

BY-LAWS
OF
CALLAWAY COMMUNITY COUNCIL, INC.

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**BY-LAWS
OF
CALLAWAY COMMUNITY COUNCIL, INC.**

**Article 1
Name, Principal Office, and Definitions**

1.1. Name.

The name of the corporation is Callaway Community Council, Inc. (the "**Council**").

1.2. Principal Office.

The Council's principal office shall be located in Harris County, Georgia. The Council may have such other offices as the Council Board may determine or as the Council's affairs require.

1.3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meaning ascribed to them in the Community Covenant for Callaway Resort recorded by Callaway Gardens Resort, Inc., a Georgia corporation ("**Founder**") and Cousins Real Estate Corporation, a Georgia corporation ("**Cousins**"), in the Office of the Superior Court of Harris County, Georgia, as it may be amended (the "**Community Covenant**").

**Article 2
Purposes of Council**

The Council is organized for such purposes as are set forth in the Articles of Incorporation of the Callaway Community Council, Inc. ("**Council Articles**") and in the Community Covenant.

**Article 3
Administration of the Council**

3.1. Governing Body.

The Council shall have no members. The Council board of trustees selected pursuant to Article 4 (the "**Council Board**" or the "**Board**") shall manage the Council's affairs in accordance with these By-Laws and the Community Covenant.

3.2. Community-Wide Meetings.

From time to time, the Council Board may call meetings of the owners of Units subject to the Community Covenant ("**Owners**"), other residents and stakeholders within the Callaway Community, and other interested parties. The Council Board shall set the time, place, and agenda for such meetings and shall communicate notice of the meetings by (a) posting in a conspicuous location or locations within the Callaway Community, (b) publishing in a newspaper or community newsletter, (c) posting on a community cable channel or intranet or Internet website generally known to the Owners and residents of the Callaway Community, or (d) similar means to which such persons could reasonably be expected to have access.

Such notice shall be given, published, or posted not less than 10 or more than 50 days prior to the meeting date. Participation in discussions during community-wide meetings shall be subject to reasonable Board regulation.

3.3. Special Meetings.

The Council Board shall call a special community-wide meeting (a) if a majority of a quorum of the trustees so directs by resolution; or (b) if the board of directors of Callaway Residential Owners Association, Inc. (the "**Residential Association**") requests such a meeting; (c) upon petition of the Owners representing at least 25% of the Residential Units; or (d) upon petition of the Owners representing at least 25% of the Non-Residential Units. The notice of any special meeting shall be given as provided in Section 3.2. No business shall be transacted at a special meeting except as stated in the notice.

Article 4 Board of Trustees

4.1. Number and Qualification of Trustees.

(a) **Number.** The Council Board shall consist of not less than three or more than five trustees, who shall be selected in accordance with this Article. The initial Council board shall consist of three trustees, as identified in the Council Articles. The Council Board, by a majority vote of the existing trustees, may increase the size of the Council Board to five at any time. Each trustee shall have one equal vote.

(b) **Qualifications.** Any natural person 18 years of age or older may serve as a trustee.

4.2. Selection of Trustees; Term of Office.

The Founder is authorized to appoint, remove, and replace all of the trustees for so long as the Founder or the Ida Cason Callaway Foundation own any property described on Exhibit "A" or "B" to the Community Covenant or until such earlier time as the Founder relinquishes such right in a recorded document ("**Founder Appointment Period**"); provided, until such time as it relinquishes such right in a recorded document, the Founder shall appoint at least one representative who Cousins recommends to serve on the Council Board.

After the Founder Appointment Period expires, the Council Board shall be comprised of five trustees to be selected by the members of the Callaway Community in the following manner:

(a) The Residential Association's board of directors shall be entitled to select two trustees, one of whom shall be appointed to serve a term of one year and one of whom shall be appointed to serve a term of two years. Thereafter, upon the expiration of the term of office of any trustee appointed by the Residential Association's board of directors ("**Residential Trustee Positions**"), the Residential Association's board of directors shall appoint a successor to serve for a term of two years.

(b) The Owners of Non-Residential Units subject to the Community Covenant shall elect two trustees, one of whom shall be appointed to serve a term of one year and one of whom shall be appointed to serve a term of two years. Thereafter upon the expiration of the term of office of any trustee appointed to fill one of these two positions ("**Non-Residential Trustee Positions**"), the remaining trustees shall appoint a successor to serve a term of two years. The trustees shall use reasonable, good faith efforts to assure that one or both of the Non-Residential Trustee Positions is at all times filled by an Owner or lessee of a Non-Residential Unit or the representative of such an Owner or lessee.

(c) The remaining trustee shall be elected by the Owners of Residential Units that are subject to the Community Covenant but that are not subject to the Residential Charter; provided, if no such Units exist, the remaining trustee shall be appointed by agreement of the other trustees.

Each trustee, except trustees appointed by the Founder, shall be limited to two consecutive terms.

4.3. Resignation and Removal of Trustees; Vacancies.

Any trustee may resign at any time by giving written notice to the Council Board, the President, or the Secretary. Such resignation shall take effect on the date such notice is received or at a later time specified in the notice. Acceptance of such resignation shall not be necessary to make it effective.

During the Founder Appointment Period, the Founder shall have the sole authority to remove trustees and fill vacancies on the Council Board. Thereafter, the Residential Association's board of directors may remove, with or without cause, and replace any trustee holding a Residential Trustee Position, and fill any vacancy in a Residential Trustee Position for the unexpired portion of the term of a trustee who has been removed or who has vacated such position. The Owners representing at least 67% of the Non-Residential Units may remove, with or without cause, and replace any trustee holding a Non-Residential Trustee Position, and fill any vacancy in a Non-Residential Trustee Position for the unexpired portion of the term of a trustee who has been removed or vacated such position. The remaining trustee may be removed and replaced by the Owners representing at least 67% of those Residential Units entitled to vote for such trustee's election or, if such trustee was appointed by the trustees, by a majority vote of the trustees.

4.4. Meetings.

(a) **Regular Meetings.** Regular meetings of the Council Board may be held at such time and place as a majority of the trustees determine from time to time; however, at least two meetings shall be held during each fiscal year with at least one meeting during the first six months and one meeting during the last six months of each calendar year.

(b) **Special Meetings.** The Council Board shall hold special meetings when called by written notice signed by the President, Vice President, or any two trustees. The Secretary shall prepare and distribute written notice of any special meetings specifying the time and place of the meeting and the nature of any special business to be considered.

(c) **Notice of Meetings.** The Council Board or Secretary shall notify each trustee of any Board meeting by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the trustee or to a person at the trustee's office or home who would reasonably be expected to communicate such notice promptly to the trustee; or (iv) facsimile, computer, fiber optics, or such other communication device with confirmation of receipt.

All notices shall be given at the trustee's telephone number, fax number, electronic mail address, or sent to the trustee's residential or office address as shown on the Council's records. Notices sent by first class mail shall be deposited in a United States mailbox at least seven business days before the date set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

Except for emergency meetings, notice of each Board meeting shall be communicated to the Owners and residents of the Callaway Community by posting in a conspicuous location or locations within the Callaway Community, publishing in a newspaper or community newsletter, or posting on a community cable channel or intranet or Internet website generally known to the Owners and residents of the Callaway Community, or by similar means to which the Owners and residents could reasonably be expected to have access. As an alternative to providing separate notice for each meeting, the Council Board may post or publish a schedule of upcoming, regular Board meetings.

(d) **Waiver of Notice.** Transactions of any Council Board meeting, however called and noticed or wherever held, shall be as valid as if taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each absent trustee signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the meeting's purpose. Notice of a meeting also shall be deemed given to any trustee who attends the meeting without protesting before or at its commencement about lack of adequate notice.

(e) **Quorum.** At all Board meetings, a majority of the trustees shall constitute a quorum for transacting business, and votes of a majority of the trustees present shall constitute the Council Board's decision. If a quorum is present, the trustees may continue to transact business, notwithstanding the withdrawal of trustees, if any action taken is approved by at least a majority of the required quorum for that meeting.

If any Board meeting cannot be held because a quorum is not present, a majority of the trustees who are present at such meeting may adjourn the meeting to a time not less than five or more than 30 days from the scheduled date of the original meeting. At the reconvened meeting, if a quorum is present, any business that could have been transacted at the originally called meeting may be transacted without further notice.

(f) **Conduct of Meetings.** The President shall preside over all Council Board meetings. The Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

Subject to subsection (g) and Section 4.5, all Council Board meetings shall be open to the Founder, all Owners, and all trustees, officers, and authorized representatives of the Residential Association. Attendees other than trustees may not participate in any discussion or deliberation unless a trustee requests permission for the attendee to speak. In such case, the President may limit the time any individual may speak.

Notwithstanding the above, the President may adjourn any Council Board meeting and reconvene in executive session, and may exclude persons other than trustees, to discuss with the Council's attorney matters relating to pending or threatened litigation that are protected by the attorney-client privilege, or to discuss among the Council Board any other matter of a sensitive nature, if Georgia law permits.

(g) *Electronic Participation.* One or more trustees may participate in and vote during any regular or special Board meeting by telephone conference call, fiber optics, or similar audio or video communication equipment by means of which all persons participating in the meeting can hear each other at the same time. Those trustees so participating shall be deemed present at such meeting for all purposes including determining a quorum.

4.5. Action Without a Formal Meeting.

Any action taken or which may be taken at a Board meeting may be taken without a meeting if all trustees sign a consent setting forth the action so taken. Such consent shall have the same force and effect as a unanimous vote.

4.6. Compensation.

Trustees shall not receive any compensation for acting as such unless a majority of the Council Board consents in writing, excluding the trustee whose compensation is in question. A trustee may receive reimbursement for expenses incurred on the Council's behalf upon approval of a majority of the other trustees.

Nothing in these By-Laws shall prohibit the Council from compensating a trustee, or any entity with which a trustee is affiliated, for services or supplies furnished to the Council in a capacity other than as a trustee pursuant to a contract or agreement with the Council. However, such trustee must make his or her interest known to the Council Board prior to entering into such contract, and a majority of trustees other than the interested trustee must approve such contract.

4.7. Powers.

The Council Board shall have all the powers Georgia law provides for non-profit corporations and those necessary to administer the Council's affairs and to perform the Council's responsibilities and to exercise its rights as set forth in the Articles, these By-Laws, and the Community Covenant.

For purposes of illustration but not limitation, the Council Board shall have the power to:

(a) provide for activities, services, and programs designed to further the Community Council's mission as set forth in the Community Covenant;

(b) charge reasonable admission, use, or consumption fees for the use and enjoyment of the various services and programs provided by or through the Council;

(c) enforce the provisions of the Community Covenant and the Council's rules and regulations, and bring any proceedings concerning the Council;

(d) dedicate or transfer all or part of any real property it owns, or mortgage, pledge, or hypothecate any or all of its real or personal property as security for obligations;

(e) enter into leases or use agreements with other entities or individuals; and

(f) appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Council Board may designate by resolution.

4.8. Duties.

The Council Board's duties shall include those imposed by law and shall also include, without limitation:

(a) levying and collecting fees and other charges as authorized in the Community Covenant;

(b) paying the cost of all Board-authorized services rendered to or on the Council's behalf;

(c) opening bank accounts on the Council's behalf and designating the authorized signatories;

(d) depositing all funds received on behalf of the Council in depositories which the Council Board shall approve and using such funds to operate the Council; provided, any reserve fund may be deposited, in the Council Board's business judgment, in depositories other than banks;

(e) keeping detailed books of account and operating records;

(f) obtaining and maintaining liability and other insurance as required in these By-Laws and as the Council Board, in the exercise of its business judgment, deems advisable; obtaining fidelity bonds on all individuals responsible for handling funds on the Council's behalf; paying the cost of such insurance and bonds; and filing and adjusting claims, as appropriate;

(g) making available to any Owner, mortgagee, or prospective purchaser of a Unit, copies of the Articles, By-Laws, Community Covenant, and Council rules. The Council Board may establish and charge fees to cover its printing and mailing costs; and

(h) cooperating with the Residential Association in fulfilling its responsibilities under the Residential Charter.

Article 5 Officers

5.1. Officers.

The Council's officers shall be a President, Secretary, and Treasurer. The President and Secretary shall be elected from among the trustees; other officers may, but need not, be trustees. The Council Board may appoint such other officers, including one or more Vice-Presidents, Assistant Secretaries, and Assistant Treasurers as it shall deem desirable, such officers to have such authority and perform such duties as the Council Board prescribes. The same person may hold any two or more offices except the offices of President and Secretary.

5.2. Election and Term of Office.

The Council Board shall elect the Council's officers at the first Board meeting of each calendar year.

5.3. Removal and Vacancies.

The Council Board may remove any officer whenever in its judgment the Council's best interests will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

5.4. Powers and Duties.

The Council's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Council Board may specifically confer or impose. The President shall be the Council's chief executive officer. The Treasurer shall have primary responsibility for preparing the Council's budgets as provided for in the Community Covenant and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

5.5. Resignation.

Any officer may resign at any time by giving written notice to the Council Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

Article 6 Standards of Conduct; Liability and Indemnification

6.1. Standards for Trustees and Officers.

The Council Board shall exercise its powers in a reasonable, fair, nondiscriminatory manner and shall adhere to the procedures established in the Council Articles, Council By-Laws, and Community Covenant.

In performing their duties, trustees and officers shall be insulated from liability as provided for trustees of corporations under Georgia law and as otherwise provided by the Council Articles and these Council By-Laws. Trustees and officers shall discharge their duties as trustees or officers, and as members of any committee to which they are appointed, in a manner that the trustee or officer believes in good faith to be in the best interest of the corporation and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A trustee is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by others to the extent authorized under Georgia law.

6.2. Liability.

(a) A trustee or officer shall not be personally liable to the Council, any Owner, or any other person for any action taken or not taken as a trustee or officer if he or she has acted in accordance with Section 6.1. Trustees shall not be liable for actions taken or omissions made in the performance of their duties except for wanton or willful acts or omissions.

(b) Pursuant to the business judgment rule, a trustee also shall not be personally liable for any action taken or not taken as a trustee if the trustee:

(i) acts within the expressed or implied scope of the Council Articles, Council By-Laws, and Community Covenant and his or her actions are not *ultra vires*;

(ii) affirmatively undertakes to make decisions which the trustee reasonably believes are necessary for the Council's continued and successful operation and, when decisions are made, makes them on an informed basis;

(iii) acts on a disinterested basis, promptly disclosing any real or potential conflict of interests (pecuniary or other), and avoiding participation in decisions and actions on matters as to which he has a conflict of interest (beyond that which a trustee may have by virtue of ownership or occupancy of a Unit); and

(iv) acts in a non-fraudulent manner and without reckless indifference to the Council's affairs.

(c) The Council's officers, trustees, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and trustees shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Council's behalf.

6.3. Indemnification.

Subject to the limitations of Georgia law, the Council shall indemnify every officer, trustee, and committee member against all damages and expenses, including counsel fees and expenses, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, trustee, or committee member, except that the Council shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

(a) brought by or in the right of the Council, although it may reimburse the individual for reasonable expenses incurred in connection with the proceeding if it is determined, by the court or in the manner provided above, that the individual met the relevant standard of conduct under Georgia law; or

(b) to the extent that the individual is adjudged liable for conduct that constitutes:

(i) appropriation, in violation of his or her duties, of any business opportunity of the Council;

(ii) intentional misconduct or knowing violation of the law;

(iii) an unlawful distribution to members, trustees or officers; or

(iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, trustee, or committee member may be entitled. The Council shall maintain adequate general liability and officers' and trustees' liability insurance to fund this obligation if such insurance is reasonably available.

6.4. Advancement of Expenses.

In accordance with the procedures and subject to the conditions and limitations set forth in Georgia law, the Council Board may authorize the Council to advance funds to pay for or reimburse the reasonable expenses incurred by a present or former officer, trustee, or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, trustee, or committee member of the Council.

6.5. Board and Officer Training.

The Council Board may conduct or provide for seminars and continuing educational opportunities designed to educate and inform its officers and trustees of their responsibilities as officers and trustees. Such programs may include instruction on applicable Georgia corporate and fiduciary law principles, other issues relating to administering community affairs, and upholding and enforcing the Council Articles, Council By-Laws, and Community Covenant. The Council Board may retain industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected officer and trustee shall be encouraged to complete a training seminar within the first six months of assuming such position. The seminar may be live, video or audiotape, or in other format.

6.6. Conflicts of Interest.

Unless otherwise approved by a majority of the other trustees, no officer or trustee may transact business with the Council or any Council contractor during his or her term as an officer or trustee or within two years after the term expires. An officer or trustee shall promptly disclose in writing to the Council Board any actual or potential conflict of interest relative to his or her performance as an officer or trustee. Failure to make such disclosure shall be grounds for removal by a majority vote of the other trustees.

Notwithstanding the above, trustees appointed by the Founder may be employed by or otherwise transact business with the Founder or its affiliate, and the Founder may transact business with the Council or its contractors, provided such business is transacted on a commercially reasonable basis.

Article 7

Management and Accounting

7.1. Managing Agent.

The Council Board may employ for the Council professional management agents at such compensation as the Council Board may establish, to perform such duties and services as the Council Board shall authorize. The Council Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 4.8. The Council Board may employ the Founder or its affiliate as managing agent or manager.

The Council Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager that might arise between Board meetings.

The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Council, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Council. The managing agent shall promptly disclose to the Council Board any financial or other interest that it may have in any firm providing goods or services to the Council.

7.2. Accounts and Reports.

(a) The Council Board shall follow the following accounting standards unless the Council Board by resolution specifically determines otherwise:

(i) accounting and controls should conform to generally accepted accounting principles; and

(ii) the Council's cash accounts shall not be commingled with any other accounts, and the Council's reserve accounts shall be maintained separate from its operational accounts.

(b) Commencing at the end of the first quarter following the end of the Council's first full fiscal year, financial reports shall be prepared for the Council at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format; and

(iv) a balance sheet as of the last day of the preceding period.

(c) An annual report consisting of at least the following shall be made available for review by the Residential Association and any owner of a Unit within the Callaway Community within 180 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared by the managing agent, a public accountant, or a certified public accountant on an audited, reviewed, or compiled basis, as the Council Board determines.

7.3. Borrowing.

The Council shall have the power to borrow money for any purpose and to pledge its property as collateral for the debt.

7.4. Insurance.

Acting through the Council Board or its duly authorized agent, the Council shall obtain and maintain in effect the following types of insurance, if reasonably available and affordable and to the extent the Council Board deems reasonably necessary:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements (excluding land) on Council Property, if any. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies that the Council obtains shall have policy limits sufficient to cover the full replacement cost of the insured improvements (excluding land);

(b) Commercial general liability insurance for any property that the Council owns, controls, or maintains. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage;

(c) Workers compensation insurance with statutory limits and employers liability insurance, if and to the extent required by law;

(d) Directors and officers liability coverage;

(e) Fidelity insurance covering all persons responsible for handling Council funds in an amount determined in the Council Board's business judgment but not less than an amount equal to one-quarter of the amount of the annual Council Contributions on all individually owned property plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation; and

(f) Such additional insurance as the Council Board, in the exercise of trustees' business judgment, determines advisable, which may include, without limitation, flood insurance, boiler and machinery insurance, and building ordinance coverage. The Council's insurance policies may contain a rea-

sonable deductible and shall provide a waiver of subrogation against any owner or occupant of property within the Callaway Community.

7.5. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All Council agreements, contracts, deeds, leases, checks, and other instruments shall be executed by at least two officers or by such other person or persons as the Council Board may designate by resolution.

Article 8 Remedies for Violations

8.1. Authority; Sanctions.

On its own initiative or when an Owner files a written complaint alleging a violation of the Community Covenant or Council rules, the Council Board may investigate the facts and circumstances surrounding such matter or complaint. If the Council Board determines that a violation has occurred, then the Council Board may, but shall not be obligated to, impose sanctions for such violation in accordance with this Article or take other enforcement action as the Council Board deems appropriate.

Subject to compliance with the procedures described in Section 8.2, the Council Board may impose sanctions, including, but not limited to the following:

- (a) reasonable monetary fines (subject to any limitations under Georgia law) which shall constitute a lien upon the violator's property; and
- (b) suspension of the privilege of using any services or participating in any programs that the Council provides or sponsors.

In addition, the Council Board may elect to file suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures described in Section 8.2. All remedies are cumulative of any remedies available at law or in equity. If the Council prevails in any legal action, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs reasonably incurred in such action.

The decision to pursue enforcement action in any particular case shall be left to the Council Board's discretion, except that the Council Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Council Board may determine that, under the circumstances of a particular case:

- (a) the Council's position is not strong enough to justify taking any or further action;
- (b) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;
- (c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Council's resources; or

(d) it is not in the Council's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed as a waiver of the Council's right to enforce such provision at a later time under other circumstances or preclude the Council from enforcing any other covenant, restriction, or rule.

Decisions as to whether to institute litigation are no different from other decisions trustees make. There is no independent legal obligation to bring a civil action against another party, and the Council Board shall have no duty to sue under any circumstances.

8.2. Imposition of Sanctions.

The Council Board shall comply with the following procedures prior to imposition of sanctions:

(a) **Notice and Response.** The Council Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation and (ii) the proposed sanction to be imposed. The notice shall include a statement that the alleged violator has 10 days from the date of such notice to present a written request for a hearing to the Council Board or the proposed sanction may be imposed.

The alleged violator shall respond to the notice of the alleged violation in writing within such 10-day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction, or the proposed sanction shall be imposed. If the alleged violator cures the alleged violation and notifies the Council Board in writing within such 10-day period, the Council Board may, but shall not be obligated to, waive the sanction. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

Prior to the effectiveness of sanctions imposed pursuant to this Article, proof of proper notice shall be placed in the minutes of the Council Board. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, trustee, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at a hearing.

(b) **Hearing.** If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Council Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meetings of the Council Board, as applicable, shall contain a written statement of the results of the hearing (*i.e.*, the Council Board's decision) and the sanction, if any, to be imposed. Written notice of the decision shall be mailed to the violator within three days after the hearing.

Article 9 Miscellaneous

9.1. Fiscal Year.

The Council's fiscal year shall be the calendar year unless the Council Board establishes a different fiscal year by resolution.

9.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Council proceedings when not in conflict with Georgia law or these By-Laws.

9.3. Conflicts.

If there are conflicts among the provisions of Georgia law, the Council Articles, the Community Covenant, and these Council By-Laws, the provisions of Georgia law, the Community Covenant, the Council Articles of Incorporation, and these Council By-Laws (in that order) shall prevail.

9.4. Books and Records.

(a) *Inspection by Owners and Mortgagees.* The Council Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first mortgage on a Unit; any owner of a Unit; or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Council Articles, these Council By-Laws, the Community Covenant, Council rules, the books of account, and the minutes of meetings of the Council Board and committees. The Council Board shall provide for such inspection to take place at the Council's office or at such other place within the Callaway Community as the Council Board shall designate.

(b) *Rules for Inspection.* The Council Board may establish rules with respect to:

- (i) the frequency and manner of inspections;
- (ii) notice to be given to the custodian of the records;
- (iii) hours and days of the week when such an inspection may be made; and
- (iv) payment of the cost of reproducing documents requested.

(c) *Inspection by Trustees.* Every trustee shall have the absolute right at any reasonable time to inspect all Council books, records, and documents and the physical properties owned or controlled by the Council. A trustee's right of inspection includes the right to make a copy of relevant documents at the Council's expense.

9.5. Notices.

(a) *Form of Notice and Method of Delivery.* Except as otherwise provided in the Community Covenant or these Council By-Laws or by Georgia law, all notices, demands, bills, statements, or other communications under the Community Covenant or these Council By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or, if the intended recipient has given its prior written authorization to use such method of delivery, by facsimile or electronic mail with written confirmation of transmission.

(b) *Delivery Address.* Notices shall be delivered or sent to the intended recipient as follows:

(i) if to a Unit owner, at the address, telephone facsimile number, or e-mail address the owner has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of such owner's Unit;

(ii) if to the Council, the Council Board, or a committee of either, at the address, facsimile number, or e-mail address of the principal office of the Council or its managing agent as it appears on the Georgia Secretary of State's records, or at such other address as the Council shall designate by notice in writing to the Owners pursuant to this Section; or

(iii) if to the Founder, at the Founder's principal address as it appears on the Secretary of State's records, or at such other address as the Founder shall designate by notice in writing to the Council pursuant to this Section.

(c) **Effective Date.** Notice sent in accordance with subsections (a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or

(iii) if sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

9.6. Amendment.

These By-Laws may be amended by the Council Board upon approval of a majority of the trustees, with the consent of the Founder so long as the Founder owns any real property described in Exhibit "A" or "B" to the Community Covenant. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment shall be prepared and signed by the President or Vice President and by the Secretary or Treasurer of the Council certifying that the requisite approval was obtained.

No amendment may remove, revoke, or modify any right or privilege of Founder without the written consent of Founder or the assignee of such right or privilege.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Callaway Community Council, Inc., a Georgia nonprofit corporation; and

That the foregoing By-Laws constitute the original By-Laws of the Council, as duly adopted by resolution of the Council Board of Trustees thereof on the ____ day of _____, 20__.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Council this ____ day of _____, 20__.

Secretary

[SEAL]