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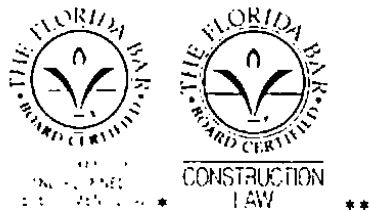
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Condominium, Homeowner
and Cooperative Association

Kevin T. Wells, Esq.*
Paul E. Olah, Jr., Esq.**
Michael W. Cochran, Esq.



Civil Litig
Construction Litig.

Jackson C. Kracht
Michael P. Wallach
Thomas A. Marino II.

November 1, 2022

Florida Secretary of State
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Re: Certificate of Amendment
Emerald Gardens Homeowners Association, Inc.

Dear Sir or Madam:

Please find enclosed Amendments to the Articles of Incorporation for the above-referenced corporation.

Enclosed is my firm check in the amount of \$43.75 for the filing fee and certified copy fee. Please return a certified copy to the undersigned at your earliest convenience.

Thank you for your assistance in this matter.

Very truly yours,

LAW OFFICES OF WELLS | OLAH | COCHRAN, P.A.

/s/ Paul E. Olah, Jr.

Paul E. Olah, Jr., Esq.
polah@kevinwellspa.com

PEO/enl
Enclosures

Prepared by and return to:
Paul E. Olah, Jr., Esq.
Law Offices of Wells | Olah | Cochran, P.A.
3277 Fruitville Road, Bldg. B
Sarasota, Florida 34237
(941) 366-9191 (Telephone)
(941) 366-9292 (Facsimile)

CERTIFICATE OF AMENDMENT

**ARTICLE OF INCORPORATION
FOR
EMERALD GARDENS HOMEOWNERS' ASSOCIATION, INC.**

We hereby certify that the attached amendments to the Articles of Incorporation for Emerald Gardens Homeowners' Association, Inc. were approved by the affirmative vote of not less than two-thirds of the voting interests of the Association at a membership meeting held on July 20, 2022.

The original Articles of Incorporation for Emerald Gardens Homeowners' Association, Inc. were filed with the Florida Division of Corporations on April 27, 1989. The original Declaration of Restrictions of Emerald Gardens, a Subdivision, is recorded at Official Records Book 2132, Page 2805 et seq. of the Public Records, Sarasota County, Florida.

Dated this 5 day of October, 2022.

Signed, sealed and
delivered in the presence of :

Emerald Gardens Homeowners' Association, Inc

Sign: [Signature]

Print: CATLIN KING

Sign: [Signature]

Print: Patricia Wasil

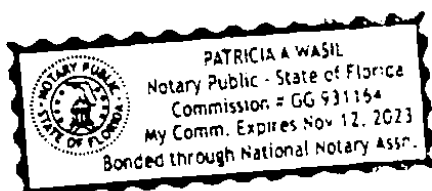
By: [Signature]
John Kelner, President

ATTEST: [Signature]
Jo-Anne Sheldon, Secretary

[Corporate Seal]

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 5 day of October, 2022 by John Kelner, as President of EMERALD GARDENS HOMEOWNERS' ASSOCIATION, INC., a Florida corporation, on behalf of the corporation, who is personally known to me or has produced Driver Lic as identification.



NOTARY PUBLIC

Sign: [Signature]

Print: _____
State of Florida at Large (Seal)
My Commission expires:

NOV-3 AM 10:59
SECRETARY OF STATE
TALLAHASSEE, FL

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
FOR
EMERALD GARDENS HOMEOWNERS' ASSOCIATION, INC.**

*[Substantial rewording of Articles of Incorporation.
See existing Articles of Incorporation for present text.]*

The Members of **EMERALD GARDENS HOMEOWNERS' ASSOCIATION, INC.**, a Florida not for profit corporation (the "Association"), adopt these Amended and Restated Articles of Incorporation. The original Articles of Incorporation were filed with the Florida Department of State, Division of Corporations, on April 27, 1989. These Amended and Restated Articles of Incorporation (the "Articles of Incorporation") replace and supersede the original Articles of Incorporation and all previous amendments thereto. The original Declaration of Restrictions for **EMERALD GARDENS, A SUBDIVISION**, was recorded at Official Records Book 2132, Page 2805 *et seq.* of the Public Records of Sarasota County, Florida.

**ARTICLE 1
IDENTITY AND PRINCIPAL ADDRESS**

The name of the corporation shall be Emerald Gardens Homeowners' Association, Inc. The principal address of the Association shall be 4402 Diamond Circle North, Sarasota, Florida 34233. The Association's Board of Directors may change the location of the principal address from time to time.

**ARTICLE 2
PURPOSE**

2.1 The purpose for which the Association is organized is to provide an entity pursuant to Chapter 720, Florida Statutes (the "Homeowners' Association Act"), and Chapter 617, Florida Statutes (the "Florida Not For Profit Corporation Act"), as amended from time to time, for the operation of **EMERALD GARDENS, A SUBDIVISION** (the "Community"), upon land situated in Sarasota County, Florida.

2.2 The Association shall make no distribution of income to its Members, Directors or Officers, except as permitted pursuant to Chapter 617, Florida Statutes.

**ARTICLE 3
POWERS**

3.1 **Common Law and Statutory Powers.** The Association shall have all of the common law and statutory powers of a corporation not for profit, not in conflict with the terms of these Amended and Restated Articles of Incorporation, the Second Amended and Restated Bylaws of Emerald Gardens Homeowners' Association, Inc. (the "Bylaws"), the Declaration of Restrictions of Emerald Gardens, a Subdivision (the "Declaration") or the Homeowners' Association Act.

3.2 **Specific Powers.** The Association shall have all of the powers and duties set forth in the Homeowners' Association Act and the Florida Not for Profit Corporation Act. The Association shall also have all of the powers and duties set forth in the Declaration and the Bylaws; and all of the powers and duties reasonably necessary to operate the Community in accordance with the Declaration and the Homeowners' Association Act including, but not limited to, the following:

- (A) To make, amend and collect annual and special Assessments against Lots or Dwellings within the Community and Lot or Dwelling Owners as Members to defray the Common Expenses and losses of the Association.
- (B) To use the proceeds of Assessments in the exercise of its powers and duties.
- (C) To maintain, repair, alter, improve, replace, administer and operate the Common Area and Association Property.
- (D) To purchase insurance upon the Common Area and Association Property, and insurance for the protection of the Association, its Directors, Officers, and its Members as Lot or Dwelling Owners.
- (E) To reconstruct improvements after casualty and to further improve the Common Area and Association Property.
- (F) To make and amend reasonable Rules and Regulations regarding the appearance, occupancy and use of the Lots or Dwellings, Common Area and Association Property, and policies and procedures governing the internal affairs and operation of the Association and the behavior and conduct of its Directors, Officers and Members.
- (G) To approve or disapprove the transfer, lease, mortgage and ownership of Lots or Dwellings in the Community.
- (H) To enforce by legal means the provisions of the Homeowners' Association Act, the Declaration, the Articles of Incorporation, the Bylaws, and any Rules and Regulations promulgated by the Board of Directors.
- (I) To contract for the management, operation, administration and maintenance of the Association, the Common Area and Association Property and to delegate to such contracting party any powers and duties of the Association, except such as are specifically required by the Homeowners' Association Act, the Declaration, these Articles of Incorporation, or the Bylaws to have the approval of the Board of Directors or the Membership.
- (J) To employ personnel for reasonable compensation to perform the services required for proper administration and operation of the Association, including, but not limited to, management of the Association and administration of an Association rental program, if applicable.

(K) To enter into agreements acquiring leaseholds, memberships and other possessory or use interests in lands or facilities, whether or not contiguous to the lands of the Community, intended to provide for the enjoyment, recreation or other use benefits of the Members, or dedicate, sell, or transfer all or any part of the Common Areas to any municipality, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, sale or transfer shall be effective unless an instrument has been signed by two thirds (2/3rds) of the Members agreeing to such transaction.

(L) To purchase, acquire or take title to Lots or Dwellings, Dwellings or Tracts within the Community for the purpose of selling or leasing same or use by a resident manager, rental agent or other similar person.

(M) To sue and be sued.

(N) To borrow money and, subject to the consent by vote or written instrument of two thirds (2/3rds) of the Members, mortgage, pledge, convey by deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

3.3 Emergency Powers. In the event of an emergency as defined herein, the Board of Directors may exercise the Emergency Powers described herein, and any other powers authorized by the Homeowners' Association Act or the Florida Not For Profit Corporation Act. For purposes of this only, an emergency exists during a period of time that the Community, or the immediate geographic area in which the Community is located, is subjected to: a state of emergency declared by civil or law enforcement authorities; a hurricane watch or warning as issued by a governmental authority; a partial or complete evacuation order issued by civil or law enforcement authorities; the declaration of a federal or state "disaster area" status; or catastrophe, whether natural or manmade, which seriously damages, or threatens to seriously damage the physical existence of the Community.

The Emergency Powers authorized herein shall be limited to the time period reasonably necessary to protect the health, safety, and welfare of the Community and the Owners of any Lot or Dwelling or, tenant, guest, occupant, or invitee and shall be reasonably necessary to mitigate further damage and make emergency repairs to the Common Area and Association Property. During an emergency, as defined herein, the Board of Directors may exercise the following emergency powers:

(A) Conduct meetings of the Board of Directors and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including, but not limited to, publication, telephone, radio, United States mail, electronic mail, the Internet, public service announcements, and conspicuous posting in the Subdivision or any other means the Board of Directors deems reasonable under the circumstances. Notice of Board of Directors' decisions may be communicated as provided in this Article. The Directors in attendance at such a meeting of the Board of Directors, if more than one (1) Director, shall constitute a quorum.

(B) Cancel and reschedule any membership meeting, committee meeting or meeting of the Board of Directors.

(C) Name as interim assistant Officers persons who are not Directors, which assistant officers shall have the same authority as the executive Officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any Officer of the Association.

(D) Relocate the Association's principal address or designate alternative principal addresses.

(E) Enter into agreements with local counties and municipalities to assist with debris removal and other emergency assistance.

(F) Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, electricity, water, sewer, or security systems, or heating, ventilating and air conditioners.

(G) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine any portion of the Community unavailable for entry or occupancy by Lot or Dwelling Owners, tenants, guests, agents, occupants, or invitees to protect the health, safety, or welfare of such persons.

(H) Require the evacuation of the Community in the event of a mandatory evacuation order in the locale in which the Community is located. Should the Owner of any Lot or Dwelling or tenant, guest, agent, occupant, or invitee fail or refuse to evacuate the Community where the Board of Directors has required evacuation, the Association shall be immune from any and all liability or injury to persons or property arising from such failure or refusal.

(I) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine whether the Community can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the Declaration.

(J) Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of mold, mildew or fungus by removing and disposing of wet drywall, insulation, carpet, carpet pad, baseboards, air ducts, cabinetry, any and all personal property or belongings of a resident or Owner, including but not limited to furniture, clothes, mattresses, and all other fixtures on or within the Common Area, Association Property or the Lots or Dwellings, even if the Lot or Dwelling Owner is obligated by the Declaration or Florida law to insure or replace those fixtures and to remove personal property from a Lot or Dwelling.

(K) Contract, on behalf of any Lot or Dwelling Owner, for items or services for which Lot or Dwelling Owners are otherwise individually responsible for, but which are necessary to prevent further damage to the Common Area or Association Property. In such event, the Lot or Dwelling Owner on whose behalf the Board of Directors has contracted shall be responsible for reimbursing the Association for the actual costs of the items or services, and the Association may use its assessment and claim of lien

authority provided by Section 720.3085, Florida Statutes, and the Declaration to enforce collection of such charges.

(L) Regardless of any provision to the contrary and even if such authority does not specifically appear in the Declaration, the Articles of Incorporation, or the Bylaws, the Board of Directors may levy one or more special Assessments without a vote of the Members.

(M) Without Member approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating funds are insufficient. This paragraph does not limit the general authority of the Association to borrow money, subject to such restrictions as are contained in these Articles of Incorporation, the Declaration, or the Bylaws.

(N) Corporate action taken in good faith to meet the emergency needs of the Association or its Members shall bind the Association, have the rebuttable presumption of being reasonable and necessary, and may not be used to impose liability on a Director, officer, or employee of the Association. An officer, Director, or employee of the Association acting in good faith and in accordance with this Article is only liable for willful misconduct.

3.4 **Association Property.** All funds and the titles of all properties acquired by the Association and their proceeds shall be held in trust for the Members in accordance with the provisions of the Declaration, the Articles of Incorporation, and the Bylaws.

3.5 **Limitation on Exercise of Powers.** The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the Bylaws.

ARTICLE 4 **MEMBERS**

4.1 **Members.** The Members of the Association shall consist of all of the record Owners of a Lot or Dwelling in the Community as shown by recordation of a deed or other appropriate instrument in the Official Records of Sarasota County, Florida.

4.2 **Change of Membership.** After receiving written approval of the Board of Directors, in accordance with the Declaration, change of membership in the Association shall be established by the recording, in the Official Records of Sarasota County, Florida, an assignment, deed or other appropriate instrument establishing a record interest in a Lot or Dwelling in the Community. The person or persons named on the deed or other instrument thereby automatically becomes a Member of the Association and the membership of the immediate past owner is automatically terminated.

4.3 **Limitation on Transfer of Shares of Assets.** The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to a Lot or Dwelling.

4.4 **Vote.** The Owner, or Owners collectively, of each Lot or Dwelling shall be entitled to one (1) vote on behalf of each Lot or Dwelling, as a Member of the Association. The manner of exercising voting rights shall be determined by the Declaration, the Articles of Incorporation, and the Bylaws.

ARTICLE 5 **BOARD OF DIRECTORS**

5.1 **Board of Directors.** The affairs of the Association shall be managed by the Board of Directors, composed as provided in the Bylaws, but in no event consisting of less than three (3) Directors. A Director must fulfill all requirements of eligibility provided in the Bylaws, the Declaration and the Homeowners' Association Act.

5.2 **Election of Directors.** The Directors of the Association shall be elected at the annual meeting of Members in the manner determined by the Bylaws and the Homeowners' Association Act. A Director may be removed, and vacancies on the Board of Directors shall be filled, in the manner provided in the Bylaws and the Homeowners' Association Act.

ARTICLE 6 **OFFICERS**

6.1 **Officers.** The affairs of the Association shall be administered by the Officers designated in the Bylaws as directed by the Board of Directors. The Officers shall be elected annually by the Board of Directors at its organizational meeting following the annual meeting of the Members and shall serve at the pleasure of the Board of Directors.

6.2 Indemnification of Officers and Directors.

(A) **Indemnity.** The Association shall indemnify any Officer, Director, or committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a Director, Officer, or committee member of the Association, against expenses, including reasonable attorney's fees and appellate attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding, unless: (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he or she did not act in good faith or in a manner he or she reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he or she had reasonable cause to believe his or her conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, in and of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their Officers, Directors, and committee members as permitted by Florida law.

(B) **Defense.** To the extent that a Director, Officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in this Article, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses, including attorney's fees and appellate attorney's fees, actually and reasonably incurred by him or her in connection therewith.

(C) **Advances.** Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, Officer, or committee member subject to the understanding and agreement of such Director, Officer, or committee member to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Association as authorized by this Article.

(D) **Insurance.** The Association has the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, committee member, employee, or agent of the Association, or a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him or her in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

(E) **Delegation.** To the extent permitted by law, the powers and duties of the Directors and Officers may be delegated for the purpose of management of the Association.

(F) **Miscellaneous.** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw Article, agreement, vote of Members, or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person.

ARTICLE 7

BYLAWS

The Bylaws may be amended in the manner provided in the Bylaws.

ARTICLE 8

AMENDMENTS

8.1 **Amendments.** The Articles of Incorporation may be amended by the affirmative vote of a majority of the Voting Interests present, in person or by proxy, at a duly noticed membership meeting called for that purpose.

8.2 **Limitation on Amendments.** No amendment shall make any changes in the qualification for Membership, the voting rights of Members, or increase the proportion or percentage by which a Lot or Parcel shares in the Common Expenses of the Association, without the approval in writing of all Lot or Dwelling Owners

and the joinder of all record owners of liens upon the Lots or Dwellings. No amendment shall be made which is in conflict with the Homeowner's Association Act or the Declaration.

8.3 **Certification.** A copy of each amendment shall be filed with the Florida Secretary of State and shall be recorded in the Official Records of Sarasota County, Florida, along with a Certificate of Amendment executed by the appropriate officers of the Association attesting that the amendment has been lawfully adopted.

ARTICLE 9 MISCELLANEOUS

9.1 **Term.** The term of the Association shall be perpetual, unless sooner dissolved according to Florida law.

9.2 **Interpretation.** Unless defined herein, terms used herein shall have the same meaning as defined in the Declaration or the Homeowners' Association Act. The Board of Directors is responsible for interpreting the provisions of the Declaration, the Bylaws, these Articles of Incorporation, and the Rules and Regulations of the Association. The Board of Directors' interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board of Directors is not wholly unreasonable shall conclusively establish the validity of such interpretation.

9.3 **Subscriber.**

The name and address of the original subscriber of these Articles of Incorporation is:

<u>Name</u>	<u>Address</u>
Wen Y. Chung	4920 Fruitville Rd. Sarasota, FL 34232

9.4 **Registered Office and Agent.** The registered agent and office of the Association, until otherwise determined by the Board of Directors, shall be the Law Offices of Wells | Olah | Cochran, P.A., 3277 Fruitville Rd Bldg B, Sarasota, FL 34237. The Board of Directors is authorized to change the Registered Agent and Office from time to time in the manner provided by Florida law.

9.5 **Florida Statutes.** Any reference to a statute herein, including, but not limited to, the Homeowners' Association Act and the Florida Not For Profit Corporation Act, shall include subsequent amendments and renumbering from time to time.