

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: April 19, 2019

TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk

FROM: Jefferson Doehling, Engineering Spec I, Division of Engineering 

RE: Docket No. 20180232-SU – Request for cancellation of Certificate No. 453-S by Pine Island Cove Homeowners Association, Inc.

Please file the attached "Amended and Restated By-Laws of Pine Island Cove Homeowners Association, Inc.," in the above mentioned docket file.

Thank you.

JD/jp

Attachment

**AMENDED AND RESTATED BY-LAWS OF PINE ISLAND COVE
HOMEOWNERS ASSOCIATION, INC.**

(A Corporation Not For Profit Under the Laws of the State of Florida)

ARTICLE I: IDENTITY

These are the Bylaws of Pine Island Cove Homeowners Association, Inc. (hereinafter called "PICHA"), a not for profit corporation under the laws of the State of Florida.

1.1 Principal Office. The principal office of PICHA shall be at Pine Island Cove, St. James City, Lee County, Florida. The books and records of PICHA shall be kept at its principal office, 7290 Ladyfish Drive.

1.2 Fiscal Year. The fiscal year of PICHA shall be the calendar year unless voted otherwise by the Board Of Directors.

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

ARTICLE II: MEETINGS OF MEMBERS AND VOTING

2.1 The Annual Meeting. The Annual Meeting of the Members shall be held at such location and on the date and time each year as determined by the Board of Directors in the Notice of Meeting. The purpose of the meeting is to elect Directors and for the transaction of such other business authorized by PICHA members.

2.2 Special Members' Meetings. Special meetings of the Members may be called by the President or Vice President or by a majority of the Board of Directors or by twenty (20%) percent of the voting interests of PICHA. Requests for a meeting shall state the purpose for the meeting and business conducted at any special meeting shall be limited to the matters stated in the notice for it.

2.3 Notice of Members' Meeting. Notice shall be in writing, shall state the place, day and hour of the meeting and the purpose or purposes for which the meeting is called. The notice shall be delivered to each member entitled to vote at the meeting not less than fourteen (14) days nor more than sixty (60) days before the meeting. Such notice may be delivered in a newsletter officially used by PICHA and notice of such meeting shall be posted in a common area by or at the direction of the officer calling the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears in the records of the Association, with postage prepaid.

2.4 Quorum. A quorum at members' meetings shall consist of twenty (20%) percent of the voting interest of PICHA members represented by attendance, absentee ballot or by written consent and will constitute a quorum, except when a larger representation is required by the Articles or these Bylaws.

2.5 Voting.

2.5.1 Number and Manner of Votes. Members shall be entitled to cast one vote for each lot owned by the member. Votes may be cast in person, by absentee ballot or written consent.

2.5.2 Majority Vote. The acts approved by a majority of the voting interests present at a meeting and accounted for in person, by absentee ballot, or by written consent shall be binding on all members for all purposes unless the Articles or these Bylaws require a larger percentage of vote, in which case that larger percentage shall control.

2.6 Absentee Ballot and Written Consents. Twenty-one (21) days prior to the election or when a membership vote is required, absentee ballots will be mailed to each member requesting a ballot or known to be away during the time of voting. Each absentee ballot or written consent shall contain the date, and be effective only for that specific meeting. All absentee ballots or written consents must be delivered to the secretary 24 hours prior to the start of the meeting in which they are to be used.

2.7 Adjourned meetings. If any proposed meeting of the Members cannot be organized because a quorum has not been attained, or if acts or business on the meeting agenda are not approved because of an insufficient number of Members' votes, a majority of those members present and/or accounted for may adjourn the meeting from time to time until a quorum is present. If the place, date and time to which the meeting is adjourned is announced at the meeting at which the adjournment is taken, then notice of the place, date and time of the adjourned meeting shall suffice if posted in conspicuous place(s) in the Clubhouse as soon thereafter as may be practical and no further notice is required. If the place, date and time is not so announced at the meeting at which the adjournment is taken, notice of the newly scheduled meeting shall be given in the manner required for giving notice of a meeting. Except as required above, absentee ballots and written consents given for the adjourned meeting shall be valid unless revoked for reasons other than the new date of the meeting.

2.8 Waiver of Notice. Members may waive their right to receive notice of any meeting, whether Annual or special, by a writing signed by the Member to that effect. The waiver shall be filed with the Secretary of PICHA either before, at or after the meeting for which the waiver is given.

2.9 Action by Members Without a Meeting. Members may take action by written consent without a meeting, as long as written notice is given to the Member in the manner prescribed elsewhere in the Bylaws appropriate to the subject matter to be agreed on, unless that notice is waived as provided in these Bylaws. The decision of a majority of the voting interests of the Members who submit a written response, or a larger percentage vote as otherwise may be required by the Articles or these Bylaws (the decision to be evidenced by written response to be solicited in the notice), shall be binding on the Membership, provided a quorum submits a response.

2.10 Minutes of Meetings. The minutes of all meetings of the Members shall be kept in a book available for inspection by Members and/or their authorized representatives, and board members at any reasonable time. Members of PICHA and their authorized representatives shall have the right to make handwritten notations from the minutes, and to receive photocopies thereof at the cost of the Members concerned.

2.11 Voting Rights. Every person or entity which is an owner of a lot in Flamingo Bay Unit No. 3, per the plat thereof recorded in Plat Book 29, Pages 147 through 148, inclusive, of the Public Records of Lee County, Florida (which consists of 109 lots and was also known as Pinewood Cove); and every person or entity which is an owner of a lot in Flamingo Bay Unit No. III-A, per the plat thereof recorded in Plat Book 34, Pages 74 through 80, inclusive, and the Amended Plat of portions thereof recorded in Plat Book 58, pages 10 through 13, of the Public Records of Lee County, Florida (which presently consists of 215 voting

lots plus two non-voting lots and is known as Pine Island Cove) shall be entitled to one vote for each lot owned by that person or entity at all Association meetings. In the event of joint ownership of a lot, the vote to which that lot is entitled shall be apportioned among the owners as their interest may appear, or may be exercised by one of such joint owners by written agreement of the remaining joint owners. Membership shall be appurtenant to and may not be separated from ownership of a lot which is subject to assessment by the Association.

2.11.1 Notice of Membership in PICHA. PICHA shall not be required to recognize a change of membership until the new member furnishes satisfactory proof of his/her ownership. An Owner intending to transfer title to his/her lot shall give PICHA written notice of such intent at least seven (7) days prior to making such transfer. An owner acquiring title shall provide to PICHA a copy of the recorded deed or other instrument evidencing title within sixty (60) days after the occurrence of transfer.

2.11.2 Termination of Membership The termination of membership in PICHA does not relieve or release any former member from liability or obligation incurred under or in any way connected with PICHA during the period of his/her membership, nor does it impair any rights or remedies which PICHA may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

2.11.3 Membership Roster: PICHA shall maintain a current roster of names and mailing addresses of owners and primary occupants. A copy of the up-to-date roster shall be available to any owner upon request.

ARTICLE III. DIRECTORS

3.1 Number. The affairs of the Association shall be managed by five (5) directors, who shall be members of the Association. The Board of Directors shall be elected by a majority vote of the voting interest at the annual membership meeting called for this purpose, unless directed differently by the Board Of Directors.

3.2 Term of Office. At the first election, the membership shall elect five (5) members to the Board of Directors, with the three (3) Directors with the most votes to serve a two (2) year term. The remaining two (2) Directors shall each serve one (1) year, and thereafter the terms of all Directors shall be two (2) years, with three (3) Directors being elected on odd numbered years and two (2) Directors being elected in even numbered years.

3.3 Removal. Any director may be removed from the Board, with cause, by a majority vote of the members of PICHA. 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.

3.4 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.

3.5 PICHA Board of Directors: Nomination Committee and Elections

3.5.1 Nominating Committee and Candidates A Nominating Committee of five (5) members, to be appointed by the President of the Board of Directors at the October Board meeting, shall select qualified candidates, who are in good standing, to run for the Board of Directors. The candidates selected shall be announced at the November Board meeting and nominations shall be accepted from the floor. Nominations shall then be closed. Write-in candidates will be acceptable on the election ballot. The Nominating Committee may hold a "Meet the Candidates" meeting at least two weeks prior to the election, if desired.

3.5.2 Election Election to the Board of Directors shall take place at the January Member-Ship Meeting. Ballots and instructions shall be delivered or mailed to each voting member, approximately 30 days prior to the election. All absentee ballots must be returned to the office twenty-four (24) hours prior to the election meeting with the appropriate information included to be valid. Voting prior to the annual meeting will be authorized as determined by the Board of Directors and the Nominating Committee. The Nominating Committee shall organize and control the election and disposition of the ballots as directed by Florida statutes and standard legal practice.

3.6 PICHA Board of Directors: Meetings

3.6.1 Organizational Meeting. The organizational meeting of a newly selected Board of Directors shall be held immediately after the Annual membership meeting or as soon as possible.

3.6.2 Regular Meetings. Regular meetings of the PICHA Board of Directors shall be held at such place and hour as may be fixed from time to time by Board resolution.

3.6.3 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two (2) directors after not less than 48 hours notice to each director. Publication of regular Board of Directors Meetings in the Newsletter shall serve as notice to all members.

3.6.4 Quorum. Three (3) directors shall constitute a quorum for the transaction of business.

3.6.5 Notice of Board Meetings. Notice of scheduling of Board Meetings shall be posted conspicuously at the Clubhouse at least forty-eight (48) hours in advance for the attention of the members of the Association, except in the event of an emergency. Notice of any meeting in which assessments against Unit Owners are to be considered for any reason shall specifically contain a statement to that effect and set out the nature of the assessment.

3.6.6 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 shall constitute a waiver of notice of such 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.

3.6.7 Voting by Directors. There shall be no voting by proxy at any meeting of the Board of Directors. All Directors must vote, inclusive of the President, except in cases of an asserted conflict of interest.

3.6.8 Acts of the 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 Articles or these Bylaws, and subject to the special voting provisions below.

3.6.9 Adjourned Meetings. If there is less than a quorum present at any meeting of the Board of Directors, those Directors may adjourn the meeting until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called, may be transacted without further notice to the Directors.

3.6.10 Joinder in Meeting by Approval of Minutes. A Director may join in the action of a meeting by signing and concurring in the minutes of that meeting. That concurrence, however, shall not constitute the presence of that Director for the purpose of determining quorum.

3.6.11 Meetings Open to Members. Meetings of the Board of Directors shall be open to all persons who are members of PICHA to attend and observe. No Member, however, shall be entitled to participate in the meeting unless specifically invited to do so by the Board.

3.7 Presiding Officer. The presiding officer at the Directors' meetings shall be the President (who may, however, designate any other Director to preside). In the absence of the presiding officer, the Directors present may designate any Director to preside.

3.8 Minutes of Meetings. The minutes of all meetings by the Board of Directors shall be kept in a book available for inspection by Members of PICHA and/or their authorized representative at any reasonable time. The aforesaid individuals shall have the right to make written notations from the minutes, and to receive photocopies thereof at the cost of the individual concerned.

3.9 Failure to Elect a Director Quorum. If the member classes fails to fill vacancies on the Board of Directors sufficient to constitute a quorum, any Member may apply to the Circuit Court in and for Lee County, Florida for the appointment of a receiver to manage the affairs of PICHA. At least thirty (30) days prior to applying to the Circuit Court, the Member shall mail to PICHA and post in a conspicuous place on the Clubhouse, a notice describing the intended action, giving PICHA time to fill the vacancies. If, during such time, PICHA fails to fill the vacancies, the Member may proceed with the petition. If a receiver is appointed, PICHA shall be responsible for the salary of the receiver and reasonable court costs and attorneys' fees incurred by the petitioner(s). The receiver shall have all the powers and duties of a duly constituted Board of Directors and shall serve until PICHA fills vacancies on the Board sufficient to constitute a quorum.

ARTICLE IV: POWERS AND DUTIES OF THE BOARD OF DIRECTORS

4.1 Included under the laws, Articles and Bylaws. All the powers and duties of PICHA existing under the laws, the Articles and these Bylaws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors or employees, subject only to the approval of the members when such approval is specifically required. Without limiting the generality of the foregoing, the Board shall have the obligation to administer Flamingo Bay Unit No. 3 Sub-division and Flamingo Bay Subdivision IIIA in accordance with the recorded deed restrictions and covenants.

4.2 But not limited under law. The powers and duties of the Board of Directors shall include, but shall not be limited to, that provided for by statute; that set forth in the Articles and these Bylaws; and all powers incidental thereto.

4.3 Major Capital Additions. Any decision relating to capital additions having a cost in excess of twenty thousand (\$20,000) dollars must be ratified by the consent of two-thirds (2/3) of the members voting at the Annual or Special Meeting at which the vote is made.

4.4 Federal or State Requirements Honored. The Board and PICHA must honor requirements placed upon the use of the Common Elements by Federal or State Agencies as a result of their use by residents of Pine Island Cove Mobile Home Park as required in F.S. 723 and other applicable statutes.

4.5 Emergency Authority and Expenditures. The members of the Board of Directors present and available at the time of calamity or extreme emergency shall be responsible to take such actions as required to protect and preserve the Common Elements. Expenditure of funds for such emergency situations shall be documented and reported to the full Board of Directors and membership at the first opportunity.

4.6 "55 years or Over". PICHA is a "55 years or Over" park in accordance with its intent, and governed by the applicable HUD. regulations and state statutes. The PICHA Board of Directors and membership are committed to maintaining this status.

ARTICLE V: OFFICERS

5.1 Executive Officers. The executive officers of PICHA shall be a President, 2 Vice-Presidents, a Treasurer and a Secretary, all of whom shall be Directors. The Officers shall be elected annually by the Board of Directors and may be removed with cause at any meeting by a vote 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 or Assistant Secretary. No person shall sign a instrument nor perform an act in the capacity of more than one office. The Board of Directors from time to time may elect other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of PICHA.

5.2 President. The President shall be the chief executive officer of PICHA and shall have all of the powers and duties that usually are vested in the office of President of an association, and shall preside at all meetings of the Board.

5.3. Vice-Presidents The Vice-Presidents shall exercise the powers and perform the duties of the President in the absence or disability of the President, and also shall assist the President and exercise such other powers and perform such other duties as are incident to the Vice-President of an Association and as may be required by the Directors or the President.

5.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the members, and shall attend to the giving of all notices to the members and Directors and other notices required by law. That person shall have custody of the seal of PICHA and shall affix it to instruments requiring the seal when duly signed, and shall keep the records of PICHA, 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.

5.5 Treasurer. The Treasurer shall have custody of PICHA funds, securities and evidences of indebtedness and shall keep books of account for PICHA in accordance with good accounting practices, which together with substantiating papers shall be made available to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of Treasurer of an association and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of PICHA in such depositories as may be designated by a majority of the Board of Directors, or as required by mortgage lending institution.

5.6 Resignations. Any Officer may resign his 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 before said date. The acceptance of a voluntary resignation shall not be required to make it effective.

ARTICLE VI: COMPENSATION OF DIRECTORS, OFFICERS AND COMMITTEE MEMBERS

Neither Directors nor Officers nor Committee Members shall receive compensation for their services. Directors, Officers and Committee Members may be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties.

ARTICLE VII: FISCAL MANAGEMENT

7.1 Accounts for Annual Budget. The receipts and expenditures of PICHA shall be created and charged to accounts under the following classifications as shall be appropriate in accordance with good accounting procedures, all of which expenditures shall be for common expenses:

7.1.1 Current Operating Expenses. (i.e. landscaping, water, sanitation supplies, administration, legal, insurance and management), which shall include all expenditures within the year for which the budget is made, excluding those expenses chargeable to the accounts delineated in subsections (2) and (3) next herein below.

7.1.2 Current Operating Expense Contingency, which shall include an allowance for the contingency where actual operating/current expenses exceed the budgeted amount thereof.

7.1.3 Reserve for Deferred Maintenance and Capital Expenditures. The reserves for deferred maintenance and capital expenditures include, but are not limited to, roof replacement, building painting, and pavement resurfacing. A capital expenditure is an expense that results from the replacement of an asset whose life is greater than one year in length or the addition of an asset which extends the life of the previously existing asset for a period greater than one year. An item of deferred maintenance is an expenditure for maintenance or repair that will result in extending the life of the asset for a period greater than one year. If the majority of the voting interests of the membership of PICHA present in person or by absentee ballot at a meeting of the Membership votes as such, the annual budget either need not contain any such reserves, or may contain such reserves but at a lesser amount than that would be required by means of a formula which is based upon the estimated life and estimated replacement costs of each reserve item. Such a decision to reduce or eliminate such reserves if made, shall apply only for a particular fiscal year as determined by the resolution as approved by a majority of the voting interest of PICHA.

7.1.4 Pine Island Cove Sewer Authority. The Pine Island Cove Sewer Authority, also known as the Waste Water Treatment Plant (WWTP) will be operated as a separate entity, managed by PICHA according to the guidelines, rules and regulations of the Public Service Commission. A separate budget and banking account shall be maintained as required. The necessary permits and ownership rights shall remain as an entity of PICHA. PICHA shall be responsible for management of the plant and the collection systems, including the lift stations and mains but excluding the lateral connections that service each home, until such time the WWTP is no longer controlled, operated, managed, maintained or needed by PICHA.

7.2 Board Adoption of Annual Budget. The Board shall adopt an Annual Budget and fix and determine maintenance fee(s) against the Owners for the common expenses of PICHA prior to the last day of the year, prior to the upcoming Budget Year, at a Special Meeting of the Board called for that purpose or at the December Board of Directors Meeting. The Annual Budget shall include the estimated funds required to operate PICHA and maintain the Properties for which it is obligated to maintain, repair and replace. The Annual Budget shall be detailed and shall show the amounts budgeted by the accounts and expense classifications.

7.2.1 The Board shall mail or deliver a meeting notice and copies of the proposed Annual Budget to the Members of PICHA not less than fourteen (14) days prior to the meeting of the Board of Directors at which the budget will be considered. The Membership of PICHA shall be given written notice of the time and place of the meeting of the Board of Directors at which the budget will be considered. The meeting shall be open to all members of PICHA.

7.2.2 If an adopted Annual Budget requires assessments against the Members of PICHA in any budget year which exceed One Hundred and Fifteen Percent (115%) of the assessments for the preceding year, it shall require a unanimous vote of the Board of Directors and a majority vote of the voting interests present.

7.2.3 For non-budget expenditures, except in the case of required replacement or repair of existing facilities or equipment, or refinancing corporate debt, any expenditure in excess of \$2,500 shall be approved by a majority of the members voting at a meeting.

7.3 Failure of the Board of Directors to Adopt Budget. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment and monthly installments on such assessment shall be due upon each installment payment date, whether monthly or quarterly.

7.4 Budget Amendment. In the event that the annual assessment proves insufficient, the Annual Budget and assessments pursuant thereto may be amended at any time by the Board of Directors. The unpaid assessments for the remaining portion of the year for which the amended assessment, is made, shall be spread equally over the remaining months of the budget year.

7.4.1 If the Annual Budget is amended, the provisions of Section 7.2.2 above shall apply.

7.4.2 If the Annual Budget is amended, a copy of the amended Annual Budget shall be furnished to each Member of PICHA.

7.5 Special Assessments and Charges. Assessments and charges for expenses which are not provided for and funded in the Budget shall be determined by the PICHA Board of Directors and approved

by a majority of the voting interest of PICHA at the Annual Members' Meeting or at a special meeting called for that purpose if the intended projected is at least \$20,000.

7.6 Collection of Monthly Assessments. PICHA shall be responsible for the collection of monthly assessments including monthly sewer charges and any special assessments levied and due from their members to PICHA affecting all lots as referred to in Exhibit "A" of the Articles of Incorporation.

7.6.1 Vacant lots will be assessed at 50% of the monthly assessment and vacant 1/2 lots at 25% of monthly assessment.

7.6.2 Homes occupying two lots will be assessed 150% of monthly assessment rates for the two (2) lots. Sewer charges will be levied to each owner of a residence in the PICHA sewer service area, whether occupied or vacant.

7.6.3 Special Assessments levied by PICHA shall be at the rate of 100% for all lots including vacant lots except that 1/2 lots will be assessed at 50%.

7.7 Liability for Assessments and Charges. A lot owner shall be liable for all assessments and charges, including but not limited to sewer charges, coming due while he/she is the owner of a lot, and such owner (and owner's grantees after a voluntary conveyance) shall be jointly and severally liable for all unpaid assessments and charges due and payable up to the time of such voluntary conveyance. A first mortgagee who acquires title by foreclosure or deed in lieu of foreclosure shall not be liable for unpaid assessments of prior owners. Liability may not be avoided by the owner by waiver of the use or enjoyment of any common areas or by abandonment of the lot for which the assessments and charges are made.

7.7.1 Liens for Assessment and Charges. The unpaid portion of an assessment or charge which is due, together with costs, interest and reasonable attorneys' fees for collection, shall be secured by a lien upon the lot and all structures and improvements, when a notice claiming the lien has been recorded by the Association in accordance with the requirements of Florida Statute 718.116 and other applicable statutes. Such lien shall be subordinate to any prior recorded first mortgage on the lot, except to the extent otherwise provided by law.

7.7.2 Collection – Interest; Application of Payments. Assessments or charges paid on or before ten days after the date due shall not bear interest, but all sums not paid on or before such ten day period shall bear interest at the rate specified in the Association Rules and Regulations, from the date due until paid. All payments upon account shall be first applied to interest, costs and fees (including attorney fees, from pre-suit through appellate level) and then to the assessment payment first due. All interest collected shall be credited to the common contingency account.

7.7.3 Collection – Suit. The Association, at its option, may enforce collection of delinquent assessments or charges by suit at law, by foreclosure of the lien securing the assessments or charges, or by any other remedy available under the laws of the State of Florida. In any event, the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment or decree, plus interest thereon and all costs incident to the collection and the proceedings, including reasonable attorneys' fees from pre-suit up through and including appellate proceedings. The Association shall hand deliver, or mail by certified mail, to the lot owner a written notice of its intention to foreclose the lien 30 days before commencing

foreclosure, unless a Notice of Contest of Lien has been filed.

7.8 Surplus Funds. Any surplus funds of PICHA may be invested in a money market fund, Treasury Bills or other approved accounts as directed by the PICHA Board of Directors.

7.9 Audit or Other Accounting. The Board of Directors shall cause the statements of PICHA to be compiled, reviewed, audited, or reported, unless waived by a majority of votes present at the December, or budget meeting.

7.10 Annual Financial Report to Members. Pursuant to the requirements of F.S. 617.303. the Board of Directors shall cause an annual financial report to be prepared within sixty (60) days after the close of the fiscal year, and within such sixty (60) day period, provide each member with a copy of such annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report must consist of either:

(a) Financial statements presented in conformity with generally accepted accounting principles; or

(b) A financial report of actual receipts and expenditures, cash basis, which report must show (i) The amount of receipts and expenditures by classification; and (ii) The beginning and ending balances of the association.

ARTICLE VIII: COMMITTEES

8.1 Directors of Committees. The Board of Directors, by resolution adopted by a majority of the directors may designate, as required, an unlimited number of committees, to include Social and Recreational Committees. One member of the Board of Directors shall be assigned to each committee and no board member will be assigned to more than four committees. The director to the extent provided in such resolution, shall have and exercise the authority of the Board of Directors in the management of that committee. The board member will be designated to over-see the actions of each committee through the committee chairperson. The designation of such committees and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual director, of any responsibility imposed on it or him by law.

8.2 Sub-Committees. The Board of Directors, by resolution adopted by the majority of the directors, may designate as required, and unlimited number of sub-committees for each appointed committee. A chairperson and members will be designated for each sub-committee and will be responsible to the appropriate appointed committee director.

8.2 Committee Members. Except as otherwise provided in such resolution, directors of committees, members of committees or sub-committees shall be members of the corporation. The Board of Directors shall appoint the members thereof. Any member thereof may be removed by the appointing body whenever in their judgment the best interests of PICHA shall be served by such removal.

ARTICLE IX: ROSTER OF UNIT OWNERS

Each Lot Owner in the subdivisions shall file with PICHA a copy of the deed or other document showing his ownership and verify condition as to: a. vacant lot b. improved lot (with home) c.. split lot

d. home occupying two (2) lots. PICHA may rely upon the accuracy of such information for all purposes until notified in writing of changes therein. It shall be the affirmative duty of each Lot Owner to notify the Board of Directors of PICHA of changes in ownership, mailing address and changes in mailing address.

ARTICLE X: NON-COMPLIANCE OF GOVERNING DOCUMENTS

10.1 **Rights and Privileges.** Residents and owners of assessable lots in PICHA are entitled to the rights and privileges of the Governing Documents of PICHA and subject to the documents requirements as they relate to the Common Elements and adopted Rules and Regulations promulgated by PICHA's Board of Directors concerning the use of the Common Elements, and the amendments of those documents from time to time.

10.2 **Non-Compliance.** Non-compliance with the governing documents shall result in the following procedures, in addition to any other specific remedy provided herein, PICHA shall follow the procedures set forth below for violations of these Governing Documents:

10.2.1 All reports of violations must be in writing, stating the nature of the violation, and signed by the person(s) reporting such violation, and turned over to the Board of Directors ("Board").

10.2.2 The Board shall investigate and act upon such reports in timely fashion.

10.2.3 If the violation continues or is repeated a second time, a certified mail, return receipt requested letter shall be sent to the responsible party, outlining the action to date and requesting compliance and outline possible penalties for noncompliance.

10.2.4 The resident may request a hearing with the Board of Directors within 15 days of receipt of verbal or written notice of violation, the hearing results shall be available within 10 days whenever possible.

10.2.5 In the event of a third (or more) violation, the following penalties or combinations of penalties may be imposed by the Board of Directors; civil court(s) to enforce the Governing Documents; recovery of attorney fees, court costs, and any other costs of proceeding; fine(s); recovery of attorneys fees, court costs, and any other costs of proceeding; fine(s) as determined by the Board and/or Court having jurisdiction.

10.2.6 The above remedies shall not apply to violations of an emergency nature. The Board of Directors shall have the ability to deal with such emergencies as specified in (10.2.5) above, without following the preceding requirements.

ARTICLE XI: INSURANCE

11.1 **Indemnification.** The PICHA Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative or investigative, by reason of fact that he is or was a director or officer of the corporation, or is or was serving at the request of the corporation as a director or officer of any other corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines or amounts paid in settlements, actually and reasonable incurred by him in connection with such action, suit or proceeding, including any appeal thereof, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any

criminal action or proceeding, and no reasonable cause to believe his conduct was unlawful. However, no indemnification shall be provided in any action or suit by or in the right of the corporation to procure a judgment in its favor, with respect to any claim, issue or matter as to which such person is adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation. Indemnification hereunder shall be made by the corporation only as authorized in the specific case on a determination by a majority of disinterested directors that such individual met the application standard of conduct set forth above. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or on a plea or nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not meet the applicable standard of conduct. Indemnification hereunder shall continue as to a person who has ceased to be a director or officer, and shall inure to the benefit of the heirs, executors and administrators of such a person.

11.2 Fidelity Bonds shall be required by the Board of Directors for all officers and employees of PICHA and from any contractor handling or responsible for PICHA funds. The fidelity bonds shall name PICHA as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than required by Florida Statute 719.106 (i)(K). In connection with such coverage, appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The premiums on such bonds shall be paid by PICHA.

11.3 Property, Casualty and Liability Insurance. The Board of Directors shall be required to fully insure all property owned by PICHA and insure against any threatening situations involving the Association, its Board of Directors, and members and employees while conducting Association business.

ARTICLE XII: LIABILITY SURVIVES MEMBERSHIP TERMINATION

Termination of membership in PICHA shall not relieve or release a former member from any liability or obligation incurred with respect to the Articles, Bylaws or Rules and Regulations during the period of membership, nor impair any rights or remedies that PICHA may have against the former member arising out of his membership and his covenants and obligations incident to membership.

ARTICLE XIII: PARLIAMENTARY RULES

ROBERTS' RULES OF ORDER (latest edition) shall govern the conduct of meetings of the Membership and Board of Directors when not in conflict with the Articles or these Bylaws.

ARTICLE XIV: AMENDMENTS

Amendments to these Bylaws shall be proposed and adopted in the following manner:

14.1 Notice. Notice of subject matter of a proposed amendment shall be included in the notice of the Members' meeting at which the proposed amendment is to be considered by the Membership.

14.2 Resolution of Adoption. A resolution adopting a proposed amendment may be proposed by either a majority of the Board of Directors of PICHA or by 20% of the membership of PICHA. Except as elsewhere provided, an Amendment shall be approved (1) by not less than a majority of the Board of Directors and by (2) not less than a majority of the PICHA membership.

14.3 Provisos

14.3.1 No amendment shall be made which has as its purpose, the favor or disfavor of one Member over another, or the membership of a Member, or the persons occupying lots owned by the Member.

ARTICLE XV: COMMON ELEMENTS

The Common Elements which are within the jurisdiction of PICHA are identified as follows:

15.1 Common Elements. Common Elements owned by PICHA shall mean and be defined as the following:

Clubhouse and Related Facilities. All improvements and personal property including but not limited to the Clubhouse, Swimming Pool, Jacuzzi and Shuffleboard Courts located on Outlot C, Flamingo Bay Unit No. 3

Boat Ramp. The Boat Ramp and related parking and launching facilities located on Outlot D, Flamingo Bay Unit No. 3.

Streets. All Streets in Flamingo Bay Unit No. 3 and Unit No. III-A.

Street Lights. All Street lights within the subdivision.

All Canals and Bass Lake. Faith Canal, Hope Canal, Bass Canal. Each lot owner shall be responsible for seawalls and shore line abutting any water area.

Boat Lifts Boat lifts on Faith Canal and Hope Canal.

Storm Sewers. Mains and drainways and catch basins.

Cobiac Compound Boat, RV storage as needed and yardwaste collection

Trash Collection

Recycling Collection

Pine Island Cove Sewer Authority.

The Pine Island Cove Sewer Authority, also known as the WasteWater Treatment Plant (WWTP), will be operated as a separate entity, managed by PICHA according to the guidelines and rules and regulations of the Public Service Commission. A separate budget and banking account shall be maintained as required. PICHA shall be responsible for management of the plant and the collection systems including the lift stations, and mains but excluding the lateral connection that serves each home, until such time as no longer warranted.

15.2 Pine Island Cove Mobile Home Park Within the Pine Island Cove Subdivision is a Mobile Home Park on leased lots owned by PICHA. The homeowner on these lots have the same rights as other residents who own their lots. They are encouraged to attend PICHA meetings although they are not members of PICHA

and may not cast votes. Certain Florida Statutes (such as in F.S. 723) place requirements strictly pertaining to such Mobile Home Parks, making those laws part of our governing documents. These leased lots may be sold as demand warrants, and PICHA will issue a deed and membership certificate for each lot owner until all lots are sold.

ARTICLE XVI: CONSTRUCTION; DEFINITIONS

16.1 **Construction.** Wherever the context so permits or requires, 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.

16.2 **Definitions.** All Definitions contained in PICHA Articles of Incorporation are hereby adopted and incorporated herein by reference, and shall have the same meaning in these Bylaws as expressed in the Articles of Incorporation.

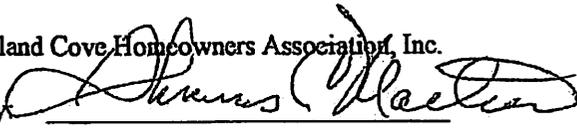
ARTICLE XVII: CAPTIONS

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 Bylaws or the intent of any provision hereof.

The foregoing were adopted as the Amended and Restated Bylaws of Pine Island Cove Homeowners Association, Inc. on the 17th day of December, 1998.

The foregoing were adopted as the Amended and Restated Bylaws of Pine Island Cove Homeowners Association, Inc. on the 15th day of March, 2001.

Pine Island Cove Homeowners Association, Inc.

By: 

President

By: 

Secretary