

**Prepared by and Return to:**

Leland W. Wilson, Esq.  
Association Legal Services  
12600 World Plaza Ln # 63  
Fort Myers, FL 33907

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**CERTIFICATE OF AMENDMENT AND RESTATEMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND BYLAWS FOR  
WATERVIEW PROPERTY OWNERS' ASSOCIATION.**

**WHEREAS**, this Amendment is made on the 17th day of February, 2025 to the Declaration of Covenants, Conditions, and Restrictions of WATERVIEW PROPERTY OWNERS' ASSOCIATION, INC., (the "Governing Documents"). The original Declaration and Bylaws were recorded at O.R. Book 669, Page 1484 et seq., and as Revitalized at O.R. Book 4922, Page 1514 et seq., of the Public Records of Charlotte County, Florida.

**WHEREAS**, the Restatements of the Amended Declaration of Covenants, Conditions, and Restrictions, are recorded as an exhibit hereto; and

**WHEREAS**, at a duly called meeting of WATERVIEW PROPERTY OWNERS' ASSOCIATION, INC., on the 20<sup>th</sup> day of January, 2025 at which a quorum was present, pursuant to Article X, Section 1 of the Amended and Revitalized Declaration of Covenants, Conditions, and Restrictions, a majority of the votes cast by Members approved the Amendments to the Declaration hereinafter set forth; and

**NOW, THEREFORE**, the undersigned hereby certify that the following Amendments to the Amended and Restated Declaration of Covenants, Conditions, and Restrictions, are a true and corrected copy of the amendments as accepted by the membership.

**SEE ATTACHED**

WITNESS my signature hereto this 24 day of Feb, 2025,

**WATERVIEW PROPERTY OWNERS' ASSOCIATION, INC.**

Tammy Fusselman  
Witness Name: Tammy Fusselman

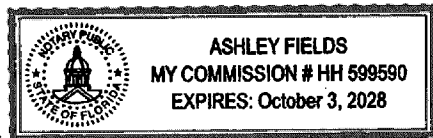
By:

George M. Brobst, President

Mateo  
Witness Name: Havana Tracanis

STATE OF FLORIDA            )  
   )     SS:  
 COUNTY OF CHARLOTTE    )

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 24 day of Feb, 2025, by George Brobst, President of WATERVIEW PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation, on behalf of the corporation. He is personally known to me or has produced FL Driver License identification.



Seal:

Ashley Fields  
 Printed Name of Notary Public  
Ashley Fields  
 (Signature of Notary Public)

1.

By: Kirk Schwyn, Secretary  
[Signature]  
 (Vice President or Secretary)

Brenda D. Himmelhaver  
 Witness Name: BRENDA D. HIMMELHAVER

[Signature]  
 Witness Name: ERIK VAN WELIE

STATE OF FLORIDA            )  
   )     SS:  
 COUNTY OF CHARLOTTE    )

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 24 day of FEBRUARY, 2025, by Maria A. Intili, Vice President/Secretary of WATERVIEW PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced Driver's License as identification.



Seal:

Maria A. Intili  
 Comm.: HH 634032  
 Expires: Mar. 17, 2029  
 Notary Public - State of Florida

Maria A. Intili  
 Printed Name of Notary Public  
Maria A. Intili  
 (Signature of Notary Public)

**Prepared by and return to:**

Leland Wilson, Esq  
Association Legal Services  
Ft. Myers, FL 33907  
(239) 298-1238 (Telephone)  
(941) 237-5687 (Facsimile)

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

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR WATERVIEW PROPERTY OWNERS' ASSOCIATION**

**KNOW ALL INDIVIDUALS BY THESE PRESENTS**, that the undersigned, Waterview Property Owners' Association, Inc., a Florida corporation, is the owner of certain property (hereinafter, the "Association"), located in Charlotte County, Florida as previously recorded, including but not limited to the Declaration of Covenants, Conditions and Restrictions as recorded at O.R. Book 669, Page 1484 *et seq.*, and as Revitalized at O.R. Book 4922, Page 1514 *et seq.*, of the Public Records of Charlotte County, Florida.

The Association makes the following Declaration of Protective Covenants, Conditions and Restrictions covering above, specifying that this Declaration shall constitute a covenant running with the described land and that this Declaration shall be binding upon the undersigned and upon all persons deriving title through the undersigned. These protective covenants, during their lifetime, shall be for the benefit of and a limitation upon all present and future Owners of the real property.

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. **"Articles" or "Articles of Incorporation"** as used herein, means the Articles of Incorporation of the Association as amended from time to time.
  - 1.2. **"Assessment"** 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. The Common Expenses shall include, but may not be limited to, annual Assessments, as well as any Assessment for drainage Maintenance.
  - 1.3. **"Association"** means Waterview Property Owners' Association, Inc., a Florida corporation not-for-profit.

- 1.4. **“Architectural Control Committee” (“ACC”)** means the committee formed to promulgate design and development guidelines and application and review procedures for new construction and any modifications to improvements within the Association, and to review and approve the plans for the same.
- 1.5. **“Board of Directors” or “Board” or “Directors”** means the Board of Directors responsible for the administration of the Association.
- 1.6. **“Bylaws”** as used herein, means the Bylaws of the Association, as amended from time to time.
- 1.7. **“Chapter 720”** means Chapter 720, Florida Statute as it now exists or as it may be amended from time to time including the definitions therein contained.
- 1.8. **“Charge”** means any legal or equitable indebtedness to the Association incurred by, or on behalf of, an Owner, other than Assessments for Common Expenses. Said obligation may arise by oral or written contract, agreements, by law or equity, or may be created by the Association’s documents. Charges may include attorney fees. Said Charges may be secured by a lien against the Lot as provided herein.
- 1.9. **“Committee”** means a group of Board members, Living Unit Owners, or Board members and/or Living Unit Owners and/or other persons appointed by the Board to make reports or recommendations to the Board, to take action on behalf of the Board, or to take such actions as the resolution creating the Committee, or the Directors of the Board, may dictate.
- 1.10. **“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 shall include the costs of operating the Association, the costs of administration, Maintenance, operation, repair, and replacement of the Common Property and items required to be maintained by the Association, other expenses declared by the Board or the Governing Documents to be Common Expenses, and any other valid expenses or debts of the Association which are assessed against the Owners.
- 1.11. **“Common Property” or “Property”** means the portions of the Property not included in the Living Units, but including common areas and common facilities such as drainage, Greenbelt areas and any current or future parks or paths, and any areas of ingress and egress and shall be shared among Owners and Members and shall refer to those areas of land/Greenbelt described on Schedule "B" in the Original Declaration, O.R. Book 669, Page 1506, of Charlotte County Public Records.
- 1.12. **“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.

- 1.13. **"Declaration"** means this Declaration, as amended from time to time.
- 1.14. **"Compliance Committee"** means an independent committee appointed by the board of directors before a fine proposed by the Board of Directors for a violation of this Declaration or the other governing documents becomes final. This committee must be comprised of at least three (3) members of the Association who are not officers, Directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an Officer, Director, or employee.
- 1.15. **"Environmental Control Committee" ("ECC")** means the committee formed to promulgate development guidelines and application and review procedures for construction and any modifications to improvements within the Association, and to review and approve the plans for the same. The ECC may delegate duties to its sub-committee, the Architectural Control Committee.
- 1.16. **"Family" or "Single Family"** means any one (1) of the following:
- One (1) natural Person, his or her spouse, if any, and his, her or their parents, grandparents, grandchildren, siblings, or children (related by blood, marriage, or adoption), who do and plan to reside together indefinitely and continuously as a single financially and socially interdependent housekeeping unit, with the intention of living within the bonds of family.
- Not more than two (2) natural Persons not meeting the requirement above, who do and plan to reside together indefinitely and continuously as a single financially and socially interdependent housekeeping unit, with the intention of living within the bonds of family and their respective parents, grandparents, grandchildren, siblings, or children (related by blood, marriage, or adoption).
- The reference to "natural" is intended to distinguish between an individual and a corporation, partnership, limited liability partnership, limited liability company, trust, estate, or other artificial entity. A "Family Member" is a natural Person who resides in a Living Unit as part of the Owner's Family or as part of the Family of a Tenant or a Guest, but, in each case, is not a title holder.
- 1.17. **"Governing Documents"** means and includes this Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations, if any, of the Association and all recorded exhibits to them, all as amended from time to time. If there is an irreconcilable conflict between the provisions of any two of these documents, the first document to appear in the foregoing list shall prevail.
- 1.18. **"Greenbelt"** shall mean the Native Florida Greenbelt that is owned by the Waterview Property Owners Association, more particularly described as Tracts G1, G2 and G3 as defined on the First Replat in Port Charlotte Subdivision Section Ninety-Four as recorded

in Plat Book 15, pages 48A through 48R, Public Records of Charlotte County, Florida. The Greenbelt is strictly regulated by the Rules and Regulations of the Florida Authorities, including but not limited to, the Florida Department of Environmental Protection (FDEP), the Army Corps of Engineers, the South Florida Water Management and Charlotte County.

- 1.19. **“Guest”** means any natural person who is not the Owner or a Tenant or a Family Member of such Owner or such Tenant, who is physically present on or Occupies the a Lot or Common Property on a temporary basis at the expressed or implied invitation of the Owner or other legally permitted Occupant, without the payment or existence of consideration.
- 1.20. **“Hurricane Protection”** means hurricane shutters, impact glass, code-compliant windows or doors, and other code compliant hurricane protection products used to preserve and protect the Association Property.
- 1.21. **“Improvements”** means all Structures and artificial changes to the natural environment (exclusive of landscaping) located on the Common Property.
- 1.22. **“Institutional Mortgage”** means the mortgagee (or its assignee) of a mortgage against a Lot, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit-sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Lot which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America, or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns.
- 1.23. **“Invitee” or “Licensee”** means a Person expressly or impliedly allowed entry onto the Common Property for the purpose of conducting business with or providing services to a Lot or Occupant, or otherwise entering the Lot of Common Property on a temporary basis at the expressed or implied consent of the Owner or Occupant, including, but not limited to, contractors, workmen, delivery persons, domestic assistants, and health care assistants. A Guest and a Licensee are each an Invitee.
- 1.24. **“Lease” or “Leasing” or “Rent”** means the grant by a residential Owner of a temporary right of use of the Owners Living Unit for valuable consideration. Leasing shall be construed to include any licensing or other arrangement with a third party where persons other than the Owner are permitted to Occupy the Living Unit for the payment of consideration to any party. Any person who qualifies as a Tenant shall be deemed to be Leasing a Living Unit.
- 1.25. **“Lien for Charges”** means a lien which is recorded to secure a Charge.

- 1.26. **“Living Unit”** means and refers to the improvements on the Lot comprising the residence and the amenities appurtenant thereto. Whenever the term is used, it shall be interpreted as though it were followed by the words “and the Lot on which it is constructed,” unless the context clearly requires another meaning.
- 1.27. **“Lot”** means one or more of the numbered parcels of land graphically depicted on the plats as previously recorded into which The Properties have been subdivided, upon each of which a Living Unit has been or is intended to be constructed. Whenever the term “Lot” is used in the Governing Documents, it shall be deemed to be followed by the words “and Living Unit constructed thereon”, except where the context clearly requires otherwise.
- 1.28. **“Maintenance” or “Maintain”** means, unless the context of a provision in the Governing Documents requires otherwise, landscaping, day-to-day cleaning, heavy cleaning, painting where applicable, routine maintenance, ongoing maintenance, preventative maintenance, as well as repair or replacement. The term "Maintenance" does not include repair after casualty, unless the context of a provision in the Governing Documents requires otherwise. Whenever an Owner is obligated by the Governing Documents or law to Maintain, repair, or replace portions of the Common Property, the Board has the authority to establish reasonable standards for such maintenance, repair, or replacement, including mandating maintenance, repair, or replacement of said items, when the Board deems same are reasonably necessary, and the Board may likewise adopt specifications for replacement components, without need for Owner approval, notwithstanding any provision in this Declaration to the contrary.
- 1.29. **“Member”** means and refers to those persons who are entitled to membership in the Association as provided in its Articles of Incorporation and Bylaws. An Owner shall automatically become a Member of the Association, by virtue of acceptance of the deed or conveyance to his Lot. As a Member of such Association, said Owner shall be governed by the Articles of Incorporation, Bylaws and Rules and Regulations, if any, of the Association, as well as any Agreements promulgated by the Association.
- 1.30. **“Non-Exclusive License Agreement” or “NELA”** shall mean a Non-Exclusive License Agreement with the Waterview Property Owners Association, Inc. that is required to make any modifications or alterations of any kind to the Properties or Common Property on the Waterview Greenbelt.
- 1.31. **“Occupy” or “Occupying”** when used in connection with a Living Unit, means the act of staying overnight in a Living Unit. **“Occupant”** is a person who Occupies a Living Unit.
- 1.32. **“Officer”** means the executive Officers and Assistant Officers (if any) appointed by the Board as provided in the Bylaws.

- 1.33. **“Owner” or “Lot Owner”** means the record owner of legal title to a Lot or Parcel. Wherever a portion of the Governing Documents proscribes, restricts, prohibits, governs or requires that an Owner take or refrain from taking any action, or engage or refrain from engaging in any conduct, or providing for liability to the Association arising from such acts or conduct or the failure to take required action or engage in required conduct, the term "Owner" is deemed to include, unless the context specifically suggests otherwise, the Owner's Family, Tenants, Residents, Guests, Invitees, and as may be applicable, the Family Members of such persons, as well as employees or agents of such persons.
- 1.34. **“Resident”** means any natural Person who is Occupying a Living Unit for thirty (30) days or more, whether or not consecutive, in any calendar year and includes, as applicable, Owners, Tenants, Guests, and their respective Family members who reside in the Living Unit for such period.
- 1.35. **“Rules and Regulations”** means the rules, regulations, and policies governing the personal conduct of Owners and Occupants and the use, Occupancy, alteration, Maintenance, transfer and appearance of the Living Units, Community, Common Property, and any common areas, that may be promulgated by the Board from time to time by resolution.
- 1.36. **“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, walls, flagpoles, antennas, and playground equipment.
- 1.37. **“Tenant” or “Licensee” or “Lessee”** means a natural Person Occupying a Living Unit, other than the Owner, whether pursuant to a verbal or written agreement, where said Occupancy by such Person involves the payment or existence of consideration, including, but not limited to, the payment of money, the exchange of goods or services, or the provision of direct economic or indirect economic benefit, including tax benefits and the furtherance of business interests, including, but not limited to, use of a Living Unit as an employee, supplier, or customer rewards or incentive, or a charity auction or similar prize.
- 1.38. **“The Properties”** shall mean and refer to the Lots and the real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration and located in Charlotte County, Florida, and is more particularly described on Schedule "A" of the Original Declaration, O.R. Book 669, Page 1505, of Charlotte County public records, and as amended from time to time.



- 1.39. **"Voting Interests"** means the voting rights distributed to the Association Members pursuant to the Bylaws.

2. **MEMBERSHIP; VOTING.**

- 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.
- 2.2. **Voting Rights.** Each Lot shall be entitled to one vote to be cast by its Owner in accordance with the provisions of the Bylaws.

3. **GENERAL BUILDING REQUIREMENTS.**

- 3.1. **Residential Lots; Use and Minimum Square Footage Requirements.** All Lots in The Properties are designated as single family residence lots as more fully indicated in the filed plats of the Association, notwithstanding anything to the contrary, no principal building shall be constructed or erected on any single family residence Lot other than single family homes of not more than three (3) stories. No single-family residence Lot shall be otherwise re-subdivided. Waterview is not zoned for duplex, triplex, or other multi-family options, nor shall any such be permitted.
- 3.2. **Minimum Square Footage Requirements.** Minimum square footage and building setback requirements shall be in accordance with the requirements of the Associations Guidelines and Charlotte County, Florida, and the ECC Guidelines (which at the time of approval of this Restated Declaration requires a minimum of 2,000 square feet under air living area but which may change from time to time).
- 3.3. **Exceptions.** The Board of Directors of the Association or the Environmental Control Committee (ECC), upon written application thereto as provided herein, may, with the approval of Charlotte County, Florida Building and Zoning Department, approve individual variance from the requirements of this Article 3.

4. **EASEMENTS.**

- 4.1. **Appurtenant Easements.** Subject to the restrictions found elsewhere in this Section, 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 Property or common areas, and such use and enjoyment to be

shared in common with the other Owners, their Guests, Lessees, and Invitees, subject to the provisions of this Declaration.

- 4.2. **Association's Access Easement.** The Association's duly authorized representatives or agents shall, at all reasonable times, have and possess a reasonable right of entry and inspection upon the Property for the purpose of fully and faithfully discharging the duties of the Association such exception not being applicable to entry for emergencies or risk of imminent property damage. Non-exclusive easements are hereby granted in favor of the Association throughout the Property as may reasonably be necessary for the Association to perform its services required and authorized hereunder, so long as none shall unreasonably interfere with the use of any Lot.
- 4.3. **Utility Easements.** A perpetual easement shall exist upon, over, under and across Common Property 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, internet providers, power providers, and all machinery and apparatus appurtenant thereto as may be necessary for the installation and Maintenance of utilities servicing all Owners of 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 provide utility and other services efficiently and effectively to the Lots, Common Property, and items to be Maintained by the Association.
- 4.4. **Drainage.** A perpetual, non-exclusive easement shall exist in favor of the Association and their employees or other designees for the use of drainage areas established throughout the Association, and an easement for ingress, egress, and access to enter any portion of the Common Property in order to construct, Maintain or repair, as necessary, any drainage areas and facilities thereon and appurtenances thereto, specifically including without limitation, access over and across portions of the Common Property by utility companies to utilize such areas for facilities for the transporting of treated effluents for irrigation purposes. No Structure, landscaping, or other material shall be placed or permitted to remain which may damage or interfere with the installation or Maintenance of utilities or which may obstruct or retard the flow of water through drainage areas or otherwise interfere with any easement provided for in this Section or the use rights set forth elsewhere in the Governing Documents. Any costs associated with the upkeep of drainage areas shall be a Common Expense.
- 4.5. **Ingress and Egress.** Non-exclusive easements shall exist for pedestrian and vehicular traffic over, through, and across Association owned sidewalks, paths, walks, roads,

driveways, stairways, streets and other portions of the Common Property, if any, as may be from time to time intended and designated for such purposes and uses and such easements shall be for the use and benefit of the Owners within this Association, including their Guests, Licensees or Invitees; provided, however, nothing herein shall be construed to give or create in any person the right to park any vehicle upon any portion of the Common Property except an area specifically designated and assigned for such purposes.

- 4.6. **Additional Easements.** The Board has the authority, without the joinder of any Living Unit Owner, to grant, modify, vacate, or move any easement if the easement constitutes part of or crosses the Common Property or common areas.
- 4.7. **Encroachments.** If for any reason other than the intentional act of the Owner or the Association, any Living Unit encroaches upon any of the Common Property, or upon any Lot, or any Common Property encroaches upon any Lot, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.
- 4.8. **Extent of Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:
  - 4.8.1. the right of the Association, in accordance with its Bylaws, to borrow money for the purpose of Improving and/or Maintaining the Common Property and providing the services herein, and, to aid thereof, to mortgage said Common Property; and
  - 4.8.2. the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and
  - 4.8.3. the right of the Association, as provided in its Articles and Bylaws, to suspend enjoyment and voting rights of any Member for any period during which any Assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of these restrictions; and
  - 4.8.4. the right of the Association to charge reasonable admission and other fees for the use of the Common Property, including any fees connected with the Non Exclusive License Agreement;
  - 4.8.5. the drainage and temporary retention of stormwater run-off uses of the Common Property referred to in Section 4.4. and elsewhere herein; and
  - 4.8.6. the right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer or determination as to the purpose or as to the conditions

hereof, except the transfer of drainage areas to a special taxing district, shall be effective unless an instrument signed by the President and Secretary of the Association be recorded, certifying that a special or regular meeting of Members called for such purpose, of which thirty (30) days written notice was sent to each Member, and at least two-thirds (2/3) of the Voting Interests who are present and voting, in person or by proxy, agreed to such dedication or transfer.

- 4.9. Additions to the Common Property.** Additions, when properly made under the applicable covenants, shall extend the jurisdiction, functions, duties, and membership of this corporation to such Property. Where the applicable covenants require that certain additions be approved by this corporation, such approval must have the assent of at least two-thirds (2/3) of the Voting Interests who are present and voting, in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be mailed to all members at least thirty (30) days in advance and which written notice shall set forth the purpose of the meeting.

## **5. MAINTENANCE AND ALTERATIONS.**

- 5.1. Association Maintenance.** The Association is responsible for the protection, Maintenance, repair, and replacement of all Common Property and common areas. The cost is a Common Expense. The Association's responsibilities also include the following:

- 5.1.1.** Grounds maintenance of any common areas, including mowing, fertilizing, insecticides, etc., when required, but excluding shrubbery maintenance for the Living Units.
- 5.1.2.** Maintain unkempt lands or trees, if applicable.
- 5.1.3.** Maintain air conditioning of recreation building, if applicable.
- 5.1.4.** Clean and maintain the parking lot, if applicable.
- 5.1.5.** Remove waste from Common Property.
- 5.1.6.** Maintain the streets and roads owned by the Association, if any, excluding any streets or roads maintained by Charlotte County, including by the Charlotte County Municipal Service Benefit Unit(s) ("MSBU").
- 5.1.7.** Maintain all drainage areas, except those maintained by the Charlotte County Municipal Service Benefit Unit(s) ("MSBU").
- 5.1.8.** Maintain perimeter wall, if applicable.

- 5.1.9. Irrigation system maintenance, if any.
- 5.1.10. Waste removal from common areas, if any.
- 5.1.11. Utilities for Common Property including water, sewer and electricity, if any.
- 5.1.12. Taxes and Insurance for Common Property.
- 5.1.13. The Association shall have the right to Maintain the landscaping and exterior of a Living Unit within any Lot owned by an Owner, whose maintenance is the Owner's responsibility, if the Owner fails to Maintain the appearance of same. The cost of such Maintenance shall be imposed on the Lot Owner and shall be subject to lien and foreclosure in the manner of an Assessment against the Lot. Notice shall be sent to the Owner for any Lot in violation before action will be taken.

**5.2. Alterations, Improvements, Additions to Common Areas.** The protection, Maintenance, repair, and replacement of the Common Areas and Common Property is the responsibility of the Association and the cost is a Common Expense. Beyond this function, the Association shall make no material alteration for nor substantial additions to, the Common Areas or the real property Owned by the Association costing more than \$10,000.00 without prior approval of at least two-thirds (2/3) of the Voting Interests who are present and voting, in person or by proxy, at an annual or special meeting called for the purpose. Alterations or additions costing less than this amount may be made with Board approval.

**5.3. Lot Owner Maintenance.** All Maintenance, repairs, and replacements of, in or to any Living Unit and Lot, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, Improvements, Living Units, docks, seawalls, and landscaping shall be performed by the Owner of such Lot at the Owners' sole cost and expense, except as otherwise expressly provided to the contrary herein.

- 5.3.1. Lots shall be kept in a neat and well-maintained condition at all times, free from debris and rubbish.
- 5.3.2. Owners are responsible for the exterior upkeep of their Living Unit including, but not limited to; exterior paint, the repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, walks, and other exterior improvements.
- 5.3.3. Owners are responsible for the trees, shrubs, grass
- 5.3.4. The complete interior of the Living Unit, including all interior walls, floors, ceilings, partitions, cabinets, plumbing and all other interior components.

- 5.4. Owner Alterations and Improvements; Architectural Control.** No Living Unit, building, Structure, enclosure, or any other Improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way alters the exterior appearance of any Structure or Living Unit shall occur unless and until the plans, specifications, and location of same shall have been submitted to, and approved in writing by, the ACC. All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding Structures and topography. The ACC shall have forty-five (45) 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. 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 to these same requirements. If any Association action is deemed necessary to enforce an architectural violation, the Association shall be entitled to collect reasonable attorney fees, costs, and other expenses against the Owner, whether or not litigation is instituted, and the Board may assess such amounts in the form of a Special Assessment for noncompliance.
- 5.5. Existing Additions, Alterations, or Improvements by Owners.** Owners are responsible for any modifications, alteration, installation, or addition to the Lot made by the Owner or his predecessors in title. The 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 due to violations of the Guidelines set forth by the ACC or the ECC.
- 5.6. 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 fining, or entering the Lot and remedying the violation, with or without consent of the 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, together with reasonable attorney fees and other expenses of collection and shall be an individual Assessment charged against the Lot, secured by a lien against the Lot as provided herein.
- 5.7. Negligence.** Each Owner shall be liable for the expenses of any Maintenance, repair, or replacement of his Lot, 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. ASSOCIATION POWERS AND MANAGEMENT.

**6.1. Powers and Duties.** The powers and duties of the Association include those set forth in Chapters 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 Association. 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.

**6.2. Assessments and Charges.** The power to make and collect annual Assessments, special Assessments, and other Charges against Lot Owners. The Board has the power to charge reasonable fees for the processing of Request to Use the Waterview Greenbelt Forms, the Non-Exclusive License Agreement, and any other applicable forms or applications.

**6.3. Regulations.** The power to adopt and amend Rules and Regulations covering the details of the operations and use of the Common Property, if the Association chooses.

**6.4. Delegation of Management.** The Association may contract for the management and Maintenance of those portions of the Common 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 items to be Maintained by the Association with funds made available by the Association for such purposes.

**6.5. Acts of the Association.** Unless the approval or affirmative vote of the 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, without a vote of the Owners. The Officers and Directors of the Association have a fiduciary relationship to the Owners. An Owner does not have the authority to act for or bind the Association by reason of being an Owner.

**6.6. Purchase of Lots.** The Association has the power to purchase Lots within the Association in connection with the foreclosure of an Association lien for Assessments, lien for Charges, 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 without prior approval of the Members.

- 6.7. 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. Except as otherwise provided herein, the power to acquire, encumber or convey ownership interests in real property shall be exercised by the Board only after approval by least two-thirds (2/3) of the Voting Interests who are present and voting, in person or by proxy.
- 6.8. 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, without need for authorization by the Owners.
- 6.9. 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 by appointment at the office of the Certified Association Manager.

The right to inspect the records includes a right to make or obtain photocopies of the Declaration of Covenants, Conditions and Restrictions, the Bylaws, and Rules and Regulations at the reasonable expense of the Member seeking copies. Records may also be viewed at the Association's website: [waterviewpoa.com](http://waterviewpoa.com).

The Association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not require a parcel Owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel Owner's right to inspect records to less than one 8-hour business day per month. As amended from time to time, the Association may impose fees to cover the costs of providing copies of the official records, including the costs of copying and the costs required for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour and if the personnel costs do not exceed \$20 per hour. Personnel costs may not be charged for records requests that result in the copying of 25 or fewer pages. The Association may charge up to 25 cents per page for copies made on the Association's photocopier. If the Association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the Association may have copies made by an outside duplicating service and may charge the actual cost of copying, as supported by the vendor invoice. The Association shall maintain an adequate number of copies of the recorded Governing Documents, to ensure their availability to Members and prospective members. This clause may be altered as amended from time to time.

The personnel records of Association and management company employees are exempt from this requirement to be available to the Owners and are protected from disclosure. This protection shall include, but not be limited to, disciplinary, payroll, health and insurance records, but does not include written employment agreements or budgetary and financial records that indicate the compensation paid to an employee.



- 6.10. Roster.** The Association shall maintain a current roster of names and designated mailing addresses of Owners, based upon information supplied by the Owners, as well as Parcel identification numbers. A Member's designated mailing address is the Member's county tax assessment address, unless the Member has sent written notice to the Association requesting that a different mailing address be used for all required notices. 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. Additionally, the Association may maintain the electronic or facsimile mailing addresses designated by Members for receiving notice by electronic transmission of those Members consenting in writing to receive notices and documents by electronic transmission. The electronic mailing addresses, facsimile, and telephone numbers provided by Members to receive notices and documents by electronic transmission shall be removed from Association records and not made available to other Members when consent to receive notice by electronic transmission is revoked in writing and sent to the Association. The Association, however, is not liable for an erroneous disclosure of the electronic mailing address or the number for receiving electronic transmission of notices. The Association may not sell the roster for commercial purposes.

- 7. ASSESSMENTS AND CHARGES.** The Association has the power to levy and collect Assessments against each Lot and Lot Owner in order to provide the necessary funds for proper operation and management of the Association. This power includes both regular Assessments for each Lot's share of the Common Expenses as set forth in the annual budget, and special Assessments for unusual, nonrecurring or unbudgeted Common Expenses. The Association may also levy special Charges against any individual Lot for any amounts, other than for Common Expenses, which are properly chargeable against such Lot or Lot Owner under the Governing Documents.

- 7.1. Determination of Assessments.** Assessments by the Association against each Owner of a Lot, and against each Lot, shall be based upon the annual budget, adopted by the Board as hereinbelow specified. The Assessment for each Lot shall be a pro rata share in relation to Member ownership of Common Areas. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the Assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Association, or in the event of emergencies, the Board shall have the authority to levy such additional Assessments as it shall deem necessary. Any such change shall be adopted consistent with the provisions of the Bylaws.

- 7.1.1. Annual Budget.** The Board shall, in accordance with the Bylaws of the Association, establish an annual budget in advance for each fiscal year. The annual budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications.

- 7.1.2. General Operating Reserve.** The Board, when establishing each annual budget, may, when deemed necessary or desirable, include therein a sum to be collected and maintained as a general operating reserve to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of Assessments by Owners, as a result of emergencies or for other reason placing financial stress upon the Association. The annual amount allocated to such operating reserves and collected therefore shall not exceed ten percent (10%) of the current annual Assessment levied against the Lot Owners. Upon accrual in the operating reserve of an amount equal to twenty-five percent (25%) of the current annual Assessment, no further payments shall be collected from the Owners as a contribution to such operating reserve, unless it shall be reduced below the twenty-five percent (25%) level, in which event the annual Assessment against each Owner may be increased to restore the operating reserve to an amount which will equal twenty-five percent (25%) of the current annual amount of said Assessment.
- 7.2. Liability for Assessments and Charges.** A Lot Owner is liable for all Assessments and Charges coming due while he is the Owner. Any Person which acquires title to a Lot is jointly and severally liable with his predecessor in title for all unpaid Assessments and Charges against the predecessor for his share of the Charges and Assessments, including interest, late fees, reasonable attorneys' fees, and other costs and expenses of collection incurred by the Association up to the time of the transfer, without prejudice to any right the transferee may have to recover from the transferor the amounts paid on behalf of the transferor by the transferee. The Board has the power to charge reasonable fees for the processing of Request to Use the Waterview Greenbelt Forms, the Non-Exclusive License Agreement, and any other applicable forms or applications.
- 7.3. No Waiver or Excuse from Payment.** The liability for Assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Areas, by abandonment of the Lot for which the Assessments are made, or by interruption in the availability of the Living Unit or the Common Areas for any reason whatsoever. No Owner may be excused from payment of his share of the Common Expenses unless all Owners are likewise proportionately excused from payment, except as provided below as to certain mortgagees.
- 7.4. Delinquency or Default.** The payment of any Assessment or installment thereof due to the Association shall be in the default if not paid to the Association on or before the due date thereof. The Association may accelerate Assessments of an Owner delinquent in payment of any Assessment or installment thereof due. Accelerated Assessments shall be due and payable on the date the claim of lien is filed. Such accelerated Assessments shall

include the amounts due for the remainder of the budget year in which the claim of lien is filed.

- 7.5. Interest and Late Fees; Application of Payments.** Assessments and installments thereon paid on or before ten (10) 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. The Association may also impose a late payment fee (in addition to interest) to the extent permitted by law. Assessments 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. All payments on account shall be applied first to interest, then to late payment fees, court costs and attorney's fees, and finally to delinquent Assessments. No payment by check is deemed received until the check has cleared.
- 7.6. Recording of Priority of Lien.** The lien of the Association shall be effective from and after recording in the Public Records of the County, a claim of lien stating the description of the Lot encumbered thereby, the name of the record Owner and the amount and date when due. Such claims of lien shall include only Assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an Officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association shall be subordinate and inferior to the lien of any recorded first mortgage, unless the Association's claim of lien was recorded before the mortgage, but is superior to, and takes priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded. Any Lease of a Living Unit is subordinate and inferior to any claim of lien of the Association, regardless of when the Lease was executed.
- 7.7. Notice of Intention to Foreclose Lien.** So long as required by law, no foreclosure judgment may be entered until at least forty-five (45) days after the Association gives written notice to the Owner of its intention to foreclose its lien to collect the unpaid Assessments or Charges. If this notice is not given at least forty-five (45) days before the foreclosure action is filed, and if the unpaid Assessments or Charges, including those which have been accelerated (if applicable) and those coming due after the claim of lien is recorded, are paid before the entry of a final judgment or foreclosure, the Association shall not recover attorneys' fees or costs. The notice must be given by delivery of a copy of it to the Lot Owner or by certified mail, return receipt requested, addressed to the Owner at his last known address; and, upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Lot Owner or a mailing address at which the Owner will receive the notice, the court may proceed with the foreclosure action and may award attorneys' fees and costs as permitted by law. The notice requirements of this provision are satisfied if the Owner records a notice of contest of lien. The notice requirements do not apply if an action to foreclose a

mortgage on the Lot is pending before any court; if the rights of the Association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the Lot Owner.

**7.8. Other Remedies.** The Board has the authority to impose such other remedies or sanctions pertaining to non-payment of monetary obligations to the Association. Without limitation, the same include suspension of use rights in Common Areas and Common Property; suspension of voting rights; suspension of the right to serve on the Board; the attachment of rental income; denial of Lease approval requests; and acceleration.

**7.9. Suspension of Use Rights.** If an Owner is delinquent for more than ninety (90) days in paying a monetary obligation due to the Association, the Association may suspend the right of an Owner and his Living Unit's Occupant, Licensee, or Invitee to use common areas, or any other Common Property until the monetary obligation is paid.

**7.10. Suspension of Voting Rights.** The Association may also suspend the voting rights of a Lot Owner due to nonpayment of any monetary obligation of \$1,000.00 or more to the Association which is more than ninety (90) days delinquent for so long as the Owner remains delinquent.

**7.11. Attachment of Rental Income When Lot is Delinquent.** Notwithstanding any other remedy available to the Association under this Declaration, the Bylaws, or applicable law, the Association has the following options when payment of Assessments or Charges is in default (more than ten days in arrears). The Association may, without order of the Court, direct rental income (by written notice to any applicable Tenant with copy to the applicable Owner) from Living Units in default to be paid directly to the Association until all outstanding Assessments, Charges, other monetary obligations, interest, late fees, costs, collection expenses, reasonable attorneys' fees, and receiver's fees, if applicable, are paid in full. As an alternative, the Association may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have rental proceeds paid on account of a Living Unit in default paid directly to the Association, the court registry, or a receiver, as the Court may direct. The

Association may choose any of these courses of action, or other remedies as may be prescribed by law as the Board deems appropriate, without the same constituting a waiver or election of remedies.

**7.12. Lien for Charges.** Except as prohibited by law, there is created by this Declaration a common law and contractual lien to secure payment for any service which the Association provides for an individual Owner or expenses which the Association incurs in regard to a Lot Owner, and which are not otherwise secured by the statutory lien for Common Expenses. The Lien for Charges shall be of equal priority to, shall accrue

interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorneys' fees, costs, and expenses of collection.

- 7.13. Mortgage Foreclosure.** If the mortgagee of a first mortgage 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 of 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 Chapter 720, Florida Statutes, as amended from time to time. The Association will not be considered jointly and severally liable for the payment of any monetary amounts with any subsequent buyer if the Association holds title due to its foreclosure action or by deed in lieu of foreclosure. 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 Charges, fines, Assessments, interest, late fees, attorney's fees and costs regardless of whether or not the Association has filed a lien and the Association will not be considered jointly and severally liable for the payment of any monetary amounts with any subsequent buyer if the Association holds title due to its foreclosure action or by deed in lieu of foreclosure. 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 Charges, fines, Assessments, interest, late Fees, attorney's fees, and costs coming due during the period of his ownership.
- 7.14. Removal of Property.** After the Association successfully performs a foreclosure on the Property, if the Owner 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 Owner at the last known address or at such address on record as provided to the Association by the Owner. 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.
- 7.15. Certificate as to Assessment, Mortgage Questionnaires.** Within ten (10) days after request by an Owner or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating whether all Assessments and other monetary obligations owed to the Association by the Owner with respect to the Lot have been paid.

Any person other than the Owner who relies upon such certificate shall be protected thereby. The Association may charge a fee not to exceed the maximum amount allowed by law 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 fees for doing so.

## 8. INSURANCE.

- 8.1. **Association Insurance; Duty and Authority to Obtain.** A master policy of property and casualty insurance shall be maintained through the Association. Such insurance shall insure any and all of the Association structures to the maximum insurable replacement value. Such coverage shall afford protection against the loss or damage by fire and other hazards covered by standard extended coverage endorsement. Each Owner shall be assessed annually for the insurance premium, as part of their annual Assessment. The Association shall also purchase such insurance as may be necessary on the Common Property to protect the Association and the Owners. Such insurance shall be maintained in the same manner and method as set forth above.
- 8.2. **Optional Coverage.** The Association may purchase and carry other such insurance coverage as the Board may determine to be in the best interest of the Association and Owners.
- 8.3. **Description of Coverage.** A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by Owners or their authorized representatives upon request.
- 8.4. **Non-Liability for Fluctuations of Water Levels.** Neither the Association, nor any Officer, Director, employee, or agent of such entities, shall have any liability for aesthetic conditions, damage to lateral plantings or direct or consequential damages of any nature or kind caused by the fluctuation of water levels.
- 8.5. **Waiver of Subrogation.** If available and where applicable, the Board shall endeavor to obtain insurance policies which provide that 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.
- 8.6. **Owner's Duty to Insure.** Each Lot Owner is responsible for insuring the real and personal property within his own Lot and Living Unit. 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, including all risk, windstorm, and general liability.
- 8.7. **Association's Right of Entry.** For the purpose of performing the duties authorized by this Section, the Association, through its duly authorized agents and employees, shall act

and have the right, after reasonable notice to the Owner, to enter upon the Living Unit at reasonable hours. In the event a Living Unit is damaged, through an act of God or other casualty, that Owner shall promptly cause the exterior of his Living Unit to be repaired and rebuilt substantially in accordance with the original architectural plans and specifications. It shall be the duty of the Association to enforce such repair and rebuilding of the Living Unit to comply with this responsibility; however, the Association shall apply any insurance proceeds received by it on account of such act of God or other damage toward the cost of such repairs and rebuilding. Any deductible will be the responsibility of the Owner. Should the Owner refuse to honor his obligations under this paragraph, the Association may contract for such repairs and rebuilding as it deems necessary, and it shall have a lien against the damaged Lot for any such cost not fully covered by insurance.

**8.8. 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:

**8.8.1. Association.** Proceeds on account of damage to items Maintained by the Association shall be held in as many undivided shares as there are Lots, the shares of each Owner being the same as his share in the Common Property.

**8.8.2. Mortgagee.** If a mortgagee endorsement has been issued as to a Lot, 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 Lots, except to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building(s). Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether Improvements will be restored after casualty.

**8.8.3. Surplus.** Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Owners in the following manner. The proceeds shall be paid to defray the costs of reconstruction or repair by the Association. Any proceeds remaining after defraying cost shall be distributed to the beneficial Owners, remittances to Owners and their mortgagees being paid jointly to them.

**8.9. Damage.** Where loss or damage occurs to the items Maintained by the Association, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

- 8.9.1. **Estimate.** The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration and shall negotiate and contract for repair and reconstruction.
- 8.9.2. **Special Assessment.** If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the items, the Association shall promptly, upon determination of the deficiency, levy a special Assessment against all Owners for the deficiency. Such special Assessments need not be approved by the Owners. The special Assessment shall be added to the funds available for repair and restoration of the Property.
- 8.10. **Association as Agent.** The Association is hereby irrevocably appointed as agent for each Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Lots, Living Units, or items Maintained by the Association.
- 9. **OCCUPANCY AND USE RESTRICTIONS.** In order to provide for congenial occupancy of the Common Property and for the protection of the values of the Lots, the use of the Common Property shall be restricted and in accordance with the Rules and Regulations.
  - 9.1. **Occupancy of Living Units; Single Family Residence.** A Living Unit shall be used only as a Single Family residence. As used in the Governing Documents, "Single Family" means one natural person, a group of two or more natural persons who customarily reside together as a Single Family housekeeping unit, each of whom is related to each of the others by blood, marriage (or domestic partnership) or adoption, or not more than two persons not so related, who customarily reside together as a single housekeeping unit
  - 9.2. **Guest Suspension.** The Board may, at a duly noticed meeting, temporarily suspend, or permanently ban, a Guest from entering the Property if the Board finds that such person has engaged in a serious violation of the Governing Documents or applicable law upon the Common Property or has engaged in systematic violations of the Governing Documents or applicable law upon the Common Property. Prior to the imposition of such suspension or ban, the Owner shall be given at least fourteen (14) days' notice of an opportunity before a hearing before the Fining or Compliance Committee to show cause why the suspension or ban should not be imposed. The decision of the Fining or Compliance Committee shall be final and shall not be subject to any requirement for a hearing before any type of Committee.
  - 9.3. **Residential Business Uses.** Each of the Living Unit shall be Occupied and used only for residential purposes, and not for business, commercial, or other purposes, provided any Living Unit may be used as a home office or remote work so long as same does not involve customers, patients or the like coming to the Living Unit and so long as such use is not otherwise apparent from the exterior of the Living Unit. Transient accommodations, including short-term rentals, are prohibited to the fullest extent permitted by law.



Offering the Living Unit through such programs as VRBO, HomeAway, Flipkey and Airbnb, and similar companies shall follow the Leasing rules and restrictions of the respective program, and any State or local laws.

**9.3.1.** It is understood and agreed that said Lots may not and shall not be used for commercial purposes such as paid patient convalescing, paid custodial care, as a group home, or as a youth home, nor for any business purpose for which clients or customers of such business would come and go with such regularity as to negatively affect the community.

**9.3.2.** Failure to comply with this section may result in a violation of the Governing Documents.

**9.4. Animals.** No animals, wildlife, livestock, reptiles, or poultry of any kind shall be raised, bred, or kept for commercial purposes on any portion of the Lot, except that dogs, cats, or other usual and common household animals may be permitted for personal enjoyment in a reasonable number determined by the Board in its discretion. The Board may promulgate rules and regulations dictating the permitted number of animals, maximum size, and types. No pets, except service animals performing a service, are permitted in any common areas, with the exception of the ingress and egress to other areas.

**9.4.1.** Animals must be under handheld leash or carried at all times while outside the Living Unit.

**9.4.2.** Excrement made by animals shall be removed by Owners or handlers immediately, placed in a sealed container, and deposited in the Owner's solid waste container.

**9.4.3.** Animals that are, in the sole discretion of the Board of Directors, vicious, noisy, or otherwise unpleasant will not be permitted. In the event that an animal has, in the sole opinion of the Board, threatened a person or another's animal, has become a nuisance or an unreasonable disturbance, reasonable written notice will be given to the Owner or other person responsible for the animal, and the animal shall be removed from the Association.

**9.4.4.** Any Owner or other Resident who keeps or maintains any animal shall, in exchange for and in consideration of the privilege to keep the animal, hereby indemnify and hold the Association and each Owner free and harmless from any loss, claim or liability of any kind or character of whatever nature arising from or related to the keeping of such animal within the Association.

**9.4.5.** The Board has the authority and discretion to make exceptions to the limitations in this regulation in individual cases and to impose conditions concerning the

exceptions. The granting of exceptions shall not be deemed to be a waiver of the right to enforce the restrictions in other cases.

- 9.5. **Acts of Animals.** The Association shall have no liability for the actions of or damage caused by any animals within the Properties including but not limited to dogs, bear, alligators, cougar, wild boar, deer, and snapping turtles. All Owners, and their Families, Guests, Invitees, and Lessees are hereby made aware of the presence of hazards caused by certain animals within the Common Property.
- 9.6. **Vehicles; Parking.** In order to ensure the accessibility to the Common Property and The Properties by fire, ambulance and other emergency personnel, the Board shall have the authority to establish parking policies. Said restrictions shall become enforceable upon providing each Owner with notice thereof either through written notice to the Owners or the posting of signs.
  - 9.6.1. **Parking.** All vehicles, boats, trailers, recreation vehicles and travel trailers must be licensed for operation, operable, not unsightly and in good physical appearance per Charlotte County Code of Ordinances. Only one (1) Recreation Vehicle, trailer of any kind, or boat shall be parked in the driveway per Lot at any given time. Parking is not permitted on vacant Lots, unless specific written permission is given by the Board,
  - 9.6.2. **Recreational Vehicles.** No travel trailer, mobile home, recreational vehicle, boat, tent, storage building, garage, barn or out building erected on any Lot shall be used as a residence, temporarily or permanently.
  - 9.6.3. **Expressly Permitted.** Automobiles owned by governmental law enforcement agencies are expressly permitted.
  - 9.6.4. **Licensed.** All vehicles (with the exception of golf carts) must maintain current registration and license plates and shall be road operable. This section shall not be construed to prohibit an Owner from leaving their vehicle in a driveway during an extended period of absence.
- 9.7. **Towing.** Any vehicle that is parked in violation of the Association's restrictions may be towed or booted. No prior notice is required. All costs and expenses shall be borne by the owner of the vehicle. The Association is not liable for trespass or for any damage to a vehicle that is towed or booted by a licensed and insured company. Owners and Lessees are responsible to see that all of the Occupants of their Living Units, Guests, and Invitees, comply with the Association's parking restrictions. Owners shall indemnify, defend, and hold the Association harmless from all claims against the Association on account of towing or booting a vehicle, including claims against the Association asserted by any Occupant of the Living Unit, Guests, and Invitees, excepting only if it has been judicially

determined that the Association is guilty of gross negligence or a higher degree of culpability.

- 9.8. Architectural and Landscaping Control.** In addition to the ECC, there may be an Architectural Control Committee ("ACC") composed of three (3) or more representatives appointed by the Board. No Living Unit, building, Structure, enclosure, or other Improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way alters the exterior appearance of any structure or Living Unit shall occur unless and until the plans, specifications, and location of same shall have been submitted to, and approved in writing by, the ACC or the ECC. All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography. If the ACC or ECC denies a Lot Owner's request or application for the construction of a structure or other improvement on a Lot, the ACC or ECC must provide written notice to the Lot Owner stating with specificity the rule, covenant, or law on which the ACC or ECC relied when denying the request or application and the specific aspect or part of the proposed improvement that does not conform to such rule or covenant.
- 9.9. Docks.** No dock, pier or boat landing shall be constructed on Common Property until the plans and specifications thereof have been approved in writing by the Association, the ECC, or the ACC. All Owners desiring to construct a dock, pier or boat landing must sign the Non Exclusive License Agreement (NELA) with the Waterview Property Owners Association, Inc., and pay the fee required. All owners must obtain the proper approvals from all applicable regulatory governmental agencies and permits required (i.e. FL DEP, Charlotte County, Army Corps of Engineers, etc.)
- 9.10. Excavation or Fill of Common Property.** No boat canal or other waterway shall be dug or excavated into the Common Property or any of the Lots that abut the Common Properties. No Lot or Parcel shall be increased in size by filling in the Common Property and/or the waters on which it abuts. A request to use the Waterview Greenbelt Form must be completed and approved by the ECC for any work on the common properties (Greenbelts). A Non-Exclusive License Agreement with the Waterview Property Owners Association, Inc. must also be obtained. All Owners must obtain approvals from all applicable regulatory governmental agencies and permits required (i.e. FL DEP, Charlotte County, Army Corps of Engineers, etc.)
- 9.11. Flags.** An Owner may only display two (2) flag(s) as provided for in F.S. Section 720.304 (2)(a). All other flags are prohibited except as those specifically allowed by the Association, as amended by time to time.
- 9.12. Hurricane Shutters.** The Board shall adopt and approve a model, style and color of hurricane shutter as a standard hurricane shutter for use in the Association. No hurricane shutter except of the standard model, color and style adopted or approved by the Board shall be used in or upon the Property. Shutters installed and existing prior to the adoption

of a standard are grandfathered, however any replacement of existing shutters must comply with the new guidelines and building codes. The Board cannot deny an application for installation, enhancement, or replacement of certain hurricane protection. All specifications adopted by the Board and hurricane shutters installed by the Owners shall comply with the applicable building code.

- 9.13. Individual Wells and Septic Tanks.** No individual water wells, septic tanks or other individual sewage disposal facilities shall be permitted on any Lot or Living Unit from such time when central water and/or sewer service or services are made available. Private non-potable irrigation wells are permitted to be installed on individual Lots per Charlotte County ordinances and guidelines.
- 9.14. Nuisance.** The Common Property shall not be used for any immoral, improper or unlawful purpose and no use or behavior shall be allowed which will create a public or private nuisance, nor which shall unreasonably interfere with the quiet possession or enjoyment of the Common Property, nor which becomes a source of annoyance to the Residents, which will increase insurance rates, or which will negatively affect the value of Living Units. All parts of the Common Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor shall any fire hazard be allowed to exist. The Common Property shall be used for the purpose of furnishing services and facilities as herein provided for the welfare and enjoyment of the Residents.
- 9.15. Oil, Gas and Mineral Operations.** No operations with respect to oil, gas or minerals, including without limitation, drilling, development, refining, exploration, quarrying, mining or extraction of any kind shall be permitted upon any Lot nor shall oil or gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick, drilling rig or other structure designed for use in drilling for oil or gas shall be erected, maintained, or permitted on any lot.
- 9.16. Pools.** All new pools and pool screen enclosures must be approved by the Board. Pools are only permitted in the rear setbacks of the home and must be inground.
- 9.17. Rules and Regulations.** The Board may, from time to time, create, adopt and amend Rules and Regulations governing and restricting the use and Maintenance of the Lots, provided however, that copies of such Rules and Regulations are furnished to each Owner prior to the time that they become effective.
- 9.18. Signs.** No sign of any kind shall be displayed to the public view on any Lot in excess of 120 square inches, except signs permitted by Charlotte County. Signs may be used by a builder to advertise the property during the construction and sales period, all of which shall be approved by the Board of Directors or the ECC.
- 9.19. Solar Collectors.** Solar collectors may be installed on the roof of a Living Unit or dock, provided the Owner receives prior written approval of the ECC or ACC, and the solar

collectors are installed and maintained in accordance with Section 163.04, Florida Statute, and applicable County regulation. The Owner of any property with solar collectors shall be responsible for damages caused by the solar collectors.

- 9.20. Solar Collector Farms.** Solar collector farms shall not be permitted.
- 9.21. Temporary or Permanent Structures.** Other than one Living Unit, and related garage, no free-standing structure, trailer, house trailer, tent, shack, shed, barn, or other outbuilding shall be used or placed on any Lot or the Property at any time either temporarily or permanently without the prior written approval of the ACC as to its location, design, architecture and appearance.
- 9.22. Trash Storage.** No Lot shall be used or maintained as a dumping ground for rubbish per Charlotte County Code of Ordinances.. Trash, garbage, or other waste must be kept in sanitary containers and placed in the trash enclosures, if provided in the project. No Lot on which improvements have been constructed or erected shall be allowed to become or remain overgrown and/or unsightly.
- 9.23. Utilities.** Owners of Lots or Living Units shall, within nor more than sixty (60) days after the water distribution mains and/or sewage collection lines become available to serve a particular Lot or Living Unit be required to connect to and make use of the water and/or mandatory sewage pumping system services furnished by Utilities and shall pay to Utilities, in addition to the prescribed connection charges and monthly service charges then in effect under the rules, regulation and rate schedules of Utilities, a utilities extension fee.
- 9.24. Water Rights.** The Association shall have all water rights below 400 feet in depth under all of the properties in Schedules "A" and "B" as attached in the Original Declaration but with no right of surface access thereto.
- 10. Environmental Control Committee (ECC) Architectural (ACC) Control.** All construction, modifications, alterations, or improvements, to The Properties or Common Property shall be reviewed by the Environmental Control Committee. No temporary or permanent building, fence, wall, driveway, pool, screen enclosure or other structure shall be commenced, erected or maintained upon The Properties nor shall any exterior additions, changes or alterations, including patio covers, be made until the plans, drawn to appropriate scale, and specifications showing the nature, kind, shape, height, material and location of the same including exterior color scheme shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures, and topography by the Environmental Control Committee. Approval or disapproval shall be made by the Environmental Control Committee and returned to the applicant within sixty (60) days after receipt.
- 10.1. Environmental Control Committee.** Appointment of the Environmental Control Committee ("ECC") Committee members shall be by the Board of Directors and shall

consist of a minimum of three (3) members. At least one (1) Board Member must be a member of the ECC along with two (2) or more volunteer members.

**10.2. Review by ECC Committee.** Review of all proposed construction, modifications or alterations, and shall be guided by the standards, contained in this Declaration and the ECC Guidelines. The Board of Directors may adopt or amend these guidelines as needed from time to time.

**10.2.1.** Approval of said plans by the Environmental Control Committee may be withheld if, in the opinion of the Environmental Control Committee, the view of any Lot would be impeded by the location of such tree, bush, shrub or plant, or in any other manner. In any event, the Environmental Control Committee shall have the right to require any member to remove, trim, or prune any tree, or shrub, which in the reasonable belief of the Environmental Control Committee impedes or detracts from the view of any Lot.

**10.2.2.** ECC will not process any forms or applications if the Owner is delinquent on any assessment or annual dues, or if there are any open violations or non-compliant items, or liens, unless such application is to rectify a violation. All delinquent accounts, violations, non-compliance items, and liens must be resolved prior to any application or form review by the Board of Directors or ECC.

**10.3. Greenbelt Modifications.** All Owners who desire to modify, improve, build, construct, landscape, or otherwise make any change on/to the Greenbelt shall submit, in writing, a "Request to Use the Greenbelt Form" to the ECC for review. Such form may be found on the Association's website or may be provided upon written request to the ECC. Owners should note that approval for modifying, improving, building, or constructing on the Greenbelt areas requires ECC approval, Local, County, State and/or Federal approval, a final approval by the ECC, and a written NELA to be in compliance.

**10.3.1. Preliminary Approval.** Once the "Request to Use the Greenbelt Form" is received, the ECC shall review and preliminarily review each request based upon the Environmental Control Guidelines described in Section 10.5 herein. Any preliminary judgment is subject to the sole discretion of the ECC. The ECC reserves the right to reverse any decision made upon the presentation of new facts or changes in the circumstances which originally led to a preliminary approval. Any preliminary approval by the ECC signifies only that such requesting Owner's plans are satisfactory to the ECC and comply with this Declaration and the Environmental Control Guidelines.

**10.3.2. Compliance with Laws.** It is the responsibility and duty of any requesting Owner to ensure any planned modification or use of the Greenbelt complies with the applicable Local, County, State, and Federal laws. Upon preliminary approval

from the ECC, the Owner shall seek approval from any applicable Local, County, State, and Federal authority, if necessary.

- 10.3.3. Final Approval.** After approval for the modification is granted by the applicable Local, County, State, or Federal Authorities, if such an approval was indeed required, the Owner shall provide proof of such approval by those authorities to the ECC for their review and final approval. Upon the ECC's final approval, the Owner shall enter into a Non-Exclusive License Agreement with the Association. The NELA shall be provided by the ECC or the Board of Directors. The NELA is a binding contract which may impose terms in addition to those found within this Declaration. The terms of the NELA may be amended from time to time by the ECC or by the Board of Directors. The NELA is a binding contract which may impose terms in addition to those found within this Declaration. The terms of the NELA may be amended from time to time by the ECC or by the Board of Directors in their discretion and such terms are not to be considered a part of this Declaration. The NELA must be entered into prior to obtaining any permits. The Association, as the record title holder to the Common Property, shall be a co-applicant on any permit for any modification, improvement, building, landscaping, construction, etc. on the Common Property if a permit from Local, County, State, or Federal authorities is required.

- 10.4. Non-Exclusive License Agreement (NELA).** A Non-Exclusive License Agreement with the Waterview Property Owners Association, Inc. is required to make any modifications or alterations of any kind to the Properties or Common Property on the Waterview Greenbelt. If an Owner can provide a valid Non-Exclusive License Agreement with either the Waterview Property Owners Association, or the ECC, then they shall be able to obtain a new updated version of the Non-Exclusive Agreement without an additional applicable fee. If the Lot Owner changes (from a Sale, transfer of ownership, etc.) a new Non-exclusive License Agreement will be required for the new Lot Owner. If a violation is issued, a Non-Exclusive Agreement must be produced by the Owner. If a Non-Exclusive License Agreement cannot be produced, then a new Non-Exclusive License Agreement must be obtained once the violation has been rectified and corrected. If a Request for Use of the Waterview Greenbelt Form is submitted, the Owner must produce a Non-Exclusive Agreement. If a Non-Exclusive License Agreement is not provided to the ECC or Board of Directors, then a new license agreement needs to be obtained.

- 10.5. Environmental Control Guidelines.** The Board of Directors may adopt written guidelines (referred to as the "ECC Guidelines") for the approval of any construction, building, exterior additions, changes or alterations, etc. in or on the Properties and Common Property (including the Greenbelt). The ECC Guidelines may be amended by

majority vote of the Board of Directors from time to time as needed, and as they are deemed necessary, and constitute an integral part of this Declaration. The ECC

Guidelines do not need to be recorded in the Public Records of Charlotte County, Florida to be enforceable. The membership, rules of procedures and duties of the ECC shall be prescribed by and from time to time, changed or modified by the Board of Directors.

- 10.6. **Non-conforming Structures.** Deviations from the approved plans by the ECC shall be in violation to the same extent as if erected without prior approval of the Environmental Control Committee. The Association may pursue the violation including, but not limited to, imposing a fine and/or taking action for the removal or correction of the non-conforming structure.
- 10.7. **Application Fee:** The Board of Directors may charge an administration fee, in the amount determined by the Board of Directors, for the review of Architecture (ACC) Applications, or other applications and review processes mandated by this Declaration, to the extent lawfully permitted.
- 10.8. **Commencement and Completion.** The ECC may set mandatory commencement and completion dates for any construction or improvement project. Failure to comply with the mandated time line shall constitute a violation. Such a time frame must be clearly stated by the Board or the ECC to the Owner. In extenuating circumstances, Owners may request, in writing, an extension of the timeline from the ECC to complete an approved change, addition or alterations. To be valid, any extension of time period granted must be in writing and signed by the ECC or Board of Directors.
- 10.9. **Variances.** The Board of Directors of the Association or the Environmental Control Committee may approve variance to the requirements of the ECC Guidelines.
- 10.10. **Unauthorized and Unpermitted Work.** Any work, construction, modifications, alterations, or other activities on The Properties or Common Property initiated by an Owner or directed to be initiated by an Owner without the prior approval of the ECC, in violation of this Section 10 and the outlined processes, will be considered a material violation of this Declaration. In the event such a violation occurs, the Association may subject the violating Owner to fines or revocation of certain privileges. The Association shall notify any Owner in writing upon discovery of any unauthorized or unpermitted work on The Properties or Common Property and may demand immediate removal of the unauthorized and unpermitted work and/or remediation. The Owner shall be responsible for removing the unauthorized and unpermitted work and/or remediation at their sole expense. If, for any reason, contrary to the provisions herein, the Association is required to remove the unauthorized and unpermitted work by a Local, County, State, or Federal authority, the breaching Owner shall fully reimburse the Association for any costs



incurred directly or tangentially to such removal and/or remediation, including attorney's fees and costs. Furthermore, any Owner engaged in unpermitted or unauthorized work shall be deemed, to the extent allowed by law, to fully indemnify and hold harmless the Association against all costs, expenses, and liabilities, including attorney's fees at all trial and appellate levels, reasonably incurred, or imposed in connection with any proceeding, litigation, or settlement in which the Association becomes involved due to the unauthorized and unpermitted work. The Association may maintain an action at law or in equity for damages and/or the removal of any unauthorized and unpermitted work, and the prevailing party shall be entitled to attorney's fees and costs.

**10.11. Indemnification of ECC members.** Each and every member of the ECC, shall be indemnified by the Association and the Owners against all costs, expenses, and liabilities, including counsel fees at all trial and appellate levels, reasonably incurred, or imposed upon him in connection with any proceeding, litigation, or settlement in which he becomes involved by reason of being or having been a member of the ECC. The foregoing provisions for indemnification shall apply whether or not they are a member of the ECC at the time such expenses are incurred. Notwithstanding the above, in instances where a member of the ECC admits or is adjudged guilty of willful misfeasance or malfeasance in the performance of their duties, the indemnification provisions of this Declaration shall not apply; otherwise, the foregoing rights to indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which a member of the ECC may be entitled whether by statute or common law.

## **11. ENFORCEMENT.**

**11.1. Enforcement.** Enforcement of the Governing Documents 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, rule, 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 covenant, condition or restriction contained in the Governing Documents for any period of time shall not be deemed a waiver or estoppel of the right to enforce same thereafter.

**11.2. Owner and Member Compliance.** The Governing Documents of the Association shall apply to Members and all persons to whom a Member has delegated his right of use in, as well as to any other person Occupying any Living Unit 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 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.

- 11.3. **Self-help Remedies.** Violation of any conditions or restrictions or breach of any covenant herein contained or in any of the Governing Documents shall also give the Association and its authorized agent or representative, in addition to all other remedies, the right to enter upon the land where such violation or breach exists and summarily abate and remove, at the expense of the Owner of the Lot, any construction or other violation that may be or exist thereon. The Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement, or removal.
- 11.4. **Fines and Suspensions.** The Board may levy fines and suspensions against Members, or Members' Tenants or Guests, or both, who commit violations of Chapter 720, Florida Statutes, the provisions of the Governing Documents, or any reasonable Rules of the Association, or who condone such violations by their Family members, Guests or Lessees or who fail to pay Assessments or other Charges. 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 accrued fine for a continuing violation shall not exceed \$5,000.00. If allowed by law, fines shall be secured by a lien on the Owner's Lot. Suspensions of the use of Common Areas and non-essential services may be imposed for a reasonable period of time to deter future violations. The Board or Compliance Committee must send written notice of any fining decision.
- 11.5. **Suspensions and Fines without Hearing.** The foregoing notwithstanding, if allowed by law, no prior notice or opportunity for a hearing is required for the imposition of a fine or suspension upon any Member for the nonpayment of any monetary obligation that is delinquent in excess of ninety (90) days. The suspension must be approved at a properly noticed Board meeting and upon approval, the Association must notify the Owner and if applicable, the Owner's Occupant, Lessee, or Invitee by mail or hand delivery of the suspension.
- 11.6. **Voting Suspension and Board Eligibility.** The Association may suspend, with no prior notice or opportunity for a hearing, the voting rights of a Member for the nonpayment of any monetary obligation that is delinquent in excess of ninety (90) days. The suspension must be approved at a properly noticed Board meeting and upon approval, the Association must notify the Owner by mail or hand delivery of the suspension. A person who is delinquent in the payment of any Fee, fine, Charge or other monetary obligation to the Association for more than ninety (90) days is not eligible for Board membership.
- 11.7. **Cured Violations.** If a violation has been cured before the hearing or in the manner specified in the written notice required in Florida Statutes, a fine or suspension may not be imposed.

- 11.8. Mandatory Mediation.** In the event of any dispute as defined in Section 720.311, Florida Statutes, as that section may be amended from time to time, between an Owner and the Association arising from the operation of the Association, the parties must submit the dispute to mandatory mediation. Nothing herein shall be construed to require mediation of disputes relating to the collection of any Assessment, fine, or other financial obligations.
- 11.9. Availability of Remedies.** Each Member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to defaults and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all Members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due to it and to preserve the rights of the majority to enjoy the Property free from unreasonable disruptions and annoyance.
- 11.10. Attorneys' Fees.** In any legal proceeding arising out of an alleged failure of a Guest, Tenant, 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.

## **12. AMENDMENTS.**

- 12.1. Proposal.** Amendments to this Declaration may be proposed at any time by the Board of Directors, or by written petition to the Board signed by at least one-fourth (1/4th) of the Voting Interests of the entire membership. If the proposal is made by such written petition, the proposed amendment(s) must be submitted to a vote of the Members not later than the next annual meeting.
- 12.2. Notice.** The subject matter of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.
- 12.3. Vote Required.** Except as may otherwise be provided by law, or by specific provision of the Governing Documents, this Declaration may be amended at any time if the proposed amendment is approved by at least a majority of the Voting Interests present and voting, in person or by proxy, at any annual or special meeting called for that purpose, or by written consent of a majority of the Members in lieu of a meeting. No amendment shall change an Owner's share of liability for Assessments or voting rights unless the Owner consents to the amendment.
- 12.4. Certificate and Recording.** A copy of each adopted amendment shall be attached to a certificate stating that the amendment was duly adopted as an amendment to the Declaration, which certificate shall identify the Official Record Book and Page of the

Public Records where the Declaration is recorded and shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment(s) are recorded in the Public Records of Charlotte County, Florida.

- 12.5. Exceptions.** Wherever in this Declaration, the consent, approval, or affirmative vote of more than one-third (1/3) of the total Voting Interests is required in order to authorize or take a particular action, the language requiring the particular number of consents, approvals or votes may not be amended except by the same vote required to authorize or take the action.

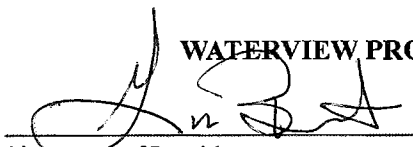
**13. GENERAL PROVISIONS.**

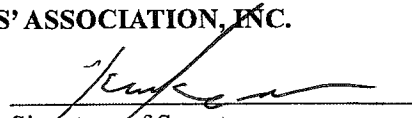
- 13.1. No Election of Remedies.** All rights, remedies and privileges granted to the Association or Owners under the law and the Governing Documents shall be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising any other rights, remedies, or privileges that may be available.
- 13.2. 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 sent electronically, delivered, or mailed with the proper postage affixed to the last known address of the Owner appearing in the records of the Association. 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.
- 13.3. 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 Declaration is intended to affect vested rights. If any provision contained herein is deemed by a competent court of law to have such affect, then the law in effect at the time shall control and such provision will be deemed null and void but have no effect on the remaining provisions herein.
- 13.4. 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.

- 13.5. Mergers.** Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a serving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by their Declaration within the existing properties.
- 13.6. 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.
- 13.7. 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.
- 13.8. 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.

**IN WITNESS WHEREOF**, the Board of Directors of the Waterview Property Owners' Association, Inc. has approved the provisions hereof this 20th day January 2025, at a duly called meeting of the Membership at which a quorum was present.

  
 Signature of President  
George M Brobst  
 Printed name of President

**WATERVIEW PROPERTY OWNERS' ASSOCIATION, INC.**  
  
 Signature of Secretary  
Kirk Schwyn  
 Printed Name of Secretary