the voting membership, the membership may transact such other business as may properly come before the meeting.

D. The presence at the annual meeting of any members entitled to cast votes, in person or by absentee ballots, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration of Restrictions, or these By-Laws.

E. At all meetings of members, each member may only vote in person or by secret absentee ballot.

Section 3. SPECIAL MEETINGS:

Special meetings of the voting membership for any purpose or purposes, including revisions to the Governing Documents, unless otherwise prescribed by statute or by the Articles of Incorporation may be called by the President, a majority of the Board of Directors, or by a majority of the voting membership. Such request shall state the purpose or purposes of the proposed meeting. The notice, quorum and voting requirements for annual meetings shall apply to special membership meetings.

ARTICLE VI

NOTICES

Section 1. METHOD:

A. Board Meetings. Notice of all Board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of the meeting, except in an emergency. Notwithstanding the foregoing, notice of Board meetings at which special assessments will be considered or at which amendments to rules regarding parcel use will be considered shall be mailed, delivered, or electronically transmitted to a correct facsimile number or electronic mail address at which the member has consented in writing to receive notice and posted conspicuously on the property not less than 14 days before the meeting. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. All members of record ninety (90) days prior to the meeting shall receive notice of Board meetings at which special assessments will be considered or at which amendments to rules regarding parcel use will be considered. Consent by a Member to receive notice by electronic transmission shall be revocable by the member by written notice to the Association.

B. Members Meetings. Notice of all members meetings shall be mailed, delivered, or electronically transmitted to a correct facsimile number or electronic mail address at which the member has consented in writing to receive notice at least fourteen (14) but not more than ninety (90) days before the date of such meeting. All members of record ninety (90) days prior to the meeting shall receive notice of the meeting. Consent by a Member to receive notice by electronic transmission shall be revocable by the member by written notice to the Association.

Section 2. WAIVER: Whenever any notice is required to be given under the provisions of the statutes or of the Articles of Incorporation or of these By-Laws, a waiver thereof in writing,

signed by the person or persons entitled to said notice, whether before or after the times stated therein, shall be deemed equivalent thereto. The attendance of any person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

ARTICLE VII

FINANCES

Section 1. **FISCAL YEAR:** The Association shall operate under the calendar year beginning on the first day of January and ending on the 31st day of December of each year. The Board of Directors is expressly authorized to change from a calendar year basis to that of a fiscal year basis whenever deemed expedient for the best interests of the Association.

Section 2. **CHECKS:** All checks or demands for money and notes of the Association shall be signed by any one of the following officers: President, Vice-President(s), Secretary or Treasurer or by such officer or such other person or persons as the Board of Directors may from time to time designate, unless changed by Resolution of the Board of Directors. Two authorized signatures are required for any check exceeding One Hundred Dollars (\$100.00).

Section 3. **ASSOCIATION EXPENDITURES:** Prior to any Association expenditures in excess of Three Thousand Five Hundred Dollars (\$3,500.00), the Association shall solicit and attempt to obtain three (3) independent quotations of price or proposals for services prior to such expenditure. Upon receipt of such quotations or proposals the Board of Directors may authorize such expenditure as it sees fit based on price, quality or any other factor within the discretion of the Board of Directors.

For expenditures in excess of Seven Thousand Five Hundred Dollars (\$7,500.00), the Association shall advertise in a newspaper of general circulation a solicitation of proposals for such expenditure. After publication, the Board of Directors may authorize such expenditure as it sees fit based on price, quality or any other factor within the sound discretion of the Board of Directors.

For discretionary capital expenditures in excess of Seventy-Five Thousand Dollars (\$75,000.00), the Association shall, prior to any such expenditure, obtain the approval of the membership. Approval of the membership for discretionary capital expenditures in excess of Seventy-Five Thousand Dollars (\$75,000.00) shall require an affirmative vote of a majority of all members casting a vote in person or by absentee ballot. Discretionary capital expenditures as used herein shall mean expenditures not required as part of the routine maintenance responsibility of the Association. Discretionary capital expenditures shall not include expenditures in excess of Seventy-Five Thousand Dollars (\$75,000.00) occasioned by flood, storms or other acts of God.

Section 4. **FINANCIAL ASSISTANCE TO OTHER ROTONDA WEST ENTITIES:** The Board of Directors shall have the authority to expend not more than two percent (2%) of the overall Association budget for financial assistance to organizations providing universally

beneficial services to the Rotonda West community, and shall be deemed to be a common expense of the Association.

Section 5. OTHER ACTIVITIES: The Board of Directors shall have the authority to expend not more than one percent (1%) of the overall Association budget for social and benevolent activities, including without limitation, social activities held for the benefit of owners, residents, employees and directors of the Association, purchase of get well cards, flowers and similar acts as permitted herein, and shall be deemed to be a common expense of the Association.

ARTICLE VIII

ASSESSMENTS

The procedure for collection of delinquent assessments shall be as follows:

A. All assessments are due and payable in full not later than the date established by the Board of Directors for each calendar year.

B. Any assessment payment not received by the due date shall be termed delinquent.

C. At the time an assessment becomes delinquent, an administrative late fee of the maximum amount allowed by law per assessment will be added to the account. Additionally, interest shall accrue in an amount as determined by the Board of Directors which, unless otherwise specified, shall be at the maximum rate allowed by law as of the date of delinquency and will be added to the Assessment. The Board may waive interest or late fees for good cause shown, in hardships, and to settle disputes. The determination whether to waive late fees and/or interest shall be in the sole discretion of the Board and shall be exercised by the Board on a case by case basis.

D. At the time an assessment becomes delinquent a pre-lien letter/notice of delinquency, if required by law, shall be mailed to the Lot/Tract Owner by registered or certified mail, return receipt requested, and first-class United States mail, which notice shall include the amount of the delinquent payment, the administrative late fee, the cost of the registered or certified mail, return receipt requested, and first-class United States mail, reasonable costs and expenses associated with the collection of said debt and the total amount remaining unpaid.

E. The Association shall have the right to place a lien on the property for any unpaid Assessments and Charges with interest on the outstanding balance, administrative late fees, costs, collection expenses and reasonable attorney's fees incurred by the Association which are incident to the collection of the Assessment or enforcement of the lien, and attendant fees incurred by the Association incident to the collection of the Assessment. The lien shall be a continuing lien and shall secure Assessments, Charges, costs, fees and interest accruing after the recording of the lien until all such amounts are paid in full.

G. In the event that a Lot/Tract Owner does not pay any of the Assessments and Charges required to be paid to the Association at the time same may be due, the Association, through its Board of Directors and its legal counsel, may, to the extent permitted by law, enforce

its lien for Assessments and Charges or take such other action to recover the fees to which it is entitled, in accordance with the Articles of Incorporation, the Declaration of Restrictions, and any statutes made and provided. If an action of foreclosure is brought against a Lot/Tract Owner for non-payment of monies due the Association and as a result thereof, the interest of the said owner in and to the Lot/Tract is sold, then a Lot/Tract Owner will thereupon cease to be a member of the Association.

ARTICLE IX

SEAL

The seal of the Association shall have inscribed thereon the name of the Association, the year of its organization, and the words "not-for-profit". Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

ARTICLE X

NO STOCK

The Association shall never have or issue shares of stock and/or certificates of membership.

ARTICLE XI

INVALIDITY

If any By-Law, or part thereof shall be judged invalid, the same shall not affect the validity of any other By-Law or part thereof.

ARTICLE XII

AMENDMENT

These By-Laws may be altered, amended or rescinded by two thirds (2/3) of the Board of Directors or two thirds 2/3 of the voting members, at any duly called meeting of the Board of Directors or of the voting membership, if notice of such alteration, amendment, or rescission be contained in the notice of such meeting.

ARTICLE XIII

CONSTRUCTION

Whenever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine, or neuter; singular or plural; wherever the context so requires. In the event of any discrepancy between these By-Laws and the Articles of Incorporation, the Articles of Incorporation shall prevail.