

**FIRST AMENDMENT TO BYLAWS OF THE
FOGG COVE HOMEOWNERS ASSOCIATION, INC.**

THIS AMENDMENT to the Bylaws of the Fogg Cove Homeowners Association, Inc. (the “Association”), is made this ____ day of _____, 2022, by the Association.

WHEREAS, the Declaration of Covenants, Conditions, and Restrictions (the “Declaration”), dated November 14, 1984, is recorded among the Land Records of Talbot County in Liber 593 at Folio 182 *et seq.*; and,

WHEREAS, the Supplemental Declaration of Covenants, Conditions, and Restrictions, and Deed of Easements (the “Supplemental Declaration”), dated September 17, 1987, is recorded among the Land Records of Talbot County in Liber 651 at Folio 418 *et seq.*; and,

WHEREAS, the First Amendment to the Declaration of Covenants, Conditions, and Restrictions (the “First Amendment to the Declaration”), dated _____, is recorded among the Land Records of Talbot County in Liber _____ at Folio _____ *et seq.*; and,

WHEREAS, the Articles of Incorporation of Fogg Cove Homeowners Association, Inc., dated October 6, 1983, are appropriately recorded with the State Department of Assessments and Taxation of Maryland; and,

WHEREAS, the [Amended and Restated] Bylaws (the “Bylaws”), dated June 9, 2018, are recorded among the Land Records of Talbot County in Liber 2639 at Folio 312 *et seq.*; and,

WHEREAS, Article VIII, Section 8.01 of the Bylaws provide that the Bylaws “may be amended at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy;” and,

WHEREAS, the Association has determined that amendments to the Bylaws are necessary in order to address a number of issues which are of concern to the Association; and,

WHEREAS, a majority of the Owners in attendance, in person or by executed proxy, at the annual meeting of the Association held on June 11, 2022 have voted to approve the amendments set forth herein, in accordance with Article VIII, Section 8.01 of the Bylaws; and

WHEREAS, the amendments set forth herein do not affect the interests, priorities, remedies or rights of any holder of a mortgage or deed of trust as set forth in Section 11B-117 of the Maryland Homeowners Association Act (the "Act");

NOW THEREFORE, pursuant to Article VIII, Section 8.01 of the Association's Bylaws and Section 11B-116 of the Act, the following provisions of the Bylaws are hereby amended as follows:

1. Article I

Article I, Section 1.08 of the Bylaws is deleted in its entirety, and the following is inserted in its place:

Section 1.08. Members. Every Owner shall automatically be a Member of the Association. "Owner," for the purposes of these Bylaws, shall mean and include the owner of the fee simple, or long term leaseholds interests (being a term of at least fifteen (15) years) in any lot ("Lot") within the Development, or any common or joint interest herein if a Lot is owned by more than one person or entity, but persons having an interest merely as security for the performance of an obligation or payment of a debt shall not be Members of the Association. No person or other entity shall be a Member of the Association after such person or entity ceases to own or hold the interest in a portion of the Association, which theretofore qualified such person or entity for membership under the provisions set forth above. Any Member who is in violation of the Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), the Articles of Incorporation, the Association's Bylaws as may be amended by the Owners from time to time, and any rule or regulation promulgated by the Association pursuant to its authority as provided in this Declaration, the Supplemental Declaration, Articles of Incorporation or Bylaws (collectively, the "Governing Documents"), as determined by the Board of Directors of the Association, or who fails to pay any dues, assessments, or fines established or levied by the Association shall not be entitled to vote during any period when the dues, assessments, or fines are due and unpaid or in which a violation occurs. Only those Members of the Association in good standing and not currently in violation of any provision of the Association's Governing Documents shall be permitted

to serve on the Board of Directors of the Association or serve in any capacity on a committee appointed by the Board of Directors of the Association. For a Member to be in “good standing,” such Member shall not be more than sixty (60) days delinquent in any payment due to the Association.

Article I, Section 1.11 of the Bylaws is deleted in its entirety, and the following is inserted in its place:

Section 1.11. Proxies. With respect to the use of proxies in annual and special meetings, the Board of Directors of the Association may send to Members a solicitation for either a (1) general proxy, or (2) a directed or limited proxy. A general proxy received by the Chairman from a Member permits the Chairman or the Chairman’s designee to vote on behalf of the Member without restriction for the term specified in the proxy. A directed or limited proxy received by the Chairman shall restrict the Chairman or the Chairman’s designee to vote only in accordance with the instructions in the proxy, and if the Chairman or Chairman’s designee fails to follow the instructions, the Member providing the proxy may challenge the vote. Any such challenge shall be made in writing to the Board of Directors of the Association within ten (10) days of the vote challenged. Within twenty (20) days, the Board of Directors of the Association, by a majority vote, shall determine whether a vote was cast contrary to the direction of the Member’s proxy. In the event the Board of Directors of the Association makes such a determination, the vote shall be invalidated. If the invalidated vote has the effect of changing the outcome of the motion for which the proxy was improperly used, the matter shall be included on the agenda of the next annual or special meeting. Nothing herein to the contrary shall inhibit Members from providing general, limited, or directed proxies to other Members. All proxies shall be counted for determining the presence of a quorum.

2. Article II

Article II, Section 2.01 of the Bylaws is deleted in its entirety, and the following is inserted in its place:

Section 2.01. Number. The affairs of the Association shall be managed by a Board of Directors consisting of an uneven number, between five (5) and nine (9) Directors. The number of Directors shall be determined by a vote of the Members at any annual or special meeting of the Members and the number of Directors may be changed by a vote of the Members at any subsequent annual or special meeting of the Members; provided, however, that (a) the limitations of the Association's Governing Documents shall continue to apply; and (b) no such change shall operate to curtail or extend the term of any incumbent Director.

Article II, Section 2.04 of the Bylaws is deleted in its entirety, and the following is inserted in its place:

Section 2.04 Removal and Resignation. Any Director may be removed from the Board, with or without cause, by the vote of the Members entitled to cast not less than fifty-one percent (51%) of the total authorized votes of all Members of the Association. In the event of death, resignation or removal of a Director, such Director's successor shall be appointed by the remaining Directors, and such Director's successor shall serve for the unexpired term of such Director. The term of office of any Director who becomes more than sixty (60) days delinquent in payment of any dues, assessments, or fines attributable to the Lot of which such Director is the Owner shall automatically terminate on the sixty-first (61st) day, and the term of office of any Director who shall be absent, without reasonable cause, from three (3) consecutive regular meetings of the Board of Directors shall automatically terminate upon commencement of the next regular meeting of the Board of Directors following such Director's third (3rd) consecutive absence, and in each case, such Director's successor shall thereupon be appointed by the remaining Directors to serve for the unexpired term of such Director.

Article II, Section 2.12 of the Bylaws is deleted in its entirety, and the following is inserted in its place:

Section 2.12. Powers. The Board of Directors of the Association shall have power to:

- a) adopt and publish rules and regulations governing the use of the marina, docks and slips, the Common Areas and facilities, and the personal conduct of the Members and their guests while upon any property subject to the jurisdiction of the Association's Governing Documents, and to establish penalties for the infraction thereof including, without limitation, sanctions, the imposition of reasonable fines, and to sue for judicial enforcement of the Association's Governing Documents and collect the reasonable attorney's fees and costs incurred therefrom;
- b) adopt and publish architectural rules and establish penalties and fines for the infraction thereof, including, without limitation, sanctions, the imposition of reasonable fines, and to sue for judicial enforcement of the Association's Governing Documents and collect the reasonable attorney's fees and costs incurred therefrom;
- c) adopt policies for financial accountability;
- d) suspend the voting rights and right to use the recreational facilities, including, without limitation, the marina, docks and slips, and parking areas within the Common Area, of a Member and their guests during any period in which such Member is delinquent in the payment of any assessment or fines levied by the Association. Such rights may also be suspended after notice and hearing for an infraction of the Governing Documents.
- e) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Association's Governing Documents or by the Act;
- f) declare the office of a Director of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular

meetings of the Board of Directors of the Association; and,

- g) employ, appoint and remove a manager, an independent contractor, or such other employees as the Board of Directors deems necessary, and to prescribe their duties.

3. Article III

Article III, Section 3.06 of the Bylaws is deleted in its entirety, and the following is inserted in its place:

Section 3.06. Architectural Control Committee. The Architectural Control Committee shall exercise and enforce the architectural controls, rules, and restrictions as set forth in the Association's Governing Documents and in accordance with Article V of the Declaration as amended by the First Amendment to the Declaration.

Each of the two Article III, Section 3.09 of the Bylaws are deleted in their entirety, and the following two sections are inserted in their place:

Section 3.09. Other Committees. The Board of Directors may by resolution provide for additional standing committees, including an Executive Committee, and special committees as it deems desirable and discontinue the same at its pleasure.

Section 3.10. Committee Membership. Each standing committee shall have a chairman and include, at least, two other Members of the Association. The Manager shall serve as an additional, non-voting member of the Finance Committee. Only those Members of the Association in good standing and not currently in violation of any provisions of the Association's Governing Documents shall be permitted to serve in any capacity on a committee appointed by the Board of Directors of the Association. For a Member to be in "good standing," such Member shall not be more than sixty (60) days delinquent in any payment due to the Association.

Article III, Section 3.10 of the Bylaws is deleted in its entirety, and the following is inserted in its place:

Section 3.11. Committee Appointments. The chairman and members of the Nominating Committee shall be appointed each year by the Board of Directors. For all other committees, members of each committee shall be appointed by the Board of Directors, and the chairman of any such committee shall be appointed by the Chairman of the Board of Directors from the members of the such committee. The Board of Directors, and the Chairman of the Board of Directors may delegate their respective powers of appointment to the members of such committee and/or the chairman of such committee.

Article III, Section 3.11 of the Bylaws is deleted in its entirety, and the following is inserted in its place:

Section 3.12. Committee Member Terms. Appointment to the Nominating Committee shall be for a minimum term of one year. The chairman of each other committee shall serve at the pleasure of the Board of Directors or, with the exception of the Manager, until such committee member ceases to be a Member of the Association or as otherwise provided in the Association's Governing Documents.

4. Article X

Article X, Section 10.01 of the Bylaws is deleted in its entirety, and the following is inserted in its place:

Section 10.01. Assessments. As more fully provided in the Declaration and the First Amendment to the Declaration, any assessment or fine not paid within fifteen (15) days after the due date shall bear interest from the due date until paid at a rate determined by the Board of Directors, up to the maximum rate of interest permitted under the laws of the State of Maryland. The Association may also charge a reasonable late fee against any Owner (and/or such Owner's Lot) who is more than fifteen (15) days delinquent in the payment of any annual assessment or special assessment. Additionally, the entire balance of the unpaid annual assessment for the remainder of the fiscal year may be

accelerated at the option of the Board of Directors and be declared due, payable and collectable in the same manner as the delinquent portion of such annual assessment or special assessment. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot provided the provisions of the Maryland Contract Lien Act, if applicable, are fulfilled. No Owner may waive or otherwise escape liability for the assessments or fines provided for in the Association's Governing Documents by non-use of any of the Common Areas or abandonment of such Owner's Lot. The Owner shall also be obligated to pay all attorneys' fees, court costs and administrative costs incurred in connection with the collection of any assessments or fine if not paid when due. This Section shall not be deemed to limit or waive, and shall be without prejudice to, any and all rights, remedies, or recourses as may be available to the Association for non-payment of assessments or fines.

5. Except as modified by this Amendment, all terms and provision of the Bylaws are hereby confirmed and ratified and shall remain in full force and effect. Where any provision within this Amendment contradicts any provision of the Bylaws, this Amendment shall control.
6. This Amendment, and the provisions herein, shall become effective on the date this Amendment is executed by the Board of Directors of the Association.

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Witness the following signatures and seal this ____ day of _____, 2022.

ATTEST:

**BOARD OF DIRECTORS
FOGG COVE HOMEOWNERS
ASSOCIATION, INC.**

President

Secretary

(STATE OF MARYLAND) ss:

I, the undersigned, a Notary Public in and for the State of Maryland do hereby certify that _____, President of the Board of Directors of the Fogg Cove Homeowners Association, Inc., whose name is signed hereinabove, acknowledged the same before me in the aforesaid jurisdiction.

Given under my hand and seal this ____ day of _____, 2022.

Notary Public

My commission expires

(STATE OF MARYLAND) ss:

I, the undersigned, a Notary Public in and for the State of Maryland do hereby certify that _____, Secretary of the Board of Directors of the Fogg Cove Homeowners Association, Inc., whose name is signed hereinabove, acknowledged the same before me in the aforesaid jurisdiction.

Given under my hand and seal this ____ day of _____, 2022

Notary Public

My commission expires

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**CERTIFICATE OF THE SECRETARY OF
FOGG COVE HOMEOWNERS ASSOCIATION, INC.**

I hereby certify that, on the 11th day of June, 2022, I was acting as the Secretary of Fogg Cove Homeowners Association, Inc. at the meeting of the members at which the aforesaid First Amendment to the Bylaws was approved, and that I was the person authorized pursuant to the Association's Bylaws to verify the count the votes at said meeting. I further certify that said approval was by members having the percentage of votes required; that the required written notice of the same was mailed to all Owners; and, that, accordingly, the aforesaid First Amendment to the Bylaws shall be effective.

By: _____
_____, **Secretary**

I, the undersigned, a Notary Public in and for the State of Maryland do hereby certify that _____, Secretary of the Board of Directors of the Fogg Cove Homeowners Association, Inc., whose name is signed hereinabove, acknowledged the same before me in the aforesaid jurisdiction.

Given under my hand and seal this ____ day of _____, 2022

Notary Public

My commission expires

ATTORNEY CERTIFICATION

I HEREBY CERTIFY that this First Amendment to the Declaration was prepared by me or under my supervision, and that I am an attorney licensed to practice before the Court of Appeals of Maryland.

Roberto Montesinos, Esq.