

**12.4 Execution and Recording.** An amendment shall be evidenced by a certificate of the Association that must include recording data identifying the Declaration and be executed in the form required for execution of a deed. An amendment of the Declaration is effective when properly recorded in the public records of Palm Beach County.

**12.5 Automatic Amendment.** Whenever Chapter 720, Chapter 617 or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in this Declaration, the Board may operate the Association pursuant to the less stringent requirements without the need to change this Declaration. The Board, without a vote of the Members, may also adopt by majority vote, amendments to this Declaration as the Board deems necessary to comply with such operational changes as may be authorized by future amendments to Chapters 607, 617 and 720 of the Florida Statutes, or other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

**13. LEASE OR OCCUPANCY OF LOT.** In order to assure a Community of congenial Residents and thus protect the value of the Lots, the conveyance and leasing of the Lots by an Owner shall be subject to the following provisions:

**13.1 Leasing of Units**

**13.1.1 Single Family Use Only.** Only entire Units may be rented or leased. A lease is any use of a Unit by a person other than the Owner for consideration. All leases must be in writing. There shall be no subdivision or subletting of Lots. "Rent Sharing" or the renting of rooms is prohibited. Tenants may only occupy Lots as a single-family residence as defined in Section 6.10.

**13.1.2 Term, Maximum Occupancy.** All leases shall be limited to two permanent occupants per bedroom. A permanent occupant shall include any person who resides in a Unit for any period exceeding fourteen (14) days during any calendar year. No Owner may lease less than the entire Unit, or lease or rent their Unit for a term or period of more than seven (7) months in a calendar year, so that the high quality of the Community shall be maintained. If any lease is terminated before the end of the seven (7) month period, a new lease may not be entered into until the original seven (7) month period expires except when the termination of a lease is for good cause as determined at the sole discretion of the Board. No sub-leases are allowed. Every lease is a new lease.

**13.1.3 Board Right of Approval.** The Board shall have the authority to approve all leases, which authority may be delegated to a committee or managing agent. The Board shall have the authority to promulgate or use a uniform lease application and require such other information from the proposed tenant as it deems appropriate. The Board shall have the right to delegate the screening of proposed tenants to a committee, a managing agent, or a tenant-screening entity. The Association may charge a fee for consideration of lease applications that does not exceed two hundred dollars (\$200.00) per transaction. The Board may require an interview of any proposed Tenant, spouse and all proposed Occupants of a Lot as a condition for approval.



#### **13.1.4 Forms of Ownership:**

**13.1.4.1 One Person.** A Lot may be owned by one natural person whose acquisition of title has been approved to the extent and in the manner elsewhere provided herein.

**13.1.4.2 Two or More Persons.** Co-ownership of a Lot by two or more natural persons who are not a married couple is not prohibited. The intent, however, is to allow the Lot Owner some degree of flexibility in estate, tax or financial planning; and such ownership will not be approved if the apparent effect is to allow an Owner to create circumstances where the Lot may be used as short-term transient accommodations for multiple families.

**13.1.4.3 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 not to create circumstances in which the Lot may be used as short-term transient accommodations for several individuals or families. The approval of a trustee, or a corporation, partnership or other business entity as a Lot Owner shall be conditioned upon designation by the Owner of one 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 change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Article 13. No more than one such change will be approved in any twelve (12) month period, unless caused by the death of the primary occupant. Any new Primary Occupant shall be subject to review and approval by the Association in the same manner as a transfer of title.

**13.1.4.4 Designation of Primary Occupant.** Within thirty (30) days after the effective date of this provision, each Owner of a Lot which is owned in the forms of ownership stated in preceding subsection shall designate a primary occupant in writing to the Association. If any Lot Owner fails to do so, the Board may make the initial designation for the Owner, and shall notify the Owner in writing of its action. If the ownership of a Lot is such that the designation of a primary occupant is not required, the Lot Owner may, nevertheless, choose to designate one, subject to Board approval.

**13.1.5 Life Estate.** A Lot may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 13.3.2 below. In that event, the life tenant shall be the only Association member from the Lot, and occupancy shall be as if the life tenant was the only Owner. 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 under Section 13.1.4.2, above, for purposes of determining voting and occupancy rights. Upon termination of the life estate, the holders of the remainder interest shall designate a primary occupant in writing to the Association.



### **13.2 Types of Transfers of Ownership.**

**13.2.1 By sale or gift.** No Lot Owner may dispose of a Lot or of any ownership interest in a Lot by sale or gift (including agreement for deed) without prior written approval of the transfer by the Board.

**13.2.2 By devise or inheritance.** If any Owner acquires title by devise or inheritance, his right to occupy or use the Lot shall be subject to the approval of the Board under Section 13.3.2 below. The approval shall not be denied to any devisee or heir who was the prior Owner's lawful spouse at the time of death, or who was related to the Owner by blood or adoption in the first degree.

**13.2.3 Other methods.** If any person acquires title in any manner not covered in the foregoing subsections, that person shall have no right to occupy or use the Lot before his occupancy has been approved by the Board under the procedures outlined in Section 13.3 below.

### **13.3 Procedures.**

#### **13.3.1 Notice to Association.**

**13.3.1.1 Sale or Gift.** An Owner intending to make a sale or gift of his Lot or any interest therein shall give to the Board or its designee written notice of such intention at least thirty (30) 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 all other information 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.

**13.3.1.2 Devise, Inheritance or Other Transfers.** The transferee must notify the Board 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 Lot following the procedures in this Article.

**13.3.1.3 Demand.** With the notice required in Subsection 13.3.1.1 above, the Lot 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 Lot determined as provided below.

**13.3.1.4 Failure to Give Notice.** If no notice is given, the Board, at its election, may approve or disapprove occupancy by the transferee 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 intended to violate the covenants of this Declaration, and shall constitute good cause for Association disapproval.

**13.3.2 Board Action.** Within thirty (30) days after receipt of the required notice and all information or interviews requested, 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 a 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.

### **13.3.3 Disapproval.**

**13.3.3.1 With Good Cause.** Approval of the Association shall be withheld for good cause only if a majority of the whole Board so votes, after receiving a written opinion of counsel that good cause exists. Only the following may be deemed to constitute good cause for disapproval:

**13.3.3.1.1** The application for approval on its face, or subsequent investigation thereof, indicates that the person seeking approval (which shall hereinafter include all proposed Occupants) intends to conduct himself in a manner inconsistent with the Governing Documents;

**13.3.3.1.2** The person seeking approval (which shall hereinafter include all proposed occupants) has been convicted of, plead no contest to, or has been released from incarceration, probation or community control for:

(i) a capital, first or second degree felony involving violence to persons within the past ten (10) years; or

(ii) a first or second degree felony involving illegal drugs within the past ten (10) years; or

(iii) any drug offense involving the manufacture and/or distribution of illegal drugs regardless of when that conviction, plea or release occurred; or

(iv) a felony involving sexual battery, sexual abuse, or lewd and lascivious behavior regardless of when that conviction, plea or release occurred;

**13.3.3.1.3** The person seeking approval has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when that label occurred;

**13.3.3.1.4** The person seeking approval is currently on probation or community control for a felony involving violence to another or damage to or theft of property;

**13.3.3.1.5** The person seeking approval has a record of financial irresponsibility, including without limitation prior foreclosures or bad debts such that the Board reasonably concludes that the applicant is unable to meet his financial obligations to the Association;



**13.3.3.1.6** The person seeking approval failed to provide the information, fees or appearance required to process the application in a timely manner; or

**13.3.3.1.7** All assessments and other charges against the residence have not been paid in full, unless the Association has reasonable assurances that said amounts will be paid out of the closing proceeds.

If the Board disapproves a transfer for good cause, the Association shall have no duty to purchase the Unit or Lot or furnish an alternate purchaser, and the transaction shall not be made, or if made, shall be rescinded in the manner determined by the Board.

**13.3.3.2 Without Good Cause.** 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 Subsection 13.3.1.3, then within thirty (30) days after the Board meeting at which the transaction was disapproved, the Board shall deliver in writing to the Owner (hereafter "the seller") the name of an approved purchaser who will purchase the Lot at the same price, and upon 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, 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 seller 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 buyer and seller, except that the buyer shall pay for his own title insurance, and all costs of mortgage financing. Real property taxes and assessments for common expenses 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 more than sixty (60) days after the date of Board disapproval, or thirty (30) days after determination of fair market value by appraisal, whichever occurred 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.

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

**13.4 Unapproved Transfers.** Any sale or transfer of ownership that is not approved, or is disapproved pursuant to the terms of this Declaration, shall be void or voidable by the Association unless subsequently approved in writing by the Board.

**13.5 Transfer Fees.** The Board may require the payment of a preset screening/transfer fee in connection with the notices required pursuant to Section 13.3. Said screening fee is presently set in the amount of \$100.00 per applicant, such amount to change from time to time by action of the Board. No approvals shall be given unless the fee has been paid.

#### **14. TERM OF DECLARATION**

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this



Declaration, and their assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of two-thirds (2/3) of the Lots and an instrument signed by the then Mortgagees of two-thirds (2/3) of the mortgaged Lots have been recorded, agreeing to change or terminate said covenants and restrictions in whole or in part.

## **15. INDEMNIFICATION**

**15.1** The Association shall indemnify any person 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 (other than an action by or in the right of the Association) by reason of the fact that they are or were a Director, Officer, or Committee Member of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if they acted in good faith and in a manner they 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 no reasonable cause to believe their conduct was unlawful except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence, misfeasance or malfeasance in the performance of their duty to the Association unless and only to the extent the court in which such action or suit was brought shall determine upon application, that despite the adjudication of liability, but in view of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. 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 the person did not act in good faith and in a manner they 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 their conduct was unlawful.

**15.2** To the extent a Director, Officer or Committee Member of the Association is successful on the merits or otherwise in defense of any action, suit or proceeding referred to in this Article or in defense of any claim, issue or matter therein, they shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by them in connection therewith.

**15.3** Any indemnification under this Article (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, Officer or Committee Member is proper in the circumstances because they met the applicable standard of conduct set forth in this Article. Such determination shall be made (i) by the Board by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (ii) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion.

**15.4** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board. This is subject to the Director, Officer or Committee Member making arrangement to repay such amount unless it shall ultimately be determined that they are entitled to be indemnified by the Association as authorized in this Article.



**15.5** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any law, agreement, vote of members or otherwise, both as to action in their official capacity while holding such office 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, executors and administrators of such person.

**15.6** 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 is or was serving at the request of the Association as a Director, Officer, Committee Member, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against them and incurred by them in any such capacity, or arising out of their status as such, whether or not the Association would have the duty to indemnify them against such liability under the provisions of this Article.

## **16. ASSOCIATION LIABILITY**

**16.1 Limitation of Liability of Association.** Notwithstanding the duty of the Association to maintain and repair parts of the Community, the Association shall not be liable to Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Common Areas. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Owners, regardless of whether or not the same shall have been approved by the Association pursuant to the provisions hereof.

Notwithstanding anything contained herein or in the Governing Documents, or Rules and Regulations, Association shall not be liable or responsible for, or in any manner be a guarantor or insurer of, the health, safety or welfare of any Owner, or permitted person. Without limiting the generality of the foregoing:

**16.2** It is the express intent of the Governing Documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the Community have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Association Property and the value thereof;

**16.3** The Association is not empowered, and has not been created, to act as an entity that enforces or ensures the compliance with the laws of the United States, State of Florida, Palm Beach County and/or any other jurisdiction or the prevention of tortious activities; and

**16.4** Any provisions of the Governing Documents or Rules and Regulations setting forth the uses of assessments that relate to health, safety and/or welfare shall be interpreted and applied only as limitations on or enabling authority for 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, even if assessment funds are chosen to be used for any such reason.

Each Owner (by virtue of his acceptance of title) and each other person having an interest in or lien upon, or making any use of, any portion of the Association Property (by virtue of accepting such interest or making such uses) shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the



Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this provision.

As used in this Article, "Association" shall include within its meaning all of the Association's directors, officers, committee and board members, employees, agents, contractors (including management companies), subcontractors, successors and assigns.

**17. ARCHITECTURAL CONTROL.** The Association, acting through the Board or the Architectural Review Committee (ARC), shall have the authority to review and approve plans and specifications for the location, size, type, or appearance of any structure or other improvement on the Lot, and to enforce standards for the external appearance of any mobile home or improvement located on the Lot, as set forth in the Governing Documents and in any architectural guidelines promulgated by the Board. If there are any conflicts between this Declaration and architectural guidelines, if any, the Declaration will control. The Architectural Review Committee shall consist of at least three Members of the Association appointed by the Board. The Board may act as the ARC and in the absence of the Board's appointment of an ARC, the Board shall be the ARC. The Board in its sole and absolute discretion may remove members of the ARC at any time, with or without cause.

**17.1 Non-Waiver of Future Approvals.** The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARC shall not be deemed to be or constitute approval of any right to withhold approval as to any similar proposals, plans and specifications or matter subsequently or additionally submitted for approval.

**17.2 Fill and Grade.** No fill shall be added to or removed from any Lot nor shall the Owner of any Lot do anything to change or interfere with the drainage of storm water; no change shall be made with respect to the original grade and contour of swales unless first approved in writing by the ARC. The approval of South Florida Water Management District may also be required.

**17.3** In the event the ARC fails to approve or disapprove the requested item within thirty-days after the ARC has acknowledged receipt of a complete application, it shall be considered as being approved. Should the ARC be a body other than the Board a decision of the ARC may be appealed by any member to the Board and such appeal must be filed in writing and received by the Board within ten days of the decision of the ARC. The Board shall render a decision with respect to the matter appealed within thirty-days after the Board receives such appeal and the decision of the Board will be final. If the Board fails to reach a decision as to the matter within said thirty-day period, the decision of the ARC shall govern.

## **18. GENERAL PROVISIONS**

**18.1 Enforcement.** The Association, or any Owner, has the right to enforce, by any proceeding at law or in equity, restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of the Governing Documents or the Rules and Regulations. Failure by the Association or any Owner to enforce any of the above shall in no event be deemed a waiver of the right to do so thereafter.



**18.2 Savings Clause; Severability.** The invalidity in whole or in part of any covenant or restriction, or any Article, subsection, sentence, clause, phrase, word, or other provision of the Governing Documents adopted as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof.

**18.3 Notices.** Except as provided specifically by law, notices to the Association required or desired hereunder or in the Bylaws may be sent by first class mail or hand delivery to the address as may be designated by from time to time, in writing to the Owners. Except as provided specifically by law, notices to any Owner may be sent by electronic transmission, first class mail or hand delivery to the physical and/or electronic address as may be designated by him from time to time, in writing to the Association. Owners who consent to receipt of Association meeting notices by electronic mail also shall be deemed to consent to receipt of any other form of notice by electronic mail.

**18.4 Exhibits.** There are hereby incorporated in this Declaration any materials contained in the exhibits annexed hereto which under the Act are required to be part of the Declaration.

**18.5 Signature of President and Secretary.** Wherever the signature of the President of the Association is required hereunder and if not available, the signature of a Vice-president may be substituted therefore, and wherever the signature of the Secretary of the Association is required hereunder and is not available, the signature of an Assistant Secretary may be substituted therefore, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.

**18.6 Governing Law.** Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the exhibits annexed hereto or the Rules and Regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida, and venue shall lie in Palm Beach County.

**18.7 Waiver.** No provisions contained in this Governing Documents or Rules and Regulations shall be deemed to have been waived because of any failure to enforce the same, irrespective of the number of violations or breaches, which may occur.

**18.8 Ratification.** Each Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law, or otherwise) and each Occupant by reason of his occupancy shall be deemed to have acknowledged and agreed that all the provisions of this Declaration the Articles, Bylaws and Rules and Regulations of the Association, are fair and reasonable in all material respects.

**18.9 Plurality; Gender.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

**18.10 Captions.** The captions herein and in the exhibits annexed hereto are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the particular document or any provision thereof.

ACTIVE: P22940/373638:10082796\_5

Declaration of Parry Village, Inc.

Page 26 of 26

ACTIVE 10082796v.5