

PREPARED BY:
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**CERTIFICATE OF AMENDMENT OF DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR CAROUSEL COVE**

THE UNDERSIGNED being the President CAROUSEL COVE HOMEOWNERS ASSOCIATION, INC., a Florida non-profit corporation, does hereby certify that the attached Amendments to the Declaration of Covenants, Conditions and Restrictions for Carousel Cove originally recorded in Official Record Book 2872, at Page 2961, et. seq., of the Public Records of Lee County, Florida and the amendments to the Articles of Incorporation and Bylaws of Carousel Cove Homeowners Association, Inc., were duly approved, adopted and enacted by the affirmative vote of the proper percentage of voting interests in the Association at a members meeting called for that purpose at which a quorum was present held on the 26th day of April 2013.

Dated this 30th day of April 2013.

WITNESSES:

(Sign) [Signature]

CAROUSEL COVE HOMEOWNERS ASSOCIATION, INC.

(Print) S. ALLEN

(Sign) [Signature]

BY: [Signature]
President of the Association

(Print) Sandra Allen

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was acknowledged before me this 30th day of April 2013 by allen Bowley, as President of CAROUSEL COVE HOMEOWNERS ASSOCIATION, INC., a Florida non-profit corporation, on behalf of said corporation. Said person is personally known to me or has produced _____ as identification and did take an oath.

NOTARY PUBLIC:

[Signature]
STATE OF FLORIDA (SEAL)
My Commission Expires:



CATHEEN NAGELHOUT
MY COMMISSION # DD 878249
EXPIRES: June 5, 2013
Bonded Thru Budget Notary Services

**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE DECLARATION.
FOR PRESENT TEXT SEE EXISTING DECLARATION.**

**AMENDED AND RESTATED
DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
CAROUSEL COVE
(AN OVER 55 COMMUNITY)**

KNOW ALL MEN BY THESE PRESENTS that on September 30, 1997 the original Declaration was recorded in Official Record Book 2872, at Page 2961 *et seq.*, of the Public Records of Lee County, Florida. That Declaration, as it has previously been amended, is hereby further amended and is restated in its entirety, as amended.

The land subject to this Declaration (hereinafter the "Property") is legally described in Exhibit "A" attached hereto.

No additional land is being added by this instrument and no land is being removed by this instrument. The covenants, conditions and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners. The acquisition of title to a lot or any other ownership interest in the Property, or the lease, occupancy or use of any portion of a lot or the Property, constitutes an acceptance and ratification of all provisions of this Declaration as amended from time to time, and an agreement to be bound by its terms.

1. DEFINITIONS. The following words and terms used in this Declaration or any of the governing documents (unless the context shall clearly indicate otherwise) shall have the following meanings:

1.1 "Assessments" means a share of the funds required for the payment of common expenses and individual expenses which from time to time are assessed by the Association against an owner as Regular, Special and Individual Assessments.

1.2 "Articles" and "Bylaws" as used herein, means the Articles of Incorporation and the Bylaws of Carousel Cove Homeowners Association, Inc., as amended from time to time. A copy of the Amended and Restated Articles of Incorporation and Bylaws are attached hereto as Exhibit "B" and "C" respectively.

1.3 "Association" means Carousel Cove Homeowners' Association, Inc., a Florida corporation not for profit, which is responsible for the maintenance and operation of the Common Areas and amenities of Carousel Cove.

1.4 "Board" means the Board of Directors responsible for the administration of the Association,

Inc.

1.5 "**Common Areas**" means all real property including any improvements and fixtures thereon, owned, leased or the use of which has been granted or dedicated to the Association for the common use and enjoyment of its members. The Common Areas of the Association include all land described above and subject to this Declaration save and except for the individual Lots.

1.6 "**Common Expenses**" means the expenses incurred by the Association in the course of performing its duties under the governing documents and the law. Common expenses of the Association include the costs of operating the Association, the costs of administration, maintenance, operation, repair and replacement of the Common Areas, other expenses declared by the governing documents to be common expenses, and any other valid expenses or debts of the common property as a whole of the Association which are assessed against the lot owners.

1.7 "**Common Surplus**" means the excess of all receipts of the Association, including but not limited to assessments, rents, profits and revenues over the common expenses.

1.8 "**Community Declaration**" and "**Community Association**" mean the Declaration of Covenants, Conditions and Restrictions for Bonita Fairways, as recorded in O.R. Book 2872, Page 2887, Public Records of Lee County, Florida and Bonita Fairways Community Association, Inc.

1.9 "**Declaration**" means this Declaration as amended from time to time.

1.10 "**Family**" or "**Single Family**" shall refer to any one of the following:

(A) One natural person.

(B) Two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage or adoption to each of the others.

(C) Two or more natural persons meeting the requirements of (B) above, except that there is among them one person who is not related to some or all of the others.

1.11 "**Governing Documents**" means and includes this Declaration, the Articles and Bylaws, and all recorded exhibits thereto, as amended from time to time.

1.12 "**Guest**" means any person who is not the owner or a lessee of a home or a member of the owner's or lessee's family, who is physically present in, or occupies a home on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.

1.13 "**Home**" means a residential dwelling unit intended for residential use which is constructed on the properties.

1.14 "**Lease**" means the grant by a residential owner of a temporary right of use of the owner's home with or without valuable consideration.

1.15 "**Lot**" means the one hundred and nine (109) lots of land located within the real property legally described in the Plats described in Exhibit "A". That description is hereby incorporated by reference. No additional land is being added by this instrument and no land is being removed by this instrument. All of said land has been subdivided for residential use with fee simple title to each lot having been conveyed to an owner for use as a residential homesite. No lot shall include the Common Areas. No lot may be subdivided or joined together without the consent of the Association.

1.16 "**Maintenance**", "**Repair**" and "**Replacement**." Maintenance means the upkeep or preservation of the condition of the property. Repair means to mend, remedy, or restore to a sound or good state after decay, injury, dilapidation or partial destruction. Replace means to place again; restore to a former condition after destruction.

1.17 "**Members**" means and refers to those persons who are entitled to membership in the Association as provided in its Articles of Incorporation and Bylaws.

1.18 "**Occupy**" when used in connection with a home, means the act of staying overnight in a home. "**Occupant**" is a person who occupies a home.

1.19 "**Owner**" or "**Lot Owner**" means the record owner of legal title to a lot.

1.20 "**Primary Occupant**" means the natural person approved for occupancy of a home when title to the lot is held in the name of two or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person. When used in reference to a home owned in one of the forms listed above, the term "primary occupant" shall be synonymous with the term "owner".

1.21 "**Property**" or "**Community**" means all the real property which is subject to this Declaration.

1.22 "**Structure**" means that which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground. The term shall be construed as if followed by the words "or part thereof". The term includes, without limitation swimming pools, fences, flagpoles, antennas, playground equipment, and storage sheds.

1.23 "**Voting Interests**" means the voting rights distributed to the Association members pursuant to the Bylaws.

2. ASSOCIATION.

2.1 Membership. Every owner of a lot shall be a member of the Association, and by acceptance of a deed or other instrument evidencing his ownership interest, each owner accepts his membership in the Association, acknowledges the authority of the Association as herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles and Bylaws, and the rules and regulations of the Association, as amended from time to time.

(A) Notwithstanding the foregoing an Owner of a Lot may assign his or her membership rights to a person whose name appears on the title to a manufactured home that exists on the Lot. Such assignment shall be recorded in the public record of Lee County Florida and shall vest the assignee with all rights and privileges of the member, including but not limited to the right to attend meetings of the members and the Board, vote and to serve on the Board of Directors. The assignment shall be revocable by the Lot Owner at anytime for any reason by the recording of a Revocation of Assignment in the public Record of Lee County, Florida. During the period of the assignment the Lot Owner shall have no membership rights but shall at all times be obligated to pay assessments and other charges owed to the Association.

2.2 Voting Rights. Voting rights are set forth in the Bylaws of the Association.

2.3 Articles of Incorporation. A copy of the Amended and Restated Articles of Incorporation of the Association is attached to this Declaration as Exhibit "A".

2.4 Bylaws. A copy of the Amended and Restated Bylaws of the Association is attached to this Declaration as Exhibit "B".

2.5 Delegation of Management. The Association may contract for the management and maintenance of those portions of the Property it is required to maintain, and may authorize a licensed management agent to assist the Association in carrying out its powers and duties by performing functions which may include but are not limited to the submission of proposals, collection of assessments, keeping of records, enforcement of rules and maintenance, repair and replacement of the Common Areas with funds made available by the Association for such purposes.

2.6 Acts of the Association. Unless the approval or affirmative vote of the lot owners is specifically made necessary by some provision of the law or the governing documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the lot owners. The officers and Directors of the Association have a fiduciary relationship to the lot owners. A lot owner does not have the authority to act for or bind the Association by reason of being a lot owner.

2.7 Powers and Duties. The powers and duties of the Association include those set forth in

Chapters 617 and 720, Florida Statutes, and in the governing documents. The Association may contract, sue or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the Common Areas. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory, easement or use interests in lands or facilities for the use and enjoyment of the owners.

2.8 Official Records. The Association shall maintain its official records as required by law. The records shall be open to inspection by members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

2.9 Purchase of Lots. The Association has the power to purchase lots in the community in connection with the foreclosure of an Association lien for assessments, charges or fines or any other foreclosure of an interest that affects the Association's lien and to hold, lease, mortgage, encumber or convey them with such power to be exercised by the Board of Directors without prior approval of the members.

2.10 Interests in Real Property. The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as otherwise provided in Section 2.9 above and 4.6 below, the power to acquire, encumber or convey ownership interests in real property, including recreational facilities, whether or not contiguous with the property, shall be exercised by the Board of Directors only after approval by at least a majority of the voting interests of the Association.

2.11 Disposition of Personal Property. Any personal property owned by the Association, may be mortgaged, sold, or otherwise encumbered or disposed of by the affirmative vote of a majority of the entire Board of Directors, without need for authorization by the lot owners.

2.12 Roster. The Association shall maintain a current roster of names and mailing addresses of lot owners, based upon information supplied by the lot owners. Lot owners are responsible for notifying the Association of any change in their mailing address. All such notices shall be in writing. A copy of the roster shall be made available to any member upon request.

3. ASSESSMENTS. The provision of this section shall govern assessments payable by all owners of lots, for the common expenses of the Association not directly attributable to one of the lots.

3.1 Covenant to Pay Assessments. Each owner of a lot by the act of becoming an owner covenants and agrees, and each subsequent owner of any lot (including any purchaser at a judicial sale), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

- (A) The lot owner's share of annual assessments based on the annual budget adopted by the the Board of Directors of the Association;
- (B) The lot owner's pro rata share of special assessments for capital improvements or other Association expenditures not provided for by annual assessments;
- (C) Any charges properly levied against individual lot owner(s) ("Individual Assessments") without participation from other owners.

Assessments and charges shall be established and collected as provided herein and elsewhere in the governing documents. The owner of each lot, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the owner. Multiple owners are jointly and severally liable. Except as provided in Section 3.10 below, whenever title to a lot is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments and charges against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee. No owner may waive or otherwise escape liability for the assessments and charges provided for herein by waiver or non-use of the Common Areas, by abandonment, or otherwise. Except as provided elsewhere in the governing documents as to Institutional Mortgagees, no owner may be excused from the payment of assessments unless all owners are similarly excused. Assessments and other funds collected by or on behalf of the Association become the property of the Association. No lot owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his lot. No owner can withdraw or receive distribution of his prior payments to the common surplus or Association reserves, except as otherwise provided herein or by law.

3.2 Purposes of Assessments. The assessments levied by the Association shall be used for the purposes of promoting the general welfare of the lot owners and residents of Carousel Cove; to operate, maintain, repair, improve, construct, and preserve (on a non-profit basis) the Common Areas owned of the Association for the benefit of its members, their guests, tenants and invitees; and to perform all other duties and responsibilities of the Association as provided in the governing documents. Common expenses also include the funds necessary to provide reserve accounts for among other things:

- (A) for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.

3.3 Share of Assessments, Regular, Special and Individual. The owners of each lot shall be liable for a 1/109th share of the regular annual and special assessments levied by the Association for common expenses of the Association. All monetary fines assessed against an Owner pursuant to the governing documents, or any expense or charge of the Association attributable to or on behalf of an individual owner pursuant to the governing documents, shall be an Individual Assessment and shall become a lien against such owner's lot which may be foreclosed or otherwise collected as provided

herein.

3.4 Lien. The Association has a lien on each lot for unpaid past due Association assessments, and charges, together with interest, late payment penalties, costs and reasonable attorney fees incurred by the Association in enforcing this lien. The lien is perfected by recording a Claim of Lien in the public records of the county, which Claim of Lien shall state the description of the property encumbered thereby, the name of the record owner, the amounts then due and the dates when due. The Claim of Lien must be signed and acknowledged by an officer or agent of the Association. The lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien satisfied or discharged. The Claim of Lien shall secure all unpaid assessments, fines and charges, interests, late fees, costs and attorney fees which are due and which may accrue or come due after the recording of the Claim of Lien and before the entry of a final judgment of foreclosure. Upon full payment, the person making payment is entitled to a satisfaction of the lien.

3.5 Foreclosure of Lien. The Association may bring an action in its name to foreclose its lien for unpaid assessments or charges by the procedures and in the same manner as is provided in Section 720.3085 of the Florida Statutes, as amended from time to time, for the foreclosure of a lien upon a condominium lot for unpaid assessments. All unpaid assessments and charges also constitute a personal obligation of the owners and the Association may, in addition to any other remedy herein provided, bring an action at law against any owner liable for unpaid charges or assessments. If final judgment is obtained, such judgment shall include interest on the assessments as above provided and reasonable attorney fees to be fixed by the Court, together with the costs of the action, and the Association shall be entitled to recover reasonable attorney fees in connection with any appeal of such action.

3.6 Priority of Liens. The Association's lien for unpaid charges, assessments and all other amounts shall be subordinate and inferior to any recorded institutional first mortgage, unless the Association's Claim of Lien was recorded before the mortgage, but shall relate back to the date the original Declaration was recorded in the Public Record and be superior to, and take priority over, any other mortgage, lien or interest recorded after that date. Any lease of a lot shall be subordinate and inferior to the lien of the Association, regardless of when the lease was executed.

3.7 Application of Payments; Failure to Pay; Interest. Assessments, charges and installments thereon paid on or before fifteen (15) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid.

In addition to interest the Association may also charge an administrative late payment fee in an amount not to exceed the maximum amount allowed by law. Assessments, charges and installments thereon shall become due, and the lot owner shall become liable for said assessments or installments, on the date established in the Bylaws or otherwise set by the Board of Directors for payment. Any restrictive endorsement on or accompanying a payment notwithstanding, all payments made to the Association by or on behalf of a Lot owner shall be applied first to interest, then, to late fees, then to

costs (including but not limited to collection charges imposed by the management company, attorney and court) then to attorney fees, then to fines (if allowed by law), then to other charges, and then to the oldest outstanding unpaid regular, special or individual assessments. No payment by check is deemed received until the check has cleared. The Association shall also have the right to require any tenant occupying the Lot during any period in which assessments for the Lot are due but have not been paid to the Association to pay the rent to the Association as provided in Section 10.10 below

3.8 Acceleration. If any special assessment or installment of a regular assessment as to a lot becomes more than thirty (30) days past due, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the lot's assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the public records. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorney fees and costs as provided by law; and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent owner a notice of the exercise, which notice shall be sent by certified or registered mail to the owner's last known address, and shall be deemed given upon mailing of the notice, postpaid.

3.9 Removal of Property. After the Association successfully performs a foreclosure on the property, if the homeowner does not remove personal property from the foreclosed premise, such property will be deemed forfeited to the Association and the Association may authorize removal and may sell such forfeited property after ten (10) days written notice by certified mail addressed to the homeowner at the last known address or at such address on record as provided to the Association by the homeowner. Such remedy shall be in addition to all other remedies available to the Association under applicable laws, rules and regulations including the right to compel removal of the property and right to impose any and all fines.

3.10 Certificate as to Assessment, Mortgagee Questionnaires. Within fifteen (15) days after request by a lot owner or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter" stating whether all assessments and other monies owed to the Association by the lot owner with respect to the lot have been paid. Any person other than the lot owner who relies upon such certificate shall be protected thereby. The Association may charge up to \$150.00 to issue an estoppel certificate. The Association may but is not obligated to respond to mortgagee questionnaires. If the Association chooses to respond to a mortgagee questionnaire the Association may charge up to \$150.00 (in addition to any charge for an estoppel letter) plus attorney's fees for doing so.

3.11 Mortgage Foreclosure. Unless otherwise provided by law, if the mortgagee of a first mortgage or an institutional mortgage of record acquires title to a lot as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such acquirer or title shall be liable for the share of common expenses or assessments attributable to the lot, or to the former owner of the lot, which came due prior to the mortgagee's acquisition of title as required by Section 720.3085, Florida Statutes. Any unpaid share of common expenses for which such acquirer is exempt from

liability becomes a common expense collectible from all owners, including such acquirer and his successors and assigns. All other persons or entities acquiring title to a Lot as the result of a foreclosure or other Court ordered sale shall be obligated to pay all past due assessments due and owing at the time of sale regardless of whether or not the Association has file a lien. No owner or acquirer of title to a lot by foreclosure, or by a deed in lieu of foreclosure, may be excused from the payment of any assessments coming due during the period of his ownership.

4. EASEMENTS.

4.1 Appurtenant Easements. Subject to the restrictions found elsewhere in this Section 4, the owner of each lot, their guests, lessees and invitees, shall have as an appurtenance to their lot a perpetual nonexclusive easement for ingress and egress over, across and through the Common Areas, for the use and enjoyment of all recreational facilities, such use and enjoyment to be shared in common with the other owners of lots, their guests, lessees and invitees, subject to the provisions of this Declaration.

4.2 Utility Easements. A perpetual easement shall exist upon, over, under and across all Lots for the purpose of maintaining, installing, repairing, altering and operating sewer lines, water lines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal systems, pipes, valves, gates, pipelines, cable television and all machinery and apparatus appurtenant thereto as may be necessary for the installation and maintenance of utilities servicing all owners of lots and servicing the Common Areas, all such easements to be of a size, width and location so as to minimize and not unreasonably interfere with the use of any improvements which are now, or will be, located upon said property. The Association, through its Board of Directors, has the authority to grant additional such easements, and to modify, move or vacate such existing easements as may be necessary to efficiently and effectively provide utility and other services to the lots common elements and Common Areas.

4.3 Subordination. Notwithstanding any of the foregoing to the contrary, it is understood that these covenants and restrictions are subordinate, and will be subordinate without the necessity of any other instrument, to any existing easement or easements to any public or quasi-public utility for the installation and maintenance of service lines in the Common Areas.

4.4 Any owner of a lot in the properties which lot contains a structure which encroaches upon another lot or, the Common Areas shall have a valid easement for the encroachment and maintenance of same, as long as it stands and exists.

4.5 Notwithstanding anything to the contrary contained herein, the Association has the power, without the joinder of any owner, to grant, modify or relocate easements in any portion of the common area or association property, as the Board shall deem necessary or desirable for the Association. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the Lots.

5. MAINTENANCE.

5.1 Association Maintenance. The Association shall, in addition to other maintenance obligations contained elsewhere herein, have the maintenance, repair and replacement responsibility for all Common Area property located within Carousel Cove including the landscaping, and electrical fixtures serving the Common Areas.

(A) The mowing, fertilizing, pest control, weed control of lawns on Lots is the responsibility of the Association and the cost is a common expense.

5.2 Lot Owner Maintenance. The individual lot owners shall, in addition to other obligations contained elsewhere herein, have the maintenance, repair and replacement responsibility of the following:

(A) The home, structure and all structural components, including courtyard walks, entry doors, garage doors, an roof components, windows, sliding glass doors, screens, screen doors and their hardware, frameworks, and locks serving the home. The roofs and exterior of the structure shall be cleaned on a regular basis to remove and discourage mold growth.

(B) The complete interior of the home including all interior walls, floors, ceilings, partitions, cabinets, plumbing and all other interior components.

(C) Interior and exterior electrical lines and hookups, all air conditioning components, appliances, TV cables and connections, telephone and other similar lines and connections and sewer pipes and septic systems serving the individual lot.

(D) Driveways, pools, pool cages, and garages.

(E) Any modifications, alteration, installation or addition to the lot or Common Areas made by the lot owner or his predecessors in title with Board approval including but not limited to, any decks or concrete pads. The lot owner shall be responsible for insurance, maintenance, repair and replacement of such modifications, installations or additions and the cost of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace or protect other parts of the properties for which the Association is responsible.

(F) Unimproved lots shall be kept in a neat and well maintained condition at all times, free from debris and rubbish and regularly mowed.

5.3 Enforcement of Maintenance. If the owner of a lot fails to maintain his lot as required above, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the lot and remedying the violation, with or without consent of the lot owner but only after

ten (10) days written notice of intent to do so. The Association may repair, replace or maintain any item which constitutes a hazard to other property or residents, prevents the Association from fulfilling its maintenance responsibilities, or which has a materially adverse effect on the appearance of the Properties. Any expenses so incurred by the Association shall be billed directly to the owner of the lot to which such services are provided, and shall be an individual assessment charged against the lot, secured by a lien against the lot as provided in Section 3 above.

5.4 Negligence; Damage Caused by Condition in Lot. Each lot owner shall be liable for the expenses of any maintenance, repair or replacement of Common Areas, other lots, or personal property made necessary by his act or negligence or by that of any member of his family or his guests, employees, agents, or lessees.

6. ARCHITECTURAL CONTROL TO PRESERVE THE BEAUTY, QUALITY AND VALUE OF THE COMMUNITY.

6.1 Improvements Requiring Approval. No building, structure, enclosure or other improvement shall be erected or altered, nor shall any grading, excavation, change to size or footprint of bed(s), change of exterior color, or other work which in any way alters the exterior appearance of any structure or lot shall occur unless and until the plans, specifications and location of same shall have been submitted to, and approved in writing by, the Architectural Review Board (hereinafter "ARB"). All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography. The ARB shall have thirty (30) days after delivery of all required information, plans and materials to approve or deny any such plan, and if not denied within such period, said plans shall be deemed approved unless within the same period the Board of Directors denies the plan in which case regardless of any action or inaction by the ARB the plan shall be deemed denied. All approved modifications or improvements shall be completed within one hundred eighty (180) days from the date of approval. All changes, alterations or modifications to an approved plan must also be approved pursuant according to these same requirements. Replacement of dead or dying shrubs, plants or trees and seasonal plan replacement do not require ARB approval.

6.2 The ARB. The architectural review and control functions of the Association shall be administered and performed by the Architectural Review Board (the ARB), which shall consist of at least three (3) persons, who shall be members of the Association. All members of the ARB shall be appointed by and shall serve at the pleasure of the Board of Directors of the Association. The Board of Directors can appoint all or some of the Directors to the ARB. A majority of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB. Any vacancy occurring on the ARB because of death, resignation, or other termination of service of any member thereof, shall be filled by the Board of Directors. The members of the ARB shall receive no compensation for services other than reimbursement for actual expenses approved in advance by the Board of Directors incurred by them in the performance of their duties hereunder. The ARB shall, with the prior approval of the Board of Directors, have the power to engage the services of

professionals for compensation for purposes of aiding the ARB in carrying out its functions. Notwithstanding anything to the contrary contained herein or elsewhere all decisions of the ARB are subject to review by the Board of Directors and the Board of Directors has the authority to overrule, void or otherwise modify in all respects any decision of the ARB.

6.3 Powers and Duties. The ARB shall have the following powers and duties:

(A) To recommend, from time to time, to the Board of Directors of the Association the creation or modification and/or amendments to the Architectural Planning Criteria. Any Architectural Planning Criteria or modifications or amendments thereto shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors of the Association at a meeting duly called and noticed and at which a quorum is present. Notice of the adoption, modification or amendment to the Architectural Planning Criteria, including a verbatim copy of such adoption, change or modification, shall be delivered to each member of the Association. However, receipt of notice of a Board meeting concerning the Architectural Planning Criteria or a copy of any adoption of or modification or amendment to the Architectural Planning Criteria shall not affect the validity of such change or modification.

(B) To require submission to the ARB of one (1) complete set of all plans and specifications for any improvement, structure of any kind or any other work which in any way alters the exterior appearance of any structure, or Lot including without limitation, any building, fence, well, swimming pool, tennis court, enclosure, sewer, drain, disposal system, decorative building or landscape devise, object or other improvement, the construction or placement of which is proposed upon the Properties. The ARB may also require submission of samples of building materials proposed for use on or as part of any home, and may require such additional information as may reasonably be necessary to completely evaluate the proposed structure or improvement in accordance with this Declaration and the Architectural Planning Criteria.

(C) To approve or disapprove any improvement or structure of any kind, including, without limitation, any building, fence, wall, screen enclosure, drain or disposal system, or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon the Properties, and which is visible from the outside of any home. Evidence of approval by the ARB may be made by a certificate, in recordable form, executed by the Chairman of the ARB. Any party aggrieved by a decision of the ARB or Board of Directors shall have the right to make written request to the Board of Directors of the Association within thirty (30) days of the decision, for a re-review thereof. The determination of the Board upon re-reviewing any such decision shall in all events be dispositive.

(D) To adopt a procedure for inspecting approved exterior changes during and after construction to insure conformity with approved plans. If it is determined by the ARB that

the improvement or work is not in compliance with the approved plans and specifications then upon written demand from the ARB the work shall be suspended until such time as the ARB authorizes the work to be recommenced.

(E) Notwithstanding anything to the contrary contained herein if an owner is delinquent in the payment of assessments, fines or other charges or has failed to correct a violation of these covenants or the rules of the Association for which they have been given notice the approval of the ARB may be denied or withheld pending payment of the assessments, fines or other charges or correction of the violation.

6.4 Variances. The ARB may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental which must be signed by at least two (2) members of the ARB. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variances were granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the Lot, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority. The Board of Directors may overrule and void any variance granted by the ARB if such action is taken within twenty (20) days from the date the variance is granted.

6.5 Nonliability of ARB Members. Neither the ARB nor any member thereof, now its duly authorized ARB representative, shall be liable to the Association or any Owner or any other person or entity for any loss, damage, or injury arising out of or in any way connected with the performance or nonperformance of the ARB's duties hereunder, unless due to the willful misconduct or bad faith of a member, and only that member shall be liable therefore. The ARB shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration, or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Development. The ARB shall take into consideration the aesthetic aspects of the architectural designs, placement or buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

7. ERRANT GOLF BALLS. ALL PERSONS OWNING, OCCUPYING, USING OR ENTERING ON THE GOLF COURSE, OR COMMON AREA OR LOT NEAR OR ADJACENT TO THE GOLF COURSE ARE HEREBY NOTIFIED THAT THERE IS A POSSIBILITY THAT ERRANT AND MISDIRECTED GOLF SHOTS MAY RESULT IN INJURY OR DAMAGE TO PERSONS OR PROPERTY. NEITHER THE ASSOCIATION, ANY DIRECTOR, OFFICER, EMPLOYEE OR AGENT THEREOF SHALL BE LIABLE

FOR ANY SUCH INJURY OR DAMAGE INCLUDING WITHOUT LIMITATION, AS TO THE DESIGN OF THE GOLF COURSE OR ANY PROPERTY ADJACENT OR NEARBY THE GOLF COURSE OR AS TO ANY MAINTENANCE OF ANY OF THE FOREGOING. ACCORDINGLY, ALL PERSONS OWNING, OCCUPYING, USING OR ENTERING UPON ANY PROPERTY WITHIN, ADJACENT TO OR NEAR THE GOLF COURSE ASSUMES THE RISK OF INJURY OR DAMAGE FROM SUCH ERRANT GOLF BALLS.

8. USE RESTRICTIONS. The following rules and standards apply to Carousel Cove and shall be enforced by the Association pursuant to Section 13 hereof.

8.1 Home. Each home shall be occupied by only one family at any time. Each home shall be used as a home and for no other purpose. However, “no impact” or “low impact” home based business in and from a home are allowed. Such uses are expressly declared customarily incident to residential use. Examples of businesses which are prohibited and are considered “impact” businesses are businesses or commercial activity or ventures that create excessive customer traffic to and from the home, create noise audible from outside the home, or generate fumes or odors noticeable outside the home, including but not limited to, a home day care, beauty salon/barber, and animal breeding. Signs and other advertising material visible from the street are prohibited. This provision is intended to be and shall be retroactive to and effective from the date of recording of the original Declaration, however any persons in violation of this amended provision on the date it is recorded in the Public Record shall be given a grace period of up to ninety (90) days to comply before enforcement action shall be commenced. In order to avoid undue hardship the Board of Directors may, in its sole discretion, extend the grace period once for up to an additional ninety (90) days.

8.2 Minors; Operation of Motor Vehicles on Common Area. All persons under eighteen (18) years of age shall be closely supervised at all times by an adult to insure that they do not become a source of unreasonable annoyance to other residents. Any person that does not have a valid, current driver’s license is prohibited from operating any motor vehicle, including but not limited to golf carts, on the Common Area unless said person is under the direct supervision of another person that has a valid, current driver’s license.

8.3 Pets. No more than three (3) pets (only two of which may be dogs) of a normal domesticated household type (such as cats or dogs) are permitted. Fish may be kept in reasonable numbers. Pets must be carried under the owner's arm or leashed at all times when outside the owner’s home. The ability to keep pets is a privilege, not a right, and the Board of Directors is empowered to fine an Owner and/or order and enforce the removal of any pet that becomes a source of unreasonable annoyance or a danger to the health, safety and welfare to other residents. No reptiles, monkeys, rodents, amphibians, poultry, swine, rabbits, ferrets or livestock may be kept on the properties. All animals kept in the home must be for personal family enjoyment as pets, no commercial breeding or boarding of animals of any type is allowed.

8.4 Nuisances. No owner shall use his home, or permit it to be used, in any manner which

constitutes or causes an unreasonable amount of annoyance or nuisance to the occupant of another home, or which would not be consistent with the maintenance of the highest standards for a first class residential community nor permit the premises to be used in a disorderly or unlawful way. The use of each home shall be consistent with existing laws and the governing documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner. No solicitation will be allowed at any time within the community. The Board of Directors determination as to what constitutes a nuisance or annoyance shall be dispositive and shall control without regard to any legal definition of such terms.

8.5 Signs. No person may post or display a sign anywhere within Carousel Cove other than two (2) "For Sale", "For Rent", "Open House" or other similar sign when said sign is used for the purpose of actively marketing the home for sale. Any such sign may not be larger than four (4) square feet. As provided by law security signs issued by the security company may be placed at the front and back door within 15 feet of the door.

8.6 Garages. Each home shall have an attached or detached garage capable of housing not more than three (3) standard sized automobiles. Carports are prohibited unless they are under the roof truss. No more than two (2) of vehicles shall be regularly parked in the driveway of a lot. No garage shall be enclosed or converted to other use without the approval of the ARB, which said approval must require construction of another garage on the lot meeting the requirements of this Declaration.

8.7 Lot Structures. Other than one new single-story family home, and related garage, no structure, trailer, house trailer, tent, shack, shed, barn or other outbuilding shall be used or placed on any lot or the Common Areas at any time either temporarily or permanently without the approval of the ARB. Each single-story family home lot structure shall have a minimum of 1,000 square feet of air conditioned floor area exclusive of breezeways, porches, patios and garages; and each multi-story family home shall have a minimum of 1,200 square feet of air conditioned floor area on the ground floor exclusive of breezeways, porches, patios and garages. All roofs shall be covered by architectural grade shingles, metal or tiles. Any proposed roof replacement, in whole or in part, shall first be approved by the ARB.

8.8 Setback Lines. All building and structures erected or constructed shall conform to the following setback limitations imposed by Lee County.

8.9 Motor Vehicles and Boats. No maintenance or mechanical repairs of vehicles or boats is permitted on the properties outside of garages except in an emergency. No boats, ATV's, swamp buggies, dune buggies, go carts, golf carts, wave runners, jet skis, motorcycles, mopeds, trailers, motor homes, travel trailers, campers, recreational vehicles or commercial vehicles shall be parked anywhere on the properties outside of garages for more than twenty four (24) hours unless the vehicle is on the premises to provide services to an owner or the Association. As used herein the term "commercial vehicle" means trucks and other vehicles which are used for business purposes including but not limited to, any vehicle which displays a company name or logo on its exterior, is

adorned with signs, flags, advertisements or any type of lettering or graphic of a commercial nature. Additionally, and notwithstanding the foregoing, any vehicle, by whatever name designated, which is used for transporting goods, equipment or paying customers shall be considered a commercial vehicle regardless of any definition found elsewhere to the contrary. Further, any vehicle, whether commercial or non-commercial, with body parts such as the hood, door, quarter panel, bumper or bed removed shall be placed in a garage so that it is not readily visible from any adjacent street or lot. The Association is authorized to tow or place a disabling "boot" on any vehicle violating this Section 12.7, the rules or regulations, a law or any other restriction contained in the governing documents and the cost of towing and/or booting shall be the obligation of the owner of the vehicle.

8.10 General.

- (A) No towels, garments, rugs, etc., may be hung from windows or other parts of the homes.
- (B) No weeds, underbrush (other than indigenous growth), or other unsightly growths shall be permitted to grow or remain upon any part of the premises and no refuse pile or unsightly objects shall be allowed to be placed or remain anywhere thereon. Vacant lots shall be cleaned, seeded and then maintained in a well kept condition at all times.
- (C) No obnoxious or offensive activity shall be carried on within Carousel Cove or upon any part, portion or tract thereof, nor shall anything be done which may be or become a source of unreasonable nuisance or annoyance to the Community or its residents.
- (D) Trash, garbage and other waste shall be kept only in sanitary containers which shall be kept in a clean and sanitary condition and screened from view from neighboring homes and the interior roadways except when out for pick-up. Recycle bins and trash shall not be put on the curb, for pick-up, prior to 6:00 p.m., the night before the scheduled pick-up and shall be removed from the curb no later than 6:00 p.m., the day of pick-up. All trash, garbage and other waste containers kept outside shall be equipped with a latch or other device to prevent animals from entering the container and owners shall regularly use and employ the device.
- (E) No antenna of any kind shall be placed or erected upon any lot or affixed in any manner to the exterior of any building other than a satellite antenna less than one meter in diameter, an aerial designed to receive over-the-air television broadcast, or an antenna designed to receive multichannel, multi point distribution service which may be installed only at a location on a lot approved by the ARB. In approving the installation and location of any antenna the ARB shall comply with all applicable laws, whether state or Federal.
- (G) No fences or walls shall be permitted on any portion of a Lot except for the fence maintained by the Association in the No Access Fence Easement Area. A lattice type structure designed to enclose and screen garbage cans is allowed with prior approval of the ARB.

(H) If you desire to erect a tent, children's bubble house, stage or other type of rented structure or have a live animal for any purpose such as a wedding, birthday or graduation party you must first obtain permission from the Board. Permission should be sought at least two weeks prior to the event.

8.12 Driveways. All dwellings shall have a paved driveway of stable and permanent construction. The driveway shall be at least sixteen feet (16') in width, twelve feet (12') for a one car garage. All driveways shall be made of concrete or asphalt unless otherwise approved by the ARB in advance and in writing. No barrier, chain or rope may be placed across the driveway. Temporary barriers are allowed for maintenance, painting, repair or replacement.

8.13 Air Conditioning Units. No window or wall air conditioning units shall be permitted on any home. Compressors and fans for central air conditioning or heat pump systems which are located outside the exterior of a building shall be adequately screened to prevent their being viewed from any street. New split AC units and wall mounted units are allowed on rear lanais only.

8.14 Mailboxes; Lamp Posts. Mailboxes, front yard lamps and their supporting structures shall be substantially uniform in type, appearance and location and are subject to regulation by the ARB. Maintenance, repair and replacement of the mailboxes and lamp posts is the responsibility of the Association and the cost is a common expense.

8.15 Community for Older Persons - Fifty Five & Over Exemption.

(A) **Statement of Intent.** It is hereby declared by Carousel Cove Homeowners Association, Inc., that the Association desires and intends to provide housing for older persons, as defined in the Fair Housing Amendments Act of 1988 and the Housing For Older Persons Act of 1995 (hereinafter referred to as the "Act") and the Federal Rules and Regulations (hereinafter referred to as the "Federal Regulations") as promulgated by the Department of Housing and Urban Development (hereinafter sometimes referred to as "HUD"). It is more specifically the desire and intention of this Association to meet the exemption for housing for older persons as is provided for in 24 CFR Part 100, Section 100.304 (hereinafter referred to as the "55 or Over Housing Exemption"). Section 100.304 implements Section 807(b)(2)(c) of the Act which exempts housing communities intended and operated for occupancy by at least one (1) person 55 years of age or over per unit that satisfy certain criteria. In this endeavor, the following occupancy restrictions and procedures shall govern. Further, in addition to these Amendments to the Declaration, the Association shall do whatever is required by the Act and Federal Regulations to publish its intention to comply with, and adhere to, policies and procedures which demonstrate an intent to provide housing for persons 55 years of age or over. The Act and Federal Regulations, as amended from time to time, are hereby incorporated by reference into this document. Reference to the Act and to the Federal Regulations in this document shall mean The Act and the Federal Regulations as they are amended from time to time. To the extent that any of these provisions relating to the Act appear to conflict with any language in the constituent documents governing Carousel Cove Homeowners Association, Inc., said provisions shall be deemed federally preempted by the Act, null and void and of no force or effect whatsoever.

(B) Fair Housing Definitions:

1. "ACT" shall mean and refer to the (Federal) Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995 (Pub.L. 100-430, approved September 13, 1988; 102 STAT.1619.)

2. "FEDERAL REGULATIONS" shall mean and refer to the Federal rules and regulations promulgated by the Department of Housing and Urban Development.

3. "55 OR OVER HOUSING EXEMPTION" shall mean and refer to the exemption for housing for older persons (55 or over housing) as is provided for in Section 807(b)(2)(C) of the Act.

(C) Minimum Age Restrictions. Permanent occupancy of a unit shall be restricted as follows provided that the restrictions contained in the remaining provisions of this Section are met:

1. No persons under the age of eighteen (18) years shall be permitted to permanently reside in the units.

2. However, a person under the age of eighteen (18) years may be permitted to visit and temporarily reside in a unit for a period of time not to exceed thirty (30) days in the aggregate or fifteen (15) consecutive days in any calendar years. The visitation time periods shall not be cumulative from year to year. Only overnight visitation shall be considered in the computation. So by way of example, if an under-aged person visits overnight, two (2) days of visitation shall be computed. If an under-aged person visits during the day only and does not stay overnight, no days of visitation shall be computed.

(D) Occupancy by Older Persons - Age 55.

1. Except for persons who are surviving spouses or cohabitants, recipients of legacy, or grandfathered-in as provided for in Section F below, no unit shall be occupied or be permitted to be occupied unless there is at least one (1) person occupying the unit who has attained the age of 55 years (hereinafter referred to as the "designated occupant"). This occupancy requirement shall not preclude temporary occupancy by guests or relatives of the designated occupant for periods not to exceed fifteen (15) consecutive days or thirty (30) days in any calendar year, (see Section E below).

2. This Section shall guarantee that not less than 80% of all newly-occupied units shall have a designated occupant residing in the unit.

(E) Guest Visitation Limitation. Use of homes by the following guests of the designated occupant when the designated occupant is not present in the home shall be restricted as follows: No guest shall use or occupy a home in excess of fifteen (15) consecutive days or sixty (60) days in a calendar year. Each day as well as part of a day shall be counted in this computation. This Section shall be in addition to restrictions pertaining to guest, which may be contained elsewhere in the constituent documents and Rules and Regulations of the

Association, as amended from time to time. The designated occupant shall be considered to be not present in the home when the designated occupant does not stay overnight in the home along with the guest.

1. A "guest", non-family member, shall mean and refer to any person who is visiting a unit without requirement to contribute money, perform any services or provide any other consideration to the owner in connection with such visit/occupancy. A permanent occupant of a unit shall not be considered as a guest. Furthermore, an owner of a unit shall never be considered a guest of the unit he or she owns, unless the owner is visiting a lessee in the unit.

2. Registration of Guests. All guests who visit when the designated occupant is not present in the unit must register with the Association prior to or upon arrival at Carousel Cove Homeowners Association, Inc. The Board of Administration shall be empowered to adopt a form for use in connection with the registration of such guests, which for the guests must sign. The form shall include an acknowledgment of the following: (i) relationship with the designated occupant; (ii) the intended length of stay; (iii) that the guest has received a copy of the constituent documents and Rules and Regulations of the Association, or summation thereof, and agrees to abide by them; (iv) and such other reasonable information determined by the Board of Administration from time to time. Such guest shall not be entitled to visit unless he or she registers with the Association as required in this Section.

3. Unauthorized Guest Visit. Any guest visit not authorized pursuant to the terms of this Section shall be deemed improper, entitling the Association to bar access of the guest to the unit and recreational facilities and/or shall entitle the Association to obtain an injunction removing the guest and his or her personal belongings from the unit.

4. Other Restrictions. The restrictions on guests in this Section shall be in addition to other restrictions which may be contained elsewhere in the constituent documents and Rules and Regulations of the Association.

(F) Exceptions to Section D.

1. Grandfather Status. Section D above shall not apply to any persons who have occupied or owned a unit prior to the date of this amendment, provided those persons did not lease or sell said unit after the date of this amendment. In any lease or sale after the date of this amendment, the owner and new occupant shall be subject to the provisions provided elsewhere herein.

2. Surviving Spouse or Cohabitant. Section D shall not be applicable in the case of the death of the designated occupant whose surviving spouse or cohabitant is under 55 years of age provided that the surviving spouse or cohabitant resided with the designated occupant at the time of the designated occupant's death. Under such circumstances, the surviving spouse or cohabitant shall be allowed to continue to occupy the unit irrespective of age so as to prevent disruption of the lives of surviving spouses and cohabitants under age 55, when the over 55 designated occupant dies or otherwise leaves the unit.

3. Recipient of Legacy. The Federal Regulations recognize that the 20% requirement is not intended to exclude all incoming households, therefore Section D shall not be applicable in the event that an owner of a unit dies and the unit is inherited by an individual who is under 55 years of age, the recipient of legacy and his or her household shall be allowed to occupy the unit.

4. No "Set-Aside". This Section is not intended to establish a 20% "set-aside" for persons under 55 years of age.

(G) **Contract/Covenant**. Every Owner and lessee shall be deemed to have a contract with the Association to ensure that the occupancy requirement in Section D is met at all times. Even though this occupancy requirement is a contract between the Association and the Owner or lessee, as applicable, this amendment shall be deemed to be a covenant running with the land. Furthermore, the Owner shall be responsible to ensure that his/her lessee(s) comply with this occupancy requirement.

(H) **Proof of Age**.

1. All persons occupying units after the date of this amendment shall deliver to the Association, a completed Association form demonstrating proof of age and any other documentation required by the Association.

2. Any person(s) not providing such documentation, when and as requested by the Board of Administration, shall be validly presumed by the Association and by a Court of law to be under the age of 55 years, even though the persons may actually be 55 years of age or over.

(I) **Remedies for Non-Compliance**. The Association concurrently shall have any one or more of the following remedies for non-compliance in addition to those provided elsewhere in the constituent documents.

1. Lease of a Unit.

(i) In the event an owner wishes to rent or lease their unit, the tenant must conform to the requirements of this section which shall include requiring one of tenants to be a qualifying resident being at least 55 years of age or older. In the event of a lease of a unit, and the occupancy and other requirements of this amendment are not met, the Association shall be entitled to file for and obtain an injunction against the Owner of the unit and lessee(s) and/or other occupants on the unit, removing the unauthorized lessee(s) and/or other unauthorized occupants.

(ii) The Association shall also be entitled to evict the unauthorized lessee(s) and other unauthorized occupants on the unit, as agent for the Owner(s). This right of eviction by the Association shall apply only:

(a) After the expiration of seven (7) working days from the date on which the Association mails notice to the Owner(s) by certified mail, return receipt requested, or provides notice by hand delivery; and

(b) Provided that the Owner(s) fail(s) to commence eviction proceedings on his/her/their own and fails to so notify the Association, within the seven (7) day period.

(iii) The lease shall specify, and if it fails to so specify the lease shall be deemed to specify, that the lessee(s) and all other occupants shall abide by the constituent documents for Carousel Cove Homeowners Association, Inc., and the Rules and Regulations of the Association; and shall specify that the Association has the remedies provided for in this Section 1(1). Costs and attorney's fees incurred by the Association in connection with the exercise of its remedies under this Section 1(1) provided that the Association prevails, shall be the responsibility of the Owner(s) of the unit, and shall to the extent awarded by a Court under Chapter 83, Florida Statutes, shall also be the responsibility of the lessee(s).

2. Other Occupancies (other than Leases). In the event of an existing ownership; in the event of use by guests; or in the event of a sale, gift, or other transfer of title; and the occupancy requirements of this amendment are not met, the Association may disapprove the transfer and shall be entitled to file for and obtain an injunction against the Owner(s) of the unit and all occupants in the unit, removing the unauthorized occupants (including the Owner(s)). In that event, if the Association prevails, the Owner(s) shall be responsible for costs and attorney's fees incurred by the Association in connection with its enforcement of this Section 1(2).

(J) Registration Required. All Owners, lessees and occupants must register with the Association at the time of becoming a member of the Association or, in the case of a non-owner, at the time of the commencement of the lease agreement, by delivery of the items referred to below. Furthermore, no persons shall attain grandfather status under Section F(1) above unless the person registers with the Association by delivery of the items referred to below. These items are as follows:

1. A fully completed and signed Association form to be provided by the Association; and

2. Documentation demonstrating proof of age as provided for in Section I above; and

3. In the event of a lease, a fully executed copy of the lease must also be delivered (if not already on file with the Association). It shall be the responsibility of the particular Owner, not the Association, to provide the lessee(s) and/or other occupants of the unit with the registration form for the lessee(s) occupant(s) to complete and return to the Association within five (5) days from the date of receipt.

(K) Additional Occupants. Even though a person under the age of 55 years is given grandfather status under Section (F)1 above or is provided with an exception under Section (F)2 above, this shall not entitle additional persons to occupy the unit after the date of this amendment, unless:

1. That additional person is 55 years of age or older; or
2. That additional person is also accorded grandfather status under Section F(1) above; or
3. That additional person is legally married to the surviving spouse or cohabitant mentioned in Section (F)2 above.

(L) Non-Occupancy Status. Each Owner or lessee, as applicable, shall notify the Association of any periods of time during which the unit becomes unoccupied. As used in this Section, "unoccupied" is defined to mean any intended absence of all permanent residents of the unit, for a period in excess of six (6) months. It is understood that this is a necessary requirement because the Federal Regulations require record keeping of occupied and unoccupied units.

(M) Additional Provisions. Special provisions concerning the Act and Federal Regulations.

1. Notwithstanding any other provision in this Declaration, to the contrary, the following shall apply: Upon the affirmative vote of two-thirds (2/3) of the Owner's voting interests of the Association which vote may be evidenced by written agreement or consent, present and voting at a duly called meeting, any one or more of the following amendments to this Declaration may be approved and become effective.

- (i) Any amendment which is necessary to enable Association to attain or retain the "55 or Over Housing Exemption" of the Act.
- (ii) Any amendment which is necessary to refine those amendments approved by the Association relating to the Act and/or Federal Regulations.
- (iii) Any amendment which is necessary to delete any or all amendments approved by the Association relating to the Act and/or Federal Regulations.
- (iv) Any amendment which is made which otherwise relates to the Act and/or Federal Regulations.
- (v) Any amendment which may be required due to regulations adopted from time to time by the Federal National Mortgage Association (FNMA).

9. INSURANCE. In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

9.1 Association; Required Coverage. The Association shall maintain adequate property insurance covering all the Common Areas and all Association property. The Association

shall also provide adequate general liability insurance. The amounts of coverage shall be determined annually by the Board of Directors. The insurance carried by the Association shall afford at least the following provisions:

- (A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by the standard "All Risk" property contract.
- (B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the lot owners as a group to a lot owner.
- (C) Automobile. Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles when used for Association business, in such limits of protection and with such coverage as may be determined by the Board of Directors.
- (D) Workers Compensation. The Association shall maintain Workers' compensation insurance if required by law.
- (E) Directors and Officers Liability Coverage.

9.2 Duty to Insure. Each lot owner is responsible for insuring the real and personal property within his own lot and home. Each owner must recognize that he bears financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance liability including all risk, flood, liability, etc.

9.3 Duty to Reconstruct. If any home or other improvements located on any lot and home are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the owner of such improvements shall cause repair or replacement to be commenced within ninety (90) days from the date that such damage or destruction occurred, and to complete the repair or replacement within nine (9) months thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and condition, shall utilize and conform with the original foundation and appearance of the original improvements except as otherwise approved by the Board of Directors. The Board of Directors may based on its sole and exclusive discretion extend the time periods for reconstructions contained herein.

9.4 Failure to Reconstruct. If the owner of any home fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section 9.3 above, the Association shall give written notice to the owner of his default. If after thirty (30) days the owner has not made satisfactory

arrangements to meet his obligations, the Association shall be deemed to have been granted the right by the owner, as such owner's attorney-in-fact, to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Association exercises the rights afforded to it by this section, which shall be in the sole discretion of the Board of Directors, the owner of the home shall be deemed to have assigned to the Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvement. The Association shall have the right to recover from the owner any costs not paid by insurance, and shall have a lien on the lot and home to secure payment.

9.5 Association Insurance; Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under this Declaration, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure.

9.6 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and lot owners.

9.7 Description of Coverage's. A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by lot owners so their authorized representatives upon request.

9.8 Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide the insurer waives its right to subrogation as to any claim against the Association lot owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

9.9 Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the owners and their respective mortgagees in the following share:

(A) Mortgagee. If a mortgagee endorsement has been issued as to a home, the shares of the mortgagee and the owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against lot or lots, except to the extent that

insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

10. LEASING OF HOMES. In order to foster a stable residential community and prevent a motel-like atmosphere, the leasing of homes by their owners shall be restricted as provided in this section. All leases of homes must be in writing. A homeowner may lease only his entire home, and then only in accordance with this Section, after receiving the approval of the Association. The lessee must be a natural person as opposed to an artificial entity such as a corporation, partnership, trust, etc. The following also applies to any new occupant of a unit that was not approved under the existing lease of the unit.

10.1 Procedures.

(A) Notice by the Owner. An owner intending to lease his home shall give to the Board of Directors or its designee written notice of such intention at least 20 days prior to the first day of occupancy under the lease together with the name and address of the proposed lessee, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require including but not limited to a credit report, background check and proof of lawful residency. The Board may require a personal interview with any lessee, proposed occupant and his or her spouse, if any, as a pre-condition to approval. The applicant must sign for having received copies of the rules and regulations of the Association.

(B) Board Action. After the required notice and all information or interviews requested have been provided, the Board shall have 10 days in which to approve or disapprove the proposed lease. If the Board neither approves nor disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the lessee.

(C) Disapproval. A proposed lease shall be disapproved only if a majority of the whole Board so votes, and in such case the lease shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, the following:

1. the owner is delinquent in the payment of assessments, fines or other charges at the time the application is considered;
2. the owner has a history of leasing his home without obtaining approval, or leasing to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his home;
3. the real estate company or rental agent handling the leasing transaction on behalf of the owner has a history of screening lessee applicants inadequately,

- recommending undesirable lessees, or entering into leases without prior Association approval;
4. the application on its face indicates that the person seeking approval or any of the proposed occupants intend to conduct themselves in a manner inconsistent with the covenants and restrictions applicable to the Association;
 5. the prospective lessee or any of the proposed occupants have been convicted of a felony involving violence to persons or property, a felony involving sale or possession of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;
 6. the prospective lessee has a history of conduct which evidences disregard for the rights and property of others.
 7. the prospective lessee evidences a strong possibility of financial irresponsibility;
 8. the lessee or any of the proposed occupants, during previous occupancy, has evidenced an attitude of disregard for the Association rules;
 9. the prospective lessee or any of the proposed occupants give false or incomplete information to the Board as part of the application procedure, or the required transfer fees and/or security deposit is not paid.
 10. the owner fails to give proper notice of his intention to lease his home to the Board of Directors.
 11. the occupancy would violate the Over 55 status of the community.

10.2 Term of Lease and Frequency of Leasing. No home may be leased more often than four (4) times in any calendar year, with the minimum lease term being thirty (30) consecutive days. No new lease shall begin until 30 days have elapsed since the first day of the last lease. For purposes of this restriction, the first day of occupancy under the lease shall conclusively determine in which year the lease occurs. No lease may be for a period of more than one (1) year, and no option for the lessee to extend or renew the lease for any additional period shall be permitted. However, the Board may, in its discretion, approve the same lease from year to year. No subleasing or assignment of lease rights by the lessee is allowed.

10.3 Exceptions. Upon written request of a unit owner, the Board of Directors may approve one additional lease of the home within the same calendar year, but only under unusual circumstances to avoid undue hardship and inequity.

10.4 Occupancy During Lease Term.

(A) When a home has been leased for a period of one (1) year, the home may be occupied by the lessee and his family, as the term "family" is defined in Section 1.9, above.

(B) When a home has been leased for a period of less than one (1) year, no one but the lessee and that person's spouse, if any, and their natural or adopted children, if any, may occupy the home during the term of the lease.

(C) Guests may occupy leased homes when the lessee is in residence. The total number of house guests in a leased home is limited to two (2) persons. Such guests may stay for a period not to exceed ten (10) days, and the number of occasions for this type of guest occupancy shall be limited to once during the lease term.

10.5 Occupancy in Absence of Lessee. If a lessee absents himself from the home for any period of time during the lease term, his family authorized to occupy the home by Section 10.4 above who are already in residence may continue to occupy the home and may have house guests subject to all the restrictions in Sections 10.4 above. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the home.

10.6 Use of Common Area and Association Property. To prevent overtaxing the facilities, an owner whose home is leased may not use the recreation or parking facilities during the lease term.

10.7 Regulation by Association. All of the provisions of the governing documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a home as a lessee or guest to the same extent as against the owner. A covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the governing documents, designating the Association as the owner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

10.8 Fees and Deposits for the Lease of Homes. Whenever herein the Board's approval is required to allow the lease of a home, the Association may charge the owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. A separate fee may be charged for each person intending to occupy the home except only one fee may be charged for a husband and wife. No fee may be charged for approval of a renewal or extension of a lease with the same lessee. The Association may also require a security deposit to protect against damage to the Common Area or association property.

10.9 Unapproved Leases. Any lease of a home not approved pursuant to this Section 10 shall be void and unenforceable unless subsequently approved by the Board.

10.10 Collateral Assignment of Rents. In the event an Owner is in default in payment of assessments for common expenses or any other monetary amounts owed to the Association, the Association shall have the authority to collect rents directly from the Owner's tenant. Upon demand by the Association the tenant shall pay said rent to the Association. Such rental payments shall be collected in accordance with the procedures established by the Board of Directors and applied in accordance with Section 3.7 of this Declaration until all past due amounts are paid in full. In the event such tenant fails to remit said rents directly to the Association within seven (7) days (but no later than the day the next rental payment is due) from the day the Association notified such tenant in writing that the rents must be remitted directly to the Association, the Association shall have the right to terminate the lease and evict the tenant. For the purpose of such eviction, the Association shall be deemed to be an agent of the landlord. The authority granted in this Section is in addition to any authority granted by law.

10.11 Pets. Homeowner may allow lessee to have one (1) pet. Lessee must follow Carousel Cove Homeowners Association, Inc.'s pet rules and regulations.

11. TRANSFER OF OWNERSHIP OF LOTS. In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the units, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a unit shall be subject to the following provisions: NOTE: Any person who was not approved as part of the conveyance to the present unit Owner must be approved in advance of taking occupancy as provided herein, and for good cause may be disapproved, regardless of whether or not said person shall be obtaining an ownership interest in the Home.

11.1 Forms of Ownership.

(A) A lot may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

(B) Co-Ownership. Co-ownership of lots is permitted. If the co-owners are to be other than husband and wife, the Board shall condition its approval upon the designation by the proposed new owners of one (1) natural person as "primary occupant". The use of the lot by other persons shall be as if the primary occupant were the only actual owner. Any subsequent change in the primary occupant shall be treated as a transfer to ownership by sale or gift subject to the provisions of this Section 11. No more than one such change will be approved in any 12 month period. The intent of this provision is to allow flexibility in estate, financial or tax planning, and to prohibit circumstances in which the unit may be used as short-term transient accommodations for several individuals or families or in the manner of fractional ownership or a vacation club.

(C) Ownership by Corporations, Partnerships or Trusts. A lot may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate,

financial or tax planning, and to prohibit circumstances in which the lot may be used as short-term transient accommodations for several individuals or families or in the manner of fractional ownership or vacation club. The approval of a trust, or corporation, partnership or other entity as a lot owner shall be conditioned upon designation by the owner of not more than one (1) natural person to be the "primary occupant". The use of the lot by other persons shall be as if the primary occupant were the only actual owner. Any subsequent change in the primary occupants shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 11. No more than one such change will be approved in any 12 month period.

(D) Designation of Primary Occupant. If any unit owner fails to designate a primary occupant when required to do so, the Board of Directors may make the initial designation for the owner, and shall notify the owner in writing of its action.

(E) Life Estate. A lot may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 14.2 below. In that event, the life tenant shall be the only Association member from such lot, and occupancy of the lot shall be as if the life tenant was the only owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all assessments and charges against the lot. Any consent or approval required of association members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights under Section 11.1(B), above.

11.2 Transfers.

(A) Sale or Gift. No lot owner may transfer a lot or any ownership interest in a lot by sale or gift (including agreement for deed) without prior written approval of the Board of Directors.

(B) Devise or Inheritance. If any lot owner acquires his title by devise or inheritance, his right to occupy or use the lot shall be subject to the approval of the Board of Directors under Section 11.3(A)(2) below. The approval shall not be denied to any devise or heir who was the prior owner's lawful spouse at the time of death, or was related to the owner by blood or adoption within the first degree.

(C) Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the lot before being approved by the Board of Directors under the procedures outlined in Section 11.3 below.

(D) To facilitate transfers proposed during times when many of its members are not in residence, the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three (3) unit owners, or to the President, Vice

President or Treasurer, any of whom may be deemed a Vice President for purposes of executing a Certificate of Approval.

11.3 Procedures.

(A) Notice to Association.

1. Sale or Gift. An owner intending to make a sale or gift of his lot or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, if any, and such other information as the Board may reasonably require. The Board may require a personal interview with any purchaser or donee and his spouse, if any, as a pre-condition to approval.
2. Devise, Inheritance or Other Transfers. The transferee must notify the Board of Directors of his ownership and submit a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy or use rights until and unless approved by the Board, but may sell or lease the unit following the procedures in this Section or Section 10.
3. Demand. With the notice required in Subsection (A)(1) above, the owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Association shall furnish an approved alternate purchaser who shall purchase the lot at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the unit determined as provided below.
4. Failure to Give Notice. If no notice is given, the Board of Directors, at its election may approve or disapprove at the time it learns of the transfer. If any owner fails to obtain the Association's approval prior to selling an interest in a lot, such failure shall create a rebuttable presumption that the seller and the purchaser intend to violate the covenants of this Declaration, and shall constitute good cause for Association disapproval.

(B) Board Action. Within 20 days after receipt of the required notice and all information or interview requested, or not later than 60 days after the notice required by paragraph (A) above is received, whichever occurs first, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or Vice-President of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such

failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of Approval to the transferee.

(C) Disapproval.

1. With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the whole Board so votes. Only the following may be deemed to constitute good cause for disapproval:
 - (a) The person seeking approval has been convicted of a felony involving violence to persons or property, a felony involving possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;
 - (b) The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;
 - (c) The application on its face gives the Board reasonable cause to believe that the applicant intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Association;
 - (d) The person seeking approval has a history of disruptive behavior or disregard for the rights or property of others;
 - (e) The person seeking approval has evidenced an attitude of disregard for association rules by his conduct in this community as a tenant, owner or occupant of a home;
 - (f) The person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process.
 - (g) The transaction, if a sale or gift, was concluded by the parties without having sought and obtained the prior approval required herein.
2. Without Good Cause. The Association's approval shall not be denied unless a majority of the whole Board so votes. If the Board disapproves without good cause, and if the owner or transferee has made the demand set forth in Section 11.3(A)(3), then within thirty (30) days after the Board meeting at which the disapproval took place, the Board shall deliver in writing to the owner the name of an approved purchaser (which may be the Association) who will purchase the lot at the same price, and upon substantially the same terms, as in the disapproved sales contract. If no sales contract was involved, or if the Association challenges the contract price as not being a good faith purchase

price, then the purchase price shall be paid in cash, and the price to be paid shall be determined by agreement, or in the absence of agreement, shall be the fair market value determined by the arithmetic average of appraisals by two state-certified property appraisers, one selected by the owner and the other by the Association. The cost of the appraisals, and all other closing costs in cases where no sales contract is involved, shall be shared equally by the purchaser and selling owner, except that the purchaser shall pay for his own title insurance, and all costs of mortgage financing. Real property taxes and assessments shall be prorated to the day of closing and the parties shall bear their own attorneys fees, if any. The closing shall take place not longer than sixty (60) days after the date of Board disapproval or thirty (30) days after determination of fair market value by appraisal, whichever occurs last. Failure or refusal to close by either party shall constitute a breach of contract and shall entitle the other party to seek specific performance or damages.

3. If the Board fails to deliver the name of the approved purchaser within thirty (30) days as required above, then the original proposed purchaser shall be deemed to be approved, despite the Board's former disapproval, and upon demand a Certificate of Approval shall be issued.

11.4 Exception. The provisions of Sections 11.2 and 11.3 are not applicable to the acquisition of title by a first mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, nor shall the Association's approval be required for the subsequent resale or lease of a home by such mortgagee of the lot so acquired, but shall apply to the acquisition of title by any other person without regard to how the title was acquired.

11.5 Unapproved Transfers. Any sale or transfer which is not approved, or which is disapproved pursuant to the terms of this Declaration shall be void unless subsequently approved in writing by the Board.

11.6 Fees and Deposits Related to the Sale of Lots. Whenever herein the Board's approval is required to allow the sale or other transfer of an interest in a lot, the Association may charge the owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. A separate fee may be charged for each person who is obtaining an interest in the lot except if such persons are husband and wife.

12. AMENDMENTS; TERMINATION.

12.1 Duration. The conditions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Association or the owner of any real property subject to this Declaration, their respective legal representatives, heirs, successors and assigns until 2043. On January 1, 2043, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with

this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, and subject to existing laws and ordinances, that there shall be no renewal or extension of this Declaration if prior to one (1) year in advance of an effective date of a proposed termination, at least two-thirds (2/3rds) of all owners of lots and two-thirds (2/3rds) of all Institutional Mortgagees on lots affirmatively vote, in person or by proxy, at a duly held meeting of members of the Association in favor of terminating this Declaration.

It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, to be given at least ninety (90) days in advance of said meeting. If the Association votes to terminate this Declaration, the President and Secretary shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Lee County, Florida at least one (1) year prior to the effective date of termination, and may be relied upon for the correctness of the facts contained therein as they relate to termination of this Declaration.

12.2 Amendments by Members. Except as otherwise provided herein or by law, this Declaration may be amended at anytime by the affirmative vote of at least two-thirds (2/3rds) of the voting interests, present and voting in person or by proxy, at a duly called meeting of the members of the Association. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall identify the Book and Page of the Public Records where the Declaration is recorded, and shall be executed by the President of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

13. ENFORCEMENT; GENERAL PROVISIONS.

13.1 Enforcement. Enforcement of these covenant, conditions and restrictions may be by a proceeding at law or in equity and may be instituted by the Association, its successors or assigns, or by any owner, against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against any lot to enforce any lien created by these covenants. Failure of the Association or any owner to enforce any covenants, condition or restriction herein contained for any period of time shall not be deemed a waiver or estoppel of the right to enforce same thereafter.

13.2 Owner and Member Compliance. The protective covenants, conditions, restrictions and other provisions of the governing documents and the rules promulgated by the Association shall apply to members and all persons to whom a member has delegated his right of use in and to the Common Areas, as well as to any other person occupying any home under lease from the owner or

by permission or invitation of the owner or his tenants (express or implied), and their licensees, invitees or guests. Failure of any owner to notify any person of the existence of the rules, or the covenants, conditions, restrictions, and other provisions of the governing documents shall not in any way act to limit or divest the Association of the power to enforce these provisions. Each lot owner shall be responsible for any and all violations by his tenants, licensees, invitees or guests and by the guests, licensees and invitees of his tenants, at any time.

13.3 Litigation. Enforcement actions for damages, or for injunctive relief, or both, on account of any alleged violation of law, or of the governing documents or Association rules, may be brought by any owner, or the Association against:

- (A) the Association;
- (B) the lot owner;
- (C) anyone who occupies or is a tenant or guest of a lot; or
- (D) any officer or Director of the Association who willfully and knowingly fails to comply with these provisions.

13.4 Attorney Fees. In any legal proceeding arising out of an alleged failure of a guest, tenant, residential lot owner, officer, Director or the Association to comply with the requirements of the law, or the governing documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney fees as may be awarded by the court.

13.5 No Election of Remedies. All rights, remedies and privileges granted to the Association or owners under the law and the governing documents shall be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising any other rights, remedies, or privileges that may be available.

13.6 Notices. Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed to the last known address of the owner appearing in the records of the Association, or to the address of the member's home. Notice to one of two or more co-owners of a lot shall constitute notice to all co-owners. It shall be the obligation of every member to immediately notify the Secretary of the Association in writing of any change of address.

13.7 Severability. Should any covenant, condition or restriction herein contained, or any section, subsection, sentence, clause, phrase or term of this Declaration or its recorded exhibits be declared to be void, invalid, illegal, or unenforceable, for any reason, by any court having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect. Nothing contained in this Amended and Restated Deed of Restrictions is intended to affect

vested rights. If any provision contained herein is deemed by a competent court of law to have such affect, then such provision will be deemed null and void but have no affect on the remaining provisions herein.

13.8 Interpretation; Disputes. The Board of Directors is responsible for interpreting the provisions of this Declaration, its exhibits and rules promulgated by the Board. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel retained by the Board that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation. In the event there is any dispute as to whether the use of the Property complies with the covenants and restrictions contained in this Declaration, its exhibits or the rules promulgated by the Board the matter shall be referred to the Board and the determination of the Board with respect to such dispute shall be dispositive on the issue and binding on all parties.

13.9 Non-Profit Status. Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity inconsistent with its non-profit status under applicable state or federal law.

13.10 Use of Singular and Plural and Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

13.11 Headings. The headings used in the governing documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of these documents.

14. DISCLAIMER OF LIABILITY OF ASSOCIATION. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, OR ANY RULES AND REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING, BINDING ON OR ADMINISTERED BY THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OR ANY SUCH PERSONS, WITHOUT LIMITING THE FOREGOING:

14.1 IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;

14.2 THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, LEE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTUOUS ACTIVITIES.

14.3 ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO THE HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

14.4 EACH OWNER AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON ANY PORTION OF THE PROPERTIES SHALL BE BOUND BY THESE DISCLAIMERS AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECT WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED HEREIN.

14.5 AS USED HEREIN "ASSOCIATION" SHALL INCLUDE WITH ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.

Exhibit "A" to the Declaration of Covenants, Conditions, and Restrictions

**LEGAL DESCRIPTION
CAROUSEL COVE**

LOTS 3 THROUGH 39, INCLUSIVE, BLOCK "A," AS SHOWN ON THE PLAT OF CAROUSEL COVE, RECORDED IN PLAT BOOK 60, AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; AND

LOTS 44 THROUGH 64, INCLUSIVE, LOTS 65 THROUGH 89, INCLUSIVE, AND LOT 64-1, BLOCK "C," AS SHOWN ON THE PLAT OF CAROUSEL COVE, RECORDED IN PLAT BOOK 60, AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; AND

LOTS 93 THROUGH 112, INCLUSIVE, BLOCK "B," AS SHOWN ON THE PLAT OF CAROUSEL COVE, RECORDED IN PLAT BOOK 60, AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; AND

TRACT "B," AS SHOWN ON THE PLAT OF CAROUSEL COVE, RECORDED IN PLAT BOOK 60, AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PARCEL 1

ALL OF CAROUSEL COVE, AS RECORDED IN PLAT BOOK 60, PAGES 13 - 15, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LOCATED IN SECTION 27, TOWNSHIP 47 SOUTH, RAGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TOGETHER WITH

PARCEL 2

(O.R. 4591, PGS. 3154-3155)

BEGIN AT THE NORTHWEST CORNER OF LOT 112, BLOCK "B," AS SHOWN ON THE PLAT OF CAROUSEL COVE, RECORDED IN PLAT BOOK 60 AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 01°56'40" W, ALONG THE WEST LINE OF SAID LOT 112, FOR A DISTANCE OF 100.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF TRACT "A" OF SAID CAROUSEL COVE, ALSO BEING A POINT ON A CIRCULAR CURVE, CONCAVE SOUTHERLY, WHOSE RADIUS POINT BEARS S 01°56'50" W A DISTANCE OF 222.50 FEET THEREFROM; THENCE RUN SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 222.50 FEET, THROUGH A CENTRAL ANGLE OF 14°59'33", SUBTENDED BY A CHORD OF 58.06 FEET AT A BEARING OF S 84°27'03" W, FOR AN ARC LENGTH OF 58.22 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 277.50 FEET, THROUGH A CENTRAL ANGLE OF 11°11'08", SUBTENDED BY A CHORD OF 54.09 FEET AT A BEARING OF S 82°32'50" W, FOR AN ARC LENGTH OF 54.17 FEET TO THE END OF SAID CURVE; THENCE RUN N 01°56'40" E FOR A DISTANCE OF 100.35 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N 04°00'35" W A DISTANCE OF 177.50 FEET THEREFROM; THENCE RUN NORTHEASTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 177.50 FEET, THROUGH A CENTRAL ANGLE OF 09°02'09", SUBTENDED BY A CHORD OF 27.96 FEET AT A BEARING OF N 81°28'21" E, FOR AN ARC LENGTH OF 27.99 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN EASTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 322.50 FEET, THROUGH A CENTRAL ANGLE OF 14°59'31", SUBTENDED BY A CHORD OF 84.14 FEET AT A BEARING OF N 84°27'01" E, FOR AN ARC LENGTH OF 84.38 FEET TO THE END OF SAID CURVE AND TO THE POINT OF BEGINNING; CONTAINING 0.258 ACRE, MORE OR LESS.

LESS AND EXCEPT (FOR PARCEL 2)

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A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF LOT 112, BLOCK "B", AS SHOWN ON THE PLAT OF CAROUSEL COVE, RECORDED IN PLAT BOOK 60 AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 01°56'40" W ALONG THE WEST LINE OF SAID LOT 112, FOR A DISTANCE OF 100.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF TRACT "A" OF SAID CAROUSEL COVE, ALSO BEING A POINT ON A CIRCULAR CURVE, CONCAVE SOUTHERLY, WHOSE RADIUS POINT BEARS S 01°56'50" W A DISTANCE OF 222.50 FEET THEREFROM; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 222.50 FEET, THROUGH A CENTRAL ANGLE OF 14°59'33", SUBTENDED BY A CHORD OF 58.06 FEET AT A BEARING OF S 84°27'03" W, FOR AN ARC LENGTH OF 58.22 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 277.50 FEET, THROUGH A CENTRAL ANGLE OF 11°11'08", SUBTENDED BY A CHORD OF 54.09 FEET AT A BEARING OF S 82°32'50" W, FOR AN ARC LENGTH OF 54.17 FEET TO THE END OF SAID CURVE; THENCE RUN N 01°56'40" E FOR A DISTANCE OF 13.64 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N 01°56'40" E FOR A DISTANCE OF 86.70 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N 04°00'35" W A DISTANCE OF 177.50 FEET THEREFROM; THENCE RUN NORTHEASTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 177.50 FEET, THROUGH A CENTRAL ANGLE OF 09°02'09", SUBTENDED BY A CHORD OF 27.96 FEET AT A BEARING OF N 81°28'21" E, FOR A DISTANCE OF 27.99 FEET; THENCE RUN S 00°49'02" W FOR A DISTANCE OF 11.47 FEET; THENCE RUN S 10°51'33" W FOR A DISTANCE OF 38.52 FEET; THENCE RUN S 29°10'56" W FOR A DISTANCE OF 47.53 FEET TO THE POINT OF BEGINNING; CONTAINING 0.038 ACRE, MORE OR LESS.

TOGETHER WITH

PARCEL 3
(O.R. 4186 PGS. 2254 - 2255A)

A PARCEL OF LAND LOCATED IN SECTION 27, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF LOT 3, BLOCK "A", AS SHOWN ON THE PLAT OF CAROUSEL COVE, RECORDED IN PAT BOOK 60 AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 01°56'40" W,

ALONG THE WEST LINE OF SAID LOT 3, FOR A DISTANCE OF 100.00 FEET TO A POINT ON A CIRCULAR CURVE CONCAVE SOUTHERLY, WHOSE RADIUS POINT BEARS S 01°56'52" W A DISTANCE OF 77.50 FEET THEREFROM; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 77.50 FEET, THROUGH A CENTRAL ANGLE OF 14°59'52", SUBTENDE BY A CHORD OF 20.23 FEET AT A BEARING OF S 84°27'12" W, FOR AN ARC LENGTH 20.29 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 422.50 FEET, THROUGH A CENTRAL ANGLE OF 06°36'59", SUBTENDE BY A CHORD OF 48.76 FEET AT A BEARING OF S 80°15'46" W, FOR AN ARC LENGTH OF 48.79 FEET TO THE END OF SAID CURVE; THENCE RUN S 83°34'15" W FOR A DISTANCE OF 54.85 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF TRACT "A" OF SAID CAROUSEL COVE; ALSO BEING A POINT ON A CIRCULAR CURVE CONCAVE WESTERLY, WHOSE RADIUS POINT BEARS N 77°34'57" W A DISTANCE OF 112.50 FEET THEREFROM; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 112.50 FEET, THROUGH A CENTRAL ANGLE OF 06°28'14", SUBTENDE BY A CHORD OF 12.70 FEET AT A BEARING OF N 09°10'56" E, FOR AN ARC LENGTH OF 12.70 FEET TO THE END OF SAID CURVE; THENCE RUN N 05°56'49" E FOR A DISTANCE OF 57.68 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE SOUTHEASTERLY; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 40.00 FEET, THROUGH A CENTRAL ANGLE OF 77°37'25", SUBTENDE BY A CHORD OF 50.14 FEET AT A BEARING OF N 44°45'32" E, FOR AN ARC LENGTH OF 54.19 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 322.50 FEET, THROUGH A CENTRAL ANGLE OF 06°36'59", SUBTENDE BY A CHORD OF 37.22 FEET AT A BEARING OF N 80°15'46" E, FOR AN ARC LENGTH OF 37.24 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 177.50 FEET, THROUGH A CENTRAL ANGLE OF 14°59'36", SUBTENDE BY A CHORD OF 46.32 FEET AT A BEARING OF N 84°27'04" E, FOR AN ARC LENGTH OF 46.45 FEET TO THE END OF SAID CURVE AND TO THE POINT OF BEGINNING, CONTAINING 0.270 ACRES, MORE OR LESS.

TOGETHER WITH
PARCEL 4
(O.R. 4795 PGS. 3247 – 3249)

A PARCEL OF LAND LOCATED IN SECTION 27, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 93, BLOCK "B", OF CAROUSEL COVE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 60 AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN

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NORTH 14°41'59" EAST, ALONG THE BOUNDARY OF SAID CAROUSEL COVE, FOR A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE NORTH 14°41'59" EAST, ALONG THE BOUNDARY OF SAID CAROUSEL COVE, FOR A DISTANCE OF 13.99 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY, ALONG THE BOUNDARY OF SAID CAROUSEL COVE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 77.50 FEET, THROUGH A CENTRAL ANGLE OF 15°30'00", SUBTENDED BY A CHORD OF 20.90 FEET AT A BEARING OF NORTH 06°56'59" EAST, FOR A DISTANCE OF 20.97 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 00°45'32" WEST, ALONG THE BOUNDARY OF SAID CAROUSEL COVE, FOR A DISTANCE OF 17.50 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE SOUTHWESTERLY, WHOSE RADIUS POINT BEARS SOUTH 89°11'59" WEST, A DISTANCE OF 30.00 FEET THEREFROM; THENCE RUN NORTHWESTERLY, ALONG THE BOUNDARY OF SAID CAROUSEL COVE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 90°00'00", SUBTENDED BY A CHORD OF 42.43 FEET AT A BEARING OF NORTH 45°48'01" WEST, FOR A DISTANCE OF 47.12 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 75°18'01" WEST FOR A DISTANCE OF 61.81 FEET; THENCE RUN SOUTH 14°18'55" WEST FOR A DISTANCE OF 72.47 FEET; THENCE RUN SOUTH 75°18'01" EAST FOR A DISTANCE OF 105.74 FEET TO THE POINT OF BEGINNING; CONTAINING 7,288.6 SQUARE FEET, OR 0.167 ACRE, MORE OR LESS.

TOGETHER WITH
PARCEL 5
(O.R. 4795, PGS. 3236 – 3238)

A PARCEL OF LAND LOCATED IN SECTION 27, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 93, BLOCK "B", OF CAROUSEL COVE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 60 AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN NORTH 14°41'59" EAST, ALONG THE BOUNDARY OF SAID CAROUSEL COVE, FOR A DISTANCE OF 95.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE NORTH 14°41'59" EAST, ALONG THE BOUNDARY OF SAID CAROUSEL COVE, FOR A DISTANCE OF 55.00 FEET; THENCE RUN NORTH 75°18'01" WEST FOR A DISTANCE OF 100.74 FEET; THENCE RUN SOUTH 14°18'55" WEST FOR A DISTANCE OF 55.00 FEET; THENCE RUN SOUTH 75°18'01" EAST FOR A DISTANCE OF 100.37 FEET TO THE POINT OF BEGINNING; CONTAINING 5,530.4 SQUARE FEET, OR 0.127 ACRE, MORE OR LESS.

TOGETHER WITH
PARCEL 6

(O.R. 4795 PGS. 3215 - 3217)

A PARCEL OF LAND LOCATED IN SECTION 27, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 93, BLOCK "B", OF CAROUSEL COVE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 60 AT PAGES 13 THROUGH 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN NORTH 14°41'59" EAST, ALONG THE BOUNDARY OF SAID CAROUSEL COVE, FOR A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE NORTH 14°41'59" EAST, ALONG THE BOUNDARY OF SAID CAROUSEL COVE, FOR A DISTANCE OF 55.00 FEET; THENCE RUN NORTH 75°18'01" WEST FOR A DISTANCE OF 100.37 FEET; THENCE RUN SOUTH 14°18'55" WEST FOR A DISTANCE OF 55.00 FEET; THENCE RUN SOUTH 75°18'01" EAST FOR A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING; CONTAINING 5,510.1 SQUARE FEET, OR 0.126 ACRE, MORE OR LESS.

ALL TOGETHER CONTAINING 23.24 ACRES MORE OR LESS.

NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE ARTICLES OF INCORPORATION.
FOR PRESENT TEXT SEE EXISTING ARTICLES OF INCORPORATION.

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
CAROUSEL COVE HOMEOWNERS ASSOCIATION, INC.**

Pursuant to Section 617.1007, Florida Statutes, these Articles of Incorporation of Carousel Cove Association, Inc., a Florida corporation not for profit, which was originally incorporated under the same name on September 11, 1997, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Section 617.1002, Florida Statutes, and there is no discrepancy between the corporation's Articles of Incorporation as heretofore amended and the provisions of these Amended and Restated Articles other than the inclusion of amendments, adopted pursuant to Section 617.1002, Florida Statutes, and the omission of matters of historical interest. The Amended and Restated Articles of Incorporation of * Association, Inc., shall henceforth be as follows:

ARTICLE I

NAME: The name of the corporation is Carousel Cove Homeowners Association, Inc., sometimes hereinafter referred to as the "Association".

ARTICLE II

PRINCIPAL OFFICE: The principal office of the corporation shall be at 26771 Bonita Fairways Boulevard, Bonita Springs, FL 34135.

ARTICLE III

PURPOSE AND POWERS: This Association will not permit pecuniary gain or profit nor distribution of its income to its members, officers or Directors. It is a nonprofit corporation formed for the purpose of establishing a corporate residential community homeowners' association which, subject to a Declaration of Covenants, Conditions, and Restrictions for Carousel Cove originally recorded in the Public Records of Lee County, Florida, at O.R. Book 2872 at Page 2961 et seq., and as amended, has the powers described herein. The Association shall have all of the common law and statutory powers of a Florida corporation not for profit consistent with these Articles, the Bylaws of the corporation, and with said Declaration and shall have all of the powers and authority reasonably necessary or appropriate for the operation and regulation of a residential community, subject to said recorded Declaration, as it may from time to time be amended, including but not limited to the power:

- (A) to fix, levy, collect and enforce payment by any lawful means all charges, assessments, or liens pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the corporation, including all license fees, taxes or governmental charges levied or imposed against the property or the corporation;
- (B) to make, amend and enforce reasonable rules and regulations governing the use of the Common Areas and the operation of the Association;
- (C) to sue and be sued, and to enforce the provisions of the Declaration, the Articles, the Bylaws and the reasonable rules of the Association;
- (D) to employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the properties;
- (E) to borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred if first approved by Board;
- (F) to maintain, repair, replace and provide insurance for the Common Areas;
- (H) to acquire, (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the corporation;
- (I) to grant, modify or move easements.
- (J) to exercise any and all powers, rights and privileges which a corporation organized under Chapters 617 and 720 of Florida Statutes may now or hereafter have or exercise; subject always to the Declaration as amended from time to time.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration, these Articles of Incorporation and the Bylaws.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS: Membership and Voting Rights shall be as set forth in the Bylaws of the Association.

ARTICLE V

TERM; DISSOLUTION: The term of the Association shall be perpetual. The Association may

be dissolved with the consent given in writing and signed by not less than two-thirds (2/3rds) of total voting interests of the Association. Upon dissolution of the Association, other than incident to a merger or consolidation, its assets, both real and personal, shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was formed. In the event there is a refusal to accept such dedication, then such assets shall be granted, conveyed amend assigned to any non-profit corporation, association, trust or other organization which is devoted to purposes similar to those of this Association.

ARTICLE VI

BYLAWS: The Bylaws of the Association may be altered, amended or rescinded in the manner provided therein.

ARTICLE VII

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

(A) Proposal. Amendments to these Articles shall be proposed by a majority of the Board or upon petition of one-fourth (1/4th) of the voting interests, and shall be submitted to a vote of the members not later than the next annual meeting.

(B) Vote Required: Except as otherwise required by Florida law or as provided elsewhere in these Articles, these Articles of Incorporation may be amended if the proposed amendment is approved by the affirmative vote of at least a two-thirds (2/3rds) of the voting interests present and voting, in person or by proxy, at a duly called meeting of the members of the Association.

(C) Effective Date: An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public Records of Lee County, Florida with the same formalities as are required in the Declaration for recording amendments to the Declaration.

ARTICLE VIII

DIRECTORS AND OFFICERS:

(A) The affairs of the Association will be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors. Directors must be members of the Association.

(B) Directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of

Directors shall be filled in the manner provided by the Bylaws.

(C) The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board.

ARTICLE IX

INDEMNIFICATION.

(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 is or was a Director, officer, or committee member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him 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 did not act in good faith or in a manner he 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 had reasonable cause to believe his 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, of itself, create a presumption that the person did not act in good faith and in a manner which he 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 his 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 Section (A) above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

(C) Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding shall 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 to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article IX.

(D) Miscellaneous. The indemnification provided by this Article IX shall not be

deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, 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.

(E) Insurance. The Association shall have 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 in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

(F) Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article IX may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

NOTE: SUBSTANTIAL AMENDMENTS OF ENTIRE BYLAWS.
FOR ORIGINAL TEXT SEE ORIGINAL BYLAWS.

**AMENDED AND RESTATED BYLAWS
OF
CAROUSEL COVE HOMEOWNERS ASSOCIATION, INC**

1. GENERAL. These are Bylaws of Carousel Cove Homeowners Association, Inc., a Florida corporation not for profit, which was originally incorporated under the same name, on September 11, 1997, hereinafter the "Association." The corporation is organized under the laws of Florida as a community association for the purpose of operating a residential community. All prior Bylaws, if any, are hereby revoked and superseded in their entirety.

1.1 Principal Office. The principal office of the Association shall be at 26771 Bonita Fairways Boulevard, Bonita Springs, FL 34135, unless otherwise changed by the Board of Directors.

1.2 Seal. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "corporation not for profit". The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

2. MEMBERS. The members of the Association are the record owners of legal title to the Lots. In the case of a residential Lot subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the residential Lot solely for purposes of determining use rights.

(A) Notwithstanding the foregoing, an Owner of a Lot may assign his or her membership rights to a person whose name appears on the title to a manufactured home that exists on the Lot. Such assignment shall be recorded in the public record of Lee County, Florida and shall vest the assignee with all rights and privileges of the member, including but not limited to, the right to attend meetings of the members and the Board, vote and to serve on the Board of Directors. The assignment shall be revocable by the Lot Owner at anytime for any reason by the recording of a Revocation of Assignment in the public record of Lee County, Florida. During the period of the assignment, the Lot Owner shall have no membership rights but shall at all times be obligated to pay assessments and other charges owed to the Association.

2.1 Change of Membership. A change of membership shall become effective after all the following events have occurred.

(A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Lot in the member.

(B) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

(C) Designation, in writing, of a primary occupant, which is required when title to a Lot is held in the name of two (2) or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person.

2.2 Voting Interests. The members of the Association are entitled to one (1) vote for each residential Lot owned by them. The total number of possible votes (the voting interests) of the Association is the total number of residential Lots in Carousel Cove which is one hundred and nine (109). The vote of a residential Lot is not divisible. The right to vote may be suspended for non-payment of any monetary amounts that are delinquent in excess of 90 days. If a residential Lot is owned by one (1) natural person, the right to vote shall be established by the record title to the residential Lot. If a residential Lot is owned jointly by two (2) or more natural persons, that residential Lot's vote may be cast by any one (1) of the record owners. If two (2) or more owners of a residential Lot do not agree among themselves how their one (1) shall be cast on any issue, that vote shall not be counted for any purpose. If the owner of a residential Lot is other than a natural person, the vote of that residential Lot shall be cast by the residential Lot's primary occupant. All votes must be cast by an Owner or primary occupant.

2.3 Approval or Disapproval of Matters. Whenever the decision or approval of a residential Lot owner is required upon any matter, whether or not the subject of an Association meeting, the decision or other response may be expressed by any person authorized to cast the vote of the residential Lot at an Association meeting, as stated in Section 2.2 above, unless the joinder of all record owners is specifically required.

2.4 Change of Membership. A change of membership in the Association shall be established by the new member's membership becoming effective as provided for in Section 2.1 above. At that time the membership of the prior owner shall be terminated automatically.

2.5 Termination of Membership. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Association during the period of his membership, nor does it impair any rights or remedies the Association 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.

3. MEMBERS' MEETINGS; VOTING.

3.1 Annual Meeting. There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Lee County, Florida, each year in the first calendar quarter at a date, time and place designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the members.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called by the President or by a majority of the Directors, and any also be called by members having at least ten percent (25%) of the voting interests. The business at any special meeting shall be

limited to the items specified in the notice of meeting.

3.3 Notice Meetings; Waiver of Notice. Notices of all members' meetings must state the date, time and place of the meeting. Notice of special meetings must include a description of the purpose or purposes for which the meeting is called. The notice must be mailed to each member at the member's address as it appears on the books of the Association, or may be furnished by personal delivery or electronic transmission. The members are responsible for providing the Association with any change of address. The notice must be mailed, transmitted or delivered at least fourteen (14) days prior to the date of the meeting. If ownership of a residential Lot is transferred after notice has been mailed or transmitted, no separate notice to the new owner is required. Attendance at any meeting by a member constitutes waiver of notice by that member, unless the member objects to the lack of notice at the beginning of the meeting. A member may also waive notice of any meeting at any time by written waiver.

3.4 Quorum. A quorum at members' meeting shall be attained by the presence, either in person or by proxy, of persons entitled to cast at least thirty percent (30%) of the votes of the entire membership.

3.5 Vote Required. The acts approved by a majority of the votes cast by eligible voters at a meeting of the members at which a quorum has been attained shall be binding upon all residential Lot owners for all purposes, except where a different number of votes is expressly required by law or by any provision of the governing documents.

3.6 Proxy Voting. Members may cast their votes at a meeting in person or by proxy, except that proxies shall not be used for the election of Directors. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. No proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the residential Lot, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. No proxy shall be valid if it names more than one (1) person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. Holders of proxies must be members.

3.7 Participation at Meeting By Remote Communication. Unless prohibited by the Chapter 720, F.S., if authorized by the Board of Directors as provided in Section 617.0721 F.S., and subject to such guidelines and procedures as the Board of Directors may adopt, members and proxy holders who are not physically present at a meeting may, by means of remote communication:

(A) Participate in the meeting.

(B) Be deemed to be present in person and vote at the meeting if:

1. The corporation implements reasonable means to verify that each person deemed present and authorized to vote by means of remote communication is a member or proxy holder; and

2. The corporation implements reasonable measures to provide such members or proxy holders with a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate and to read or hear the proceedings of the meeting substantially concurrent with the proceedings.

3.8 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. When a meeting is so adjourned it shall not be necessary to give further notice of the time and place of its continuance if such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted when the meeting is reconvened, but only if a quorum is present.

3.9 Order of Business. The order of business at members' meetings shall be substantially as follows:

- (A) Call of the roll or determination of quorum
- (B) Reading or disposal of minutes of last members' meeting
- (C) Reports of Officers
- (D) Reports of Committees
- (E) Election of Directors (annual meeting only)
- (F) Unfinished Business
- (G) New Business
- (H) Adjournment

3.10 Minutes. Minutes of all meetings of the members and of the Board of Directors shall be kept in a businesslike manner, available for inspection by members or their authorized representatives at all reasonable times. Minutes must be reduced to written form within thirty (30) days after the meeting.

3.11 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with the Articles or Bylaws. The presiding officer may appoint a Parliamentarian whose decision on

questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

4. BOARD OF DIRECTORS. The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles and Bylaws, shall be exercised by the Board, subject to approval or consent of the residential owners only when such is specifically required.

4.1 Number and Terms of Office. The number of Directors which shall constitute the whole Board of Directors shall be five (5). The system of staggered terms previously established shall be maintained. All Directors shall be elected for a term of two (2) years each. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns or is recalled as provided for in Section 4.5 below. Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy, as provided for in Section 4.4 below.

4.2 Qualifications. In addition to the qualification requirement found in Chapter 720, Florida Statutes, each Director must be a residential Lot owner or primary occupant or the spouse of a residential Lot owner, primary occupant or a Member by assignment pursuant to Section 2.(A) above. In the case of a Lot owned by a corporation, any officer is eligible for election to the Board of Directors. If a Lot is owned by a partnership, any partner is eligible to be a Director. If a Lot is held in trust, the trustee, grantor or settlor of the trust, or any one of the beneficial owners residing in the Lot is eligible to be elected to the Board of Directors.

4.3 Nominations and Elections. On the day of each annual meeting the members shall elect by secret written ballot as many Directors as there are regular terms of Directors expiring. Notice of each annual election shall be given to all owners at least sixty (60) days in advance. Any person eligible to serve as a Director who wishes to qualify as a candidate may notify the Association in writing of his desire to be a candidate at least forty (40) days prior to the annual election. Notice shall be deemed effective when received by the Association. Any person indicating his or her desire to qualify as a candidate may also include with such notification and subject to the same forty (40) day deadline, a separate information sheet, no larger than 8 1/2 inches by 11 inches, which describes the candidate's background, education and qualifications for office, and any other information deemed relevant by the candidate. The Association shall mail or deliver a second notice of the election, together with the candidate information sheets and a ballot which shall list all candidates in alphabetical order by surname, at least fourteen (14) days in advance of the election; provided, however, that if the number of candidates does not exceed the number of vacancies, then no election shall be required. Directors shall be elected by a plurality of the votes cast. In the election of Directors, there shall be appurtenant to each unit as many votes for Directors as there are Directors to be elected, but no unit may cast more than one vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Nominations from the floor as allowed under Chapter 720, Florida Statutes.

4.4 Resignation; Vacancies on the Board. Any Director may resign at any time by giving written notice to the Association, and unless otherwise specified therein, the resignation shall

become effective upon receipt. If the office of any Director becomes vacant for any reason, a successor shall be appointed by the Board at a special meeting of the Board of Directors of the Association. The successor so appointed shall fill the term of the Director being replaced until the next annual meeting. If for any reason there shall arise circumstances in which no Directors are serving and the entire Board is vacant, the members shall elect successors at a special meeting.

4.5 Removal of Directors. Any Director may be removed, with or without cause, by a majority vote of the voting interests, either by a written petition or at a meeting called for that purpose. If a special meeting is called by twenty-five percent (25%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given. If removal is effected by petition, the vacancy or vacancies shall be filled as provided for in Section 4.4 above. If removal is effected at a meeting, any vacancies created thereby shall be filled by the members at the same meeting. Any director who is removed from office is not eligible to stand again for election to the Board until the next annual election, and must turn over to the Association within seventy-two (72) hours any and all records and other property of the corporation in his possession. If a Director who is removed does not relinquish his office or turn over records as required, the circuit court in the county where the Association has its principal office may summarily order the Director to relinquish his office and turn over corporate records upon application of any member. In any such action, the prevailing party shall be entitled to recover its attorney fees and costs.

4.6 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors, at such place and time as may be fixed and announced by the Directors at the annual meeting at which they were elected.

4.7 Other Meetings. Meetings of the Board may be held at such time and place as shall be determined from time to time by the President or by a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone, or electronic transmission at least forty-eight (48) hours before the meeting.

4.8 Notice to Owners. Meetings of the Board of Directors shall be open to members except for meetings between the Board and its attorney with respect to proposed or pending litigation where the discussion would otherwise be governed by the attorney-client privilege, and notices of all Board meetings, together, shall be posted conspicuously in the community at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. Notice of any Board meeting at which rules affecting the use of a parcel or special assessments are to be considered shall specifically contain a statement that rules or special assessments will be considered and the nature of the rule or assessments and shall be mailed, delivered or electronically transmitted and posted at least 14 days in advance.

4.9 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver is deemed equivalent to the giving of notice. If all Directors are

present at a meeting, no notice to Directors shall be required.

4.10 Quorum of Directors. A quorum at a Board meeting shall be attained by the presence in person of a majority of all Directors. Directors may participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.11 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the governing documents or by applicable statutes. A Director who is present at a meeting of the Board is deemed to have voted in favor of every action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes of each meeting. Directors may not vote by proxy or secret ballot at Board meetings, except that secret ballots may be used in the election or removal of officers.

4.12 Adjourned Meetings. A majority of the Directors present at any meeting of the Board of Directors, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specified later time. When the meeting is reconvened, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted.

4.13 The Presiding Officer. The President of the Association, or in his absence, the Vice-President, if the presiding officer at all meetings of the Board. If neither officer is present, the presiding officer shall be selected by majority vote of the Directors present.

4.14 Directors' Fees and Reimbursement of Expenses. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses related to the proper discharge of their respective duties.

4.15 Committees. The Board of Directors may appoint from time to time such standing or temporary committees, including a search committee, as the Board may deem necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Only committees assigned with the power to make final decisions regarding the expenditure of association funds or committees vested with the power to approve or disapprove architectural decisions with respect to specific parcel of residential property owned by a member of the community are required to hold meetings that are open to members and notice and hold their meetings with the same formalities as required for Board meetings. Committees vested with the power to approve or disapprove architectural decisions with respect to a specified parcel of residential property owned by a member of the community may not vote by proxy or secret ballot.

4.16 Emergency Powers. In the event of any "emergency" as defined in Section 4.16(G) below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes, as amended from time to time.

(A) The Board may name as assistant officers, persons who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.

(B) The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

(C) During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

(D) Corporate action taken in good faith during what is reasonably believed to be an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttal presumption of being reasonable and necessary.

(E) Any officer, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

(F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(G) An "emergency" exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence or imminent occurrence of a catastrophic event, such as a hurricane, act of war, civil unrest or terrorism, or other similar event. An "emergency" also exists during the period of time that civil authorities have declared that a state of emergency exists in, or have ordered the evacuation of, the area in which Lost Creek is located, or have declared that area a "disaster area". A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive validity.

5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President, and a Vice-President, who must be Directors, a Treasurer and a Secretary, all of whom shall be elected annually by a majority vote of the Board of Directors. Any officer may be removed with or without cause at any meeting by vote of a majority of the Directors. Any officer so removed

shall return all books, records and property of the Association to the Association within seventy-two (72) hours of their removal. Any person except the President may hold two (2) or more offices. The board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one (1) Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the members and Directors; shall be *ex-officio* a member of all standing committees; shall have general and active management of the business of the Association; and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages and other contracts and documents requiring the seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents, in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend meetings of the Board of Directors and all meetings of the members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for standing committees when required. The Secretary shall give, or cause to be given, proper notice of all meetings of the members, and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the governing documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall have the custody of Association funds and securities, and be responsible for the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Association. The Treasurer is responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as are selected by the Board of Directors. The Treasurer shall oversee the disbursement of Association funds, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at meetings of the Board, or whenever they may require it, a full accounting of all transactions and of the financial condition of the Association. The Treasurer shall prepare an annual budget of estimated revenues and expenses to present to the Board of Directors for approval. Any of the foregoing duties may be performed by an Assistant Treasurer, if one is elected.

5.6 Compensation of Officers. No compensation shall be paid to any office for services as an officer of the Association. This provision does not preclude the Board of Directors from employing officers as employees of the Association.

6. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions.

6.1 Depository. The Association shall maintain its funds in such federally insured accounts at financial institutions in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities and other similar investment vehicles.

6.2 Accounts of the Association. The Association shall maintain its accounting books and records according to generally accepted accounting principles. There shall be an account for each residential unit. Such accounts shall designate the name and mailing address of each residential unit, the amount and due date of each assessment or charge against the residential unit, amounts paid, date of payment and the balance due.

6.3 Budget. The Treasurer shall prepare and the Board of Directors shall adopt a budget of Association estimated revenues and expenses for each coming fiscal year. Once adopted, the Association shall provide to each member a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and revenue and expense classifications. The estimated surplus or deficit as of the end of the current year shall be shown and all fees or charges for recreational amenities shall be set out separately.

6.4 Reserves. The Board of Directors may establish in the budget one (1) or more reserve accounts for capital expenditures, deferred maintenance, or contingency reserves for unanticipated operating expenses. Board adopted reserve funds are not controlled by Chapter 720 Florida Statutes and therefore may be spent, waived or used as approved by the Board. Membership adopted reserves are restricted by Chapter 720, Florida Statutes and therefore Membership adopted reserves may only be used, waived or reduced on a yearly basis according to Chapter 720 Florida Statutes. The purpose of reserves is to provide financial stability and to avoid the need for special assessments. The annual amounts proposed to be so reserved shall be shown in the annual budget.

6.5 Assessments; Installments. The regular annual assessment based on an adopted budget shall be paid in quarterly installments, in advance, due on the first day of the quarter of each year. Written notice of the annual assessment shall be sent to the owners of each Lot prior to the first quarterly installment being due, but failure to send (or receive) such notice does not excuse the obligation to pay. If an annual budget for a new fiscal year has not been adopted, or if notice of any increase has not been made at the time the payment for the first quarterly installment is due, it shall be presumed that the amount of such installment is the same as the last quarterly installment, and payments shall be continued at such rate until a budget is adopted and new annual assessments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each unit's next due quarterly installment. Any assessments which are not paid

when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date shall accrue interest from the due date at the highest rate allowed by law and shall incur a late fee in the highest amount allowed by law.

6.6 Special Assessments. Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted or non-recurring expenses, or for such other purposes as are authorized by the Declaration and these Bylaws. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The notice of any Board meeting at which a special assessment will be considered shall be given as provided in Section 4.8 above; and the notice to the owners that the assessment has been levied must contain a statement of the purpose(s) of the assessment.

6.7 Fidelity Bonds. The President, Treasurer, and all other persons who are authorized to sign checks, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds are a common expense.

6.8 Financial Reports. Not later than ninety (90) days after the close of each fiscal year, the Board shall cause to be prepared a financial report as prescribed in 720.303, Florida Statutes. The Association shall provide each member with a copy of the financial report or a written notice that a copy of the financial report is available upon request at no charge to the member.

6.9 Audits. A formal, certified audit of the accounts of the Association, if required by law, by vote of a majority of the voting interests, or by a majority of the Directors, shall be made by a certified public accountant, and a copy of the audit report shall be available to all members.

6.10 Application of Payments and Co-Mingling of Funds. All monies collected by the Association may be co-mingled in a single fund or divided into two (2) or more funds, as determined by the Board of Directors. Regardless of any restrictive endorsement all payments on account by a Lot owner shall first be applied to late fees, interest, costs, attorney fees, other charges, fines and then to regular or special assessments.

6.11 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each calendar year and end on December 31 that same calendar year.

7. RULES AND REGULATIONS; USE RESTRICTIONS. The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the use, maintenance, management and control of the common elements, the Lots and the operation of the Association. Copies of such rules and regulations shall be furnished to each residential Lot owner.

8. COMPLIANCE AND DEFAULT; REMEDIES. In addition to the remedies provided in the Declaration, the following shall apply.

8.1 Fines; Suspensions. The Board of Directors may levy fines and/or suspensions against members, or members' tenants or guests, or both, who commit violations of Chapters 617 or 720,

Florida Statutes, the provisions of the governing documents, or the rules and regulations, or who condone such violations by their family members, guests or lessees. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any single fine exceed the maximum amount allowed by law. The maximum fine for a continuing violation shall be \$2,500.00. As allowed by law fines exceeding \$1,000 shall be secured by a lien on the Owner's Lot. Suspensions of the use of common areas and facilities may be imposed for a reasonable period of time to deter future violations. The procedure for imposing fines or suspending use rights shall be as follows:

(A) Notice. The party against whom the fine and/or suspension is sought to be levied or imposed shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days, and the notice shall include:

- (1) a statement of the date, time and place of the hearing;
- (2) a specific designation of the provisions of the Chapters 617 or 720, Florida Statutes, the governing documents or the rules which are alleged to have been violated;
- (3) a short and plain statement of the specific facts giving rise to the alleged violation(s); and
- (4) the possible amounts of any proposed fine and/or possible use rights of common areas or facilities to be suspended.

(B) Hearing. At the hearing the party against whom the fine and/or suspensions may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before a panel of three (3) residential Lot owners appointed by the Board none of whom may then be serving as Directors or officers, or who are employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. If the committee, by majority vote, does not agree with the proposed fine and/or suspension, it may not be levied or imposed. If the committee agrees with the proposed fine and/or suspensions, the Board of Directors shall levy same.

8.2 Suspensions and Fines without Hearing. The foregoing notwithstanding, as provided in 720.305(2)(b), Florida Statutes, no prior notice or opportunity for a hearing is required for the imposition of a fine or suspension upon any member because of the failure of the member to pay assessments or other charges when due.

8.3 Correction of Health and Safety Hazards. Any violations of the Association rules which creates conditions of the property which are deemed by the Board of Directors to be a hazard to the public health or safety may be dealt with immediately as an emergency matter by the Association, and the cost thereof shall be charged to the residential unit owner.

9. AMENDMENT OF BYLAWS. Amendments to these Bylaws shall be proposed and adopted in the following manner.

9.1 Proposal. Amendments to these Bylaws shall be proposed by a majority of the Board or upon petition of one-fourth (1/4th) of the voting interests, and shall be submitted to a vote of the members not later than the next annual meeting.

9.2 Vote Required: Except as otherwise required by Florida law or as provided elsewhere in these Bylaws, these Bylaws may be amended if the proposed amendment is approved by the affirmative vote of at least a two thirds (2/3rds) of the voting interests present and voting, in person or by proxy, at a duly called meeting of the members of the Association.

9.3 Effective Date: An amendment shall become effective upon the recording of a copy in the Public Records of Lee County, Florida with the same formalities as are required in the Declaration for recording amendments to the Declaration.

10. MISCELLANEOUS.

10.1 Gender; Number. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

10.2 Severability. If any portion of these Bylaws is void or become unenforceable, the remaining provisions shall remain in full force and effect.

10.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration of Covenants, Conditions, Restrictions and Easements, or the Association's Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws.