

**TIBURON 1 HOMEOWNERS ASSOCIATION, INC.**  
**RULES AND REGULATIONSAS REVISED 2017**

THESE RULES DO NOT REPLACE THE COMMUNITY DOCUMENTS. IT IS IMPORTANT TO READ THESE RULES AND ALSO THE COMMUNITY DOCUMENTS TO FAMILIARIZE YOURSELF WITH ALL THE RULES.

In addition to the obligations and duties as set forth in the Tiburon I Amended and Restated Declaration, Amended and Restated By-Laws, and Amended and Restated Articles of Incorporation, every owner, tenant, guest and invitee is subject to the following rules, and the Owner is also required to control and ensure his or her tenants, invites, and guests comply with the Rules and also the Amended and Restated Declaration, Amended and Restated By-Laws, and Amended and Restated Articles of Incorporation:

**COMMON AREAS**

1. Any area in or adjacent to the Tiburon I Community that contains or is covered with sod or grass or dirt or any combination thereof ("Recreation Areas") is for the use of pedestrians only. Without limitation, no motorcycles or motor vehicles are permitted to enter the Recreation Areas.
2. Animal owners must have their animal controlled by a person by means of a chain, leash or other device if the animal is off its owner's property. Similarly, Animals may not be left unattended outside, nor may animals be tethered outside for any reason.
3. If a pet is outside, the Owner must at all times accompany the pet, and the pet must be confined on a leash which affords the Owner adequate control over the pet. Dogs may not be walked anywhere in the Community for the purpose of relieving themselves except on sodded open common areas that are at least twenty five (25) feet from any home other than on the pet owner's own front lawn. Without limitation, pets may not be walked on other owner's property PERIOD. Similarly, without limitation, no owner may permit a dog to relieve itself in front of or adjacent to any home other than the home owned by the pet owner. Moreover, without regard to intent or other circumstances, it shall be a per se violation of this rule if any animal urinates, defecates, or otherwise relieves itself anywhere in the Community except on sodded open common areas that are at least twenty five (25) feet from any home other than on the pet owner's own front lawn. Moreover, it shall also be a separate violation if the owner disposes the waste of any dog in any trash receptacle belonging to anyone other than the owner whose dog relieved itself.

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4. Immediately after the animal defecates, you are required to clean up after it and dispose of the animal waste.
5. Animals are strictly prohibited from entering the pool area.
6. Common areas shall not be obstructed, littered, defaced, or used for any purpose other than the purpose for which the area was intended.
7. An owner must control its pets and animals at all time, and prevent the animal or pet from becoming a nuisance, which shall include, but not be limited to preventing the animal from barking, howling, yelping, whining, etc. at a noise level that can be heard in the neighboring homes.
8. No planting will be allowed on the common area other than with the express written permission of the Board of Directors. All plantings not approved in writing by the Association WILL BE REMOVED, and also constitute a violation of this rule. Moreover, the association may remove in its discretion any planting on the common area, even if it originally gave permission.
9. Joyriding, speeding, reckless driving or racing of engines is prohibited. The maximum speed permitted in the Community is 15 Miles Per Hour.

**ADDITIONAL RULES**

10. **Owner Pet Limit.** No Owner may own or otherwise possess more than two animals in any home, except birds or fish do not count toward the limit. However, the Board will grandfather any pet in excess of the limit that is owned by an owner on the date these Rules are recorded. However, for clarity and emphasis, only the excess pet residing as of the date of these rules is grandfathered, not the owner. Therefore, an owner who has (e.g) four pets as of the date of this rule, may not replace or add a pet until it is under the two pet limit. Thus, for example, the owner with four pets may not get a new pet until at least three of its pets have died or otherwise ceased residing in the home or the Parcel. Moreover, the grandfathering will not apply if the pet is a nuisance or does not follow the rules regarding pets herein. In addition, no pets shall be kept, bred, or maintained for any commercial purpose. If a pet is outside, the Owner must at all times accompany the pet, and the pet must be confined on a leash which affords the Owner adequate control over the pet. In addition, and without limitation, all rules regarding pet waste must be abided by.
- 10A) **Nuisance Pets.** Without limiting the above, or the general nuisance provision, it shall be a per se nuisance if any dog barks, yelps, whines or makes any noise for more than 5 minutes in any 1-hour period or on a continuous basis.

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In addition, and without limiting the above, a pet shall be a nuisance if it:

- Consistently or constantly makes excessive noise, causes damage to or destruction of another's property; causes unsanitary, dangerous or offensive conditions, or
- Create a pest, parasite or scavenger control problem which is not effectively treated, or
- Chases, runs after, or jumps at moving vehicles or persons, or
- Attacks, bites or injures a person, or snaps, growls, snarls, jumps upon or otherwise threatens persons without provocation, or
- Feeds from, turns over, or otherwise disturbs garbage containers, or
- Scratches or digs in flowerbeds or otherwise damages the property

11. **Tenants May Not Have Pets.** Tenants are strictly prohibited from owning or possessing any animals or pets, except birds or fish. Similarly, notwithstanding rule number 10, if the home owner is not actually residing in the home, only fish or birds may be kept in the home.

12. **Dangerous Dogs.** Dangerous Dogs are strictly prohibited. A Dangerous Dog is one that when unprovoked bites or attacks a human being or domestic animal or in a vicious or terrorizing manner approaches any person with an apparent attitude of attack in the association's common areas; or Any dog with a known propensity, tendency or disposition to attack unprovoked, or to cause injury or otherwise endanger the safety of human beings or domestic animals; or Any dog which engages in, or is found to have been trained to engage in, exhibitions of dog fighting; or Any dog at large found to attack, menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal or person.

13. **Exotic Animals.** No wild or exotic animal shall be kept within the Community. Wild or Exotic animals include but are not limited to bears, wolves, lions, tigers, jaguars, leopards, cougars, alligators, crocodiles, caimans, venomous snakes and venomous reptiles, apes, baboons, macaques or any hybrid of like animal.

14. **NOISE.** Excessive noise shall be prohibited after 11:00 p.m. and before 8:00 a.m. on any day. The term "excessive noise" shall mean any use or operation (or permitting anyone to use or operate) any radio receiving set, television set, musical instrument, computer, other electronic device, or other machine, computer or other device that emits sound with louder volume than is necessary for convenient hearing for the person or persons who are in the unit in which such machine, computer or other device is operated and who are voluntary listeners thereto. Without

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limitation, the operation of any such set, instrument, computer, machine or device during the hours listed above in such manner as to be audible in the adjacent home is a violation of this rule.

15. **Hanging ornaments or signs Prohibited.** Owners shall not cause or permit anything to be hung, displayed, or affixed to the outside of windows, glass sliding doors, or the outside of walls of any building. No sign, awning, shutter, antenna, or satellite dish, shall be affixed to or placed on the exterior walls or roof or ground, without the prior written consent of the Association.

16. **No Signs except for Sale Signs.** No sign, display, poster, or other advertising device of any kind whatsoever may be displayed in public view without the prior written consent of the Board, which consent may be given, withheld or conditioned in the sole and absolute discretion of the Board. Without limitation of the generality of the foregoing, or limiting other remedies, the Association may demand that a unit owner remove any sign that is visible from the exterior of the unit, and if the owner fails to do so, the Association may do so. Notwithstanding, and as the only exception to the foregoing, one 40 sq. inch or less "For Sale" or "For Rent" sign (i.e a 5" x 8" sign) may be placed three feet from the front wall of the structure.

17. **No one may park a vehicle on the street between the hours of 1AM and 6 AM. Vehicles may never be parked on any common areas or lots where there is grass or sod.** Cars parked in violation will be towed. All vehicles must have a valid and unexpired registration (license plate/tags).

18. **Boats, Campers and trailers.** No boat, trailer, recreational vehicle, camper, jet ski, craft, motor home, motorcycles or scooters may be parked at any time anywhere in the community except with the written consent of the Association. Written consent must be sought at least thirty days in advance or such consent will be denied. In the event consent is granted, parking shall only be in the specific area permitted by the Association.

18B) **Commercial Vehicles.** No commercial vehicles are permitted to be parked anywhere in the Community except when temporarily visiting a home. Commercial vehicles shall mean, without limitation, vehicles that are not designed and used for customary personal/family use, or that are manufactured, designed, marketed or used for transporting goods of any nature, or that are used primarily in connection with the conduct of any business activity and not being used primarily for

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the transportation of people. Prohibited commercial vehicles include, but are not limited to: (1) vehicles displaying any advertising, logo, business related information or other signs and/or having print, lettering or decoration anywhere on the vehicle referencing any commercial undertaking or enterprise (unless covered by a magnetic panel of the same color as the vehicle); (2) vehicles that have racks (except racks used to carry personal items such as luggage, wheelchairs or bicycles) or otherwise containing equipment either stored inside or on the exterior of the vehicle; (3) vehicles the State registration for which contains a designation of the type of vehicle as anything other than "automobile"; (4) pick-up trucks where the cargo box has been altered or enlarged to facilitate the transportation of people or goods for commercial purposes; (5) trucks or pick-up trucks with a load capacity of more than 1 ton; (6) passenger vehicles, including sports utility vehicles, hybrid utility vehicles, vans or trucks that do not contain side and rear windows or rear passenger seats; (7) motor homes, mobile homes, campers, buses, trailers, tractors, buses, courtesy vans, taxis or stretch limousines; (8) any vehicle with more than two axles.

**18C) Trucks.** No Trucks or pick-up trucks shall be permitted in the Community absent written permission by the Board of Directors. A truck shall include, but not necessarily be limited to any vehicle that is primarily sold as a truck or deemed a truck by Florida's Department of Motor Vehicles. Prior to any owner or occupant contemplating purchasing a truck or pickup truck, the owner or occupant must send a written request for approval to the Association that includes a picture of the potential vehicle. Similarly, no modifications, changes, or alterations to the Truck that are visible from the exterior, including but without limitation oversized or any changes to tires, lift kits, exterior paint changes, bumper modifications, custom exhaust modifications, changes to any of the wheels, etc...

**18D) Towing.** Without limiting other remedies, all vehicles or trucks parked in violation hereof anywhere in the Community, including on the Parcel may be towed by the Association in compliance with Chapter 715 of the Florida Statutes.

**19. NO NUISANCES.** The Common areas or home cannot 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. All property shall be kept in a neat and orderly manner. Nuisances shall include but not

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be limited to any disturbances including unsightly condition of the Parcel, illegal activity on the Parcel, insect or rodent infestation, failure to regulate and dictate good behavior of contractors and others working in or on the Parcel, hoarding conditions, excess traffic activity connected with the use of the Parcel, and any other activity by the Owner(s) or the tenants, guests or other invitees of the Owner(s) which disturbs a neighbor's peaceful enjoyment of his her property. An Owner's failure to properly prepare his or her home in advance of a named storm, including removal of all portable items from his or her balcony, shall without limitation constitute a nuisance.

20. **HOLIDAY DECORATIONS** Temporary holiday decorations are permitted without prior Board approval. However, the Board reserves the right to request that any such holiday decorations be removed at any time, so if in doubt, request advance Board approval. Holiday decorations may be put up (subject to the Board's authority to demand removal under appropriate circumstances) without approval three days prior and two weeks after a holiday except for the Winter Holidays of Christmas, Hannukah and Kwanzaa where such decorations may be put up after Thanksgiving and remain until no later than January 10<sup>th</sup> of the following year.

21. **No Modifications without ARB approval.** Except as provided above in paragraph 20, any modification of the Home that visible from the exterior, or that in any manner changes the appearance of any portion of the Home or surrounding Common area, or that makes any structural changes within the Home requires prior approval of the proposed change by Architectural Review Board. This approval is sought by completing a **Request on a Form obtainable from the Association and all workers must comply with all insurance, licensing and permit requirements contained in the Association's approval applications.**

22. **TRASH CANS.** Trash and garbage shall be placed in sealed plastic bags. Trash cans shall not be visible or remain on the street except ON TRASH PICK-UP DAYS ONLY (or after 5 PM the evening prior to trash pick up days). Trash cans must be placed back in your home or out of sight by the evening of trash pick-up day.

22A) **Landscape Trimmings/Palm Fronds/Other Vegetation.** Landscape trimmings/palm fronds or any other vegetation whatsoever may only be placed at the curb in a neat fashion on Sunday afternoon/evening after 5 PM or before pickup on Mondays. Without limitation, failure to comply with this rule could result in fines, and/or the Association retaining a company to haul the vegetation away and charging you for the entire expense!

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**22C) Construction debris.** Construction debris may only be placed at the curb ON TRASH PICK-UP DAYS (or after 5 PM the evening prior to trash pick up days).

**22D) Trash Bags.** All trash bags must be in trash cans at all time. However, an exception is hereby created but only during the limited time of after 5am on the day of garbage pickup only. Without limitation, if owners place trash bags at the curb before 5am on the day of garbage pickup, they will be subject to fines and the cost, if any of removing the offending trash bags.

**23. MOTOR VEHICLES.** No inoperable vehicle or vehicle with faded paint or vehicle leaking fluids may be kept anywhere in the Community. No major repair or maintenance work may be performed on motor vehicles within the community. No materially damaged vehicles shall be permitted anywhere in the Community. Without limitation, vehicles with major dents or rust shall be deemed materially damaged. In addition, and without limitation, no vehicles deemed unsightly by the Board shall be permitted after the Board provides notice to the owner that it deems the vehicle unsightly. Without limitation of the Association's other remedies, any damage caused to the road surface as a result of oil and/or cooling system leaks shall be repaired at the owner's expense. In addition, registration and license plates must be current. Any vehicle that does not display a valid and current license plate or is otherwise in violation of this rule will be towed.

**24. No Solicitation.** Door-to-door solicitation for any purpose whatsoever is prohibited.

**25 No Yard Sales.** Yard sales, garage sales, or sales of any kind whatsoever whether or not called fund raisers are strictly prohibited anywhere in the Community.

**26. Flags.** Any homeowner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and one portable, removable official flag, in a respectful manner, not larger than 4 1/2 feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW-MIA flag. Any other flags are prohibited unless approved in writing by the Association.

**27. Residential Community.** In order to preserve the residential character of the neighborhood, no business, trade or profession of any type whatsoever shall be conducted from within any home except that Owners (and their family members residing with them) may use homes for "home office" or "telecommuting" purposes, provided that such uses do not involve: (a) the manufacturing of goods; (b) customers or clients coming into the neighborhood; (c) the use of additional employees, workers, salespeople, independent contractors, customers or the like; (d) the storage of materials, inventory and/or equipment; (e) the postage of any signs on the Association Property; (f) more than two regular deliveries per day of correspondence or similar items from customary express or other delivery services; (g) any other activity that

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may, or that may become, an annoyance or nuisance. Hobbies (even those that might involve an occasional sale), telephone, or telemarketing operations, storing business literature, or other inventory in the home, will not be considered operating a home business. The Association shall possess the additional authority to promulgate rules and regulations governing the manner, method and to what degree said uses may be permitted. In no event shall any Home in the community be used for transient residency, or as a boarding house or assisted living facility, unless required by law. The foregoing restriction shall not apply to the provision of in home healthcare to any Owner, or his or her Family members.

28. **Severability.** If any provision of the Rules or any portion thereof, shall be held invalid or unreasonable by any Court, or other governmental agency with proper authority to so hold, the validity of the remainder of the Rules shall remain in full force and effect. Moreover, as to the offending provision, the Court shall be permitted to reform it or "blue pencil" it and enforce it to the maximum extent permitted by law.

**SWIMMING POOL AREAS RULES:**

The majority of our pool rules are based on the regulations of the Florida State Board of Health and/or at the request of our insurance carriers. They are also common sense rules of sanitation for our good health. **The rules as posted at the pools must be followed carefully so that unit owners, lessees and guests may continue to enjoy these facilities.**

**POOL RULES:**

1. No pets permitted anywhere near the pool or in the pool area.
2. Swimming is only permitted from dawn until dusk and is **AT YOUR OWN RISK.**
3. Bathing attire/swimming apparel/clothes designed for water must be worn at all times while in the pool.
4. No infants who are not potty trained or incontinent persons allowed in the pool.
5. Shower before entering Pool.
6. Remove oils and lotions.
7. Glassware and food prohibited in pool areas.
8. Flippers, scuba gears, snorkels, fins and other diving gear are prohibited in the pool.
9. No chairs or chaises may be reserved.
10. No ball playing, loud radios or boisterous conduct.
11. No diving or jumping in pool.
12. All alcoholic beverages are prohibited.



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**In the event that damage results from the violations of any of these rules and regulations by an owner, his family, guest, employees or lessees, or in the event of any damage to the Association's property or common elements (whether intentional or not), the Board of Directors is authorized to assess the owner an amount of the full cost of actual damage incurred, and the attorney's fees to collect, if necessary. In addition, even if damage does not occur, the Association may enforce these rules with fines and suspensions of privileges and all other remedies set forth in the Governing Documents.**

**TAKING CARE OF THE HOME IN YOUR ABSENCE**

1. If an owner plans to be absent or is absent for more than one (1) month, and there is no tenant occupying the home, then the owner shall be required to designate an individual to check on the home in his or her absence and who can grant the Association access to the home.

**RULES AND REGULATIONS GOVERNING OWNER PARTICIPATION AT MEETINGS**

***A. BOARD AND COMMITTEE MEETINGS***

**1. Board and Committee Meetings Defined.**

(a) "Board Meeting" is defined as a quorum of Directors gathered to conduct Association business.

(b) "Statutory Committee Meeting" is defined as a quorum of Statutory Committee members gathered to conduct the business of the committee.

(c) "Statutory Committee" means a group of Board members, Unit Owners, or Board members and Unit Owners appointed by the Board or a member of the Board to make recommendations to the Board regarding the proposed annual budget or to take action on behalf of the Board.

**2. Attendance at Board or Statutory Committee Meetings.** Owners have the right to attend Board and Statutory Committee Meetings, except as may be provided by law. No other person shall be permitted to attend such Meetings, unless

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permitted by the Chairman. Owners do not have the right to attend Meetings of any Committee which is not a Statutory Committee, unless permitted by the Chairman.

**3. Participation at Meetings.**

(a) Owners have the right to speak at Board and Statutory Committee Meetings. No other person shall be permitted to speak at such Meetings, unless permitted by the Chairman.

(b) Statements by Owners at Meetings shall be restricted solely to items designated on the agenda for that Meeting, unless permitted by the Chairman or a majority of the Board or Committee. No other statement shall be permitted.

(c) An Owner will only be permitted to speak once in reference to the agenda item specified in the written request, unless otherwise requested to speak again by the Chairman of the meeting. An statement shall not exceed three (3) minutes per agenda item. Other Owners cannot "yield" their time for the purpose of extending an Owners time limit. The Chairman of the Meeting shall give the floor to the Owner permitted to speak subsequent to the calling of the agenda item upon which the Owner will make a statement, but prior to the discussion and voting of the Board or Committee upon that agenda item. In lieu thereof, the Chairman may set aside time at the beginning of the Meeting for Owner statements.

**4. Recording Of Meetings.**

(a) Owners may record Meetings of the Board or Statutory Committee upon notice to the Board and compliance with the below conditions.

(b) An Owner desiring to tape record or videotape a Board Meeting or Statutory Committee Meeting shall submit a written request therefore to the Secretary (or Manager) at least ten (10) minutes before the start of the Meeting. A separate written request must be made for each meeting the Owner desires to tape record or videotape. Notice must be given verbally to all unit owners at the meeting.

(c) No tape recording or videotaping of any Meeting shall interfere with or obstruct the Meeting, and none of the equipment used for taping shall interfere with or obstruct any person's view of the Meeting or ability to hear the Meeting, or block access to or from the Meeting or to or from the seating in the Meeting, or constitute a tripping hazard. Persons using taping equipment must do

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so from their seats. All taping equipment used shall conform to the electrical codes. No accessory shall be attached to any electrical outlet that enables more equipment to utilize the outlet than would normally and safely utilize the outlet.

***B. ANNUAL AND OTHER MEETINGS WHERE OWNERS ARE REQUESTED TO VOTE ON A MATTER WHICH REQUIRES UNIT OWNER VOTE***

**1. Attendance at Meetings where Owners are Requested to Vote.** Owners have the right to attend such meetings either in person or by proxy as may be provided by law. No person other than an Owner or Owner's proxy shall be permitted to attend Meetings, except agents of the Association or persons permitted by the Chairman to an Association.

**2. Participation at Owner Meetings.**

(a) Owners have the right to speak at Owner Meetings as provided by law. No other person shall be permitted to speak at Meetings, except agents of the Association, designated proxies, or those persons permitted to speak by the Chairman.

(b) Statements by Unit Owners at Meetings shall be restricted solely to items designated on the agenda for that Meeting, unless permitted by the Chairman.

(c) An Owner will only be permitted to speak once in reference to the agenda item specified in the written request. An Owner statement shall not exceed three (3) minutes, unless otherwise permitted by the Chairman. Other Owners cannot "yield" their time for the purpose of extending an Owners time limit. The Chairman of the Meeting shall give the floor to the Owner permitted to speak subsequent to the calling of the agenda item upon which the Owner will make a statement, but prior to the voting of the Owners upon that agenda item.

**4. Recording of Owner Meetings shall be governed by the same rules as Board meetings.**

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**TIBURON I HOMEOWNERS' ASSOCIATION, INC.**

**Rules and Regulations**

**Modifications to Existing Rules**

Rules 18, 18(B), 18(C), and 18(D) are hereby deleted and replaced with the following:

- A. The Association reserves the right to post "No Parking" signs or other restrictive signage in various portions of the Community as deemed necessary for the safety, maintenance and orderly operation of the Community. All persons must comply with these posted signs. The Association may also establish temporary parking restrictions in response to special events, maintenance activities or other circumstances requiring temporary control of parking areas.
- B. All vehicles shall be equipped with effective sound muffling devices so that their operation does not create an annoyance to other residents of the Community.
- C. No resident, guest or visitor shall create any disturbances from a vehicle that would disrupt the peace and quiet of the community. This includes, but is not limited to, playing loud music, honking, engine revving or any other noise that is unreasonable or disruptive to other residents.
- D. Vehicles which cannot operate under their own power and which remain within the Community for more than seventy-two (72) hours shall be prohibited. All vehicles which are kept in the Community shall be kept in proper operating condition so as not to be a hazard or a nuisance by noise, smoke, exhaust emission, appearance or otherwise. No vehicle is permitted within the Community if it excessively leaks oil, brake fluid, transmission fluid or other fluids.
- E. All drivers shall obey all traffic and parking signs posted in the Community, including, but not limited to, all stop signs and speed limits.
- F. All vehicles must be driven at a safe speed for prevailing conditions, but not greater than the posted speed limit. Unless otherwise posted, the maximum speed limit in the Community is fifteen (15) miles per hour.

Rules 22, 22(A), 22(C), and 22(D) are hereby deleted and replaced with the following:

- A. All trash and garbage must be placed in sealed plastic garbage bags, and all such bags must be placed in appropriate trash cans when set at the curb; provided, however, that such bags may be placed directly at the curb (i.e., not in a trash can) after 5:00 AM on garbage pickup day.
- B. Trash cans may only be placed neatly at the curb after 5:00 PM on the evening before regular "garbage service" pickup day or on the morning of the scheduled regular "garbage service" pickup day. All trash cans must be returned to the home or stored out of sight by the evening of pickup day.
- C. Recycling bins may only be placed neatly at the curb after 5:00 PM on the evening before recycling pickup day or on the morning of the scheduled recycling pickup day. All

recycling bins must be returned to the home or stored out of sight by the evening of pickup day.

- D. Landscape trimmings, palm fronds and other vegetation may only be placed neatly at the curb after 5:00 PM on the evening before “yard waste” pickup day or on the morning of the scheduled “yard waste” pickup day.
- E. Bulk items, construction debris, furniture, appliances and household items that do not fit into the County-provided garbage cart may only be placed neatly at the curb after 5:00 PM on the evening before “trash/bulk items” pickup day or on the morning of the scheduled “trash/bulk items” pickup day.
- F. For the latest information on the applicable waste and recycling pickup days provided by the County, you may visit <https://www.swa.org>.
- G. Failure to comply with this Rule 22 may result in the Association arranging for a third-party service to remove the inappropriately placed or stored garbage or vegetation, with the cost charged to the Owner, in addition to any other remedies available to the Association for violations.

### **New Additions to the Rules**

#### Community Pool Keys

- 1. Owners and Tenants are strictly prohibited from making duplicates of the Community’s pool keys under any circumstances.
- 2. The Community’s pool keys are intended for the exclusive use of Owners and Tenants residing in the Community. Owners and Tenants are not permitted to lend or provide the Community’s pool key to any visitors, guests or non-residents. Visitors, guests and non-residents may only use the Community’s pool area when physically accompanied by the Owner or Tenant who invited them.
- 3. In the event that an Owner or Tenant loses their pool key, a replacement key may be obtained from the Association’s management office after paying a key replacement fee.

#### Vehicles and Parking

- 1. No vehicle may be parked within fifteen (15) feet of a fire hydrant unless the vehicle is in a clearly designated parking space.
- 2. No vehicle may be parked in the Community pool’s parking spaces between the hours of 8 PM and 8 AM, unless prior approval has been obtained from the Association.

#### Pets and Animals

All pets and animals in the Community shall have and display, as appropriate, evidence of all required registrations and inoculations and the name and address of its owners.

### Moving and Storage

Portable self-storage containers are not permitted without the prior written approval of the Board, with such approval to include the type and size of the particular container, the specific location on a Parcel that the container will be kept, and the duration that such container may be kept on the Parcel. Any such approval by the Board may be revoked by the Board at any time and in the Board's sole discretion. Assuming that proper approval from the Board has been obtained, portable self-storage containers shall be placed entirely within the Parcel and not in the right-of-way bounding the Parcel. At no time shall such containers be placed on the Common Areas or on property which is owned by the Association.

### Leases

The listing, promotion or advertisement of Parcels on, and/or the procurement of leases through the use of, short-term rental and vacation websites and other similar platforms, including, but not limited to, Airbnb, VRBO and HomeAway, shall be prohibited.

### Architectural Criteria and Guidelines

1. Exterior window trims and frames must conform to the following requirements:
  - a. All exterior window trims and frames on Parcels located west of the westernmost entrance into the Community must be white in color.
  - b. All exterior window trims and frames on Parcels located east of the westernmost entrance into the Community must be either black or charcoal in color. All window trims and frames on the same Parcel must maintain the same color.
  - c. Owners with questions about the required color for window trims and frames, or how the location of their Parcel within the community affects these guidelines, should consult with the Association prior to purchasing materials, installing materials, or applying for approval.
2. All exterior walls of a home must be painted the following color and shade: "Navajo White" for Tiburon 1 mixed only by Centura Paint Manufacturing Co. No other shades, tones, or variations are permitted.
3. All gutters and downspouts must be painted to match the color of the structure immediately adjacent to them. If the gutter or downspout is attached to a wall, it must be painted the same color as the wall. If the gutter or downspout is attached to a trim, fascia, or soffit, it must be painted to match the color of that element.
4. All front doors for the homes must conform to the following requirements:
  - a. They must be painted in one of the following colors: brown, cream, or white. Owners must use specific shades approved by the Association. Mixing or altering approved colors is not permitted.

- b. They must be constructed of either wood or glass. Doors made of glass must comply with safety standards, including the use of impact-resistant glass.
- 5. All fences and gates must conform to the following requirements:
  - a. All gates must feature an “arched” design and adhere to, and be consistent with, the unified appearance and aesthetic character of existing gates in the Community.
  - b. They must be constructed exclusively of wood material. The use of alternative materials (e.g., metal, vinyl, composite, chain-link) is strictly prohibited.
  - c. They must be painted the following color and shade: Manor Brown 6006 from Centura Paint Manufacturing Co.
  - d. The maximum height shall be five (5) feet for fences and five-and-a-half (5.5) feet for gates (including any arch at its highest point).

#### Hurricane Shutters and Protection

- 1. No hurricane shutters, panels or planks shall cover windows or doors, except during periods of hurricane watches or warnings, or tropical storm watches or warnings, which impact the Community.
- 2. All shutters and panels must be re-opened within seventy-two (72) hours of the storm’s passage. Any removable type of hurricane shutters attached to a Parcel shall be removed within fourteen (14) days of a hurricane or tropical storm watch or warning being lifted.
- 3. Upon issuance of an official hurricane or tropical storm watch or warning, each Owner or Tenant (as may be applicable) shall take all actions necessary to prepare their Parcel for any such hurricane or tropical storm, which shall include, without limitation: (i) removing all outdoor furniture, potted plants and other movable, unsecured or loose objects and items from exterior portions of the Parcel; (ii) complying with all rules and regulations which may be adopted, amended or supplemented by the Association from time to time; and (iii) complying with all directives from the Association bearing on the safety and wellbeing of others.
- 4. An Owner or Tenant who plans to be absent during all or any portion of the hurricane season must prepare his or her Parcel prior to departure by designating a responsible firm or individual to care for the Parcel should a hurricane or tropical storm threaten the Community or should the Parcel suffer hurricane or storm damage, and furnishing the Association with the name(s) of such firm or individual.

#### Pressure Cleaning and General Maintenance Requirements

- 1. Owners must pressure clean their roofs, exterior walls, driveways and any other paved surfaces to remove dirt, mold, mildew, stains or other discoloration, and to maintain a neat and well-kept appearance.
- 2. Owners must inspect and clean these areas at least once every twelve (12) months, or more frequently if conditions require them to maintain a clean appearance.

3. Owners shall maintain, repair and upkeep all exterior surfaces of their Parcel and home, including but not limited to exterior walls, woodwork, trim, and other visible exterior materials. This responsibility includes repainting or performing touch-ups as deemed necessary by the Association to maintain the property in good and aesthetically pleasing condition.



**RULES AND REGULATIONS GOVERNING  
INSPECTION AND COPYING OF ASSOCIATION RECORDS**

**A. Records Defined.**

The Official Records available for inspection and copying are those designated by the Florida Homeowners' Association Act (Chapter 720, Florida Statutes), as it may be amended from time to time, but only to the extent that they are not protected from disclosure pursuant to applicable law.

**B. Records Available.**

No records other than those defined above shall be available for inspection or copying.

**C. Persons Entitled to Inspect or Copy.**

Only Owners and their authorized representatives shall be permitted to inspect or copy the Association's records.

**D. Inspection and Copying.**

1. An Owner, or an Owner's authorized representative, desiring to inspect or copy Association records shall submit a written request by Certified U.S. Mail, Return Receipt Requested, to the Association at the official address of the Association, pursuant to the most recent on-line records of the Florida Secretary of State, Division of Corporations. Verbal or e-mail requests do not comply with this Rule and will not be deemed a proper request. The written request must specify the particular records the Owner desires to inspect or copy, including pertinent dates or time periods. The specification of the particular records must be sufficiently detailed to permit the Association to retrieve the records requested. The request must be legible and must describe records by type, such as those listed in the Homeowners' Association Act, and not by subject matter such as "all insurance information."
2. Inspection or copying of records shall be restricted solely to those records specifically designated in the written request for inspection or copying. No inspection or copying of any other records shall be permitted.
3. An Owner, or an Owner's authorized representative, shall not submit more than four (4) written requests for inspection or copying of records per calendar month. No written request shall be submitted for the same records requested in a prior written request within the previous thirty (30) days.
4. Inspections of records shall be conducted at the office where the Association's records are maintained or at such other location as may be designated by the Association. The Association is not required to organize or assemble records in any particular manner for an inspection except for the Association's convenience. No Owner or authorized representative of an Owner shall remove original records from the location where the

records are inspected, and no record inspection shall occur under circumstances that cause the record to leave the control of the Association. During the inspection, no marks or alterations shall be made on original records, no document shall be torn or damaged, no page affixed together by staple, paper clip or other means shall be disassembled, and no records shall be altered from the sequence in which they are presented for inspection.

5. The Association will notify the Owner by telephone or in writing, that the records are available and the time, date and place for such inspection. Inspection shall be made only during normal Association business hours, or during the normal business hours of the location of inspection if other than the Association office. For purposes herein, "normal business hours" shall be the hours the Association office is customarily open, or the hours of the location where the records are to be inspected is customarily open.
6. The right to obtain copies of records is incidental to, and part of, the inspection of records. If, at or subsequent to inspection, an Owner or an Owner's authorized representative desires to have a copy of a record, the Owner shall designate in a separate writing which record, or portion thereof, for which a copy is desired, or, in the alternative, shall designate such record by use of a clip or tab upon the page(s) desired. If the records to be copied are so voluminous that it is not practicable for them to be copied where they are kept, the Association may send the records out for copying by an outside source, such as a commercial copying company. In such cases, the Owners shall be responsible for those costs. Owners requesting copies must arrange for pick-up of records. The Association shall have no obligation to mail or otherwise deliver copies to any place. As determined by the Association's property manager, Board of Directors, or the person designated by the Association to oversee the inspection of records, in the event the copies of the records are so voluminous, or a copy machine or copy service is not available or too busy, or the records are in such condition or form that copies cannot be made available within the above-stated time periods, then copies will be made available as soon as practical.
7. The Association may impose fees to cover the costs of providing copies of the Official Records. Such fees may include, without limitation, the costs of copying and the costs required for personnel to retrieve and copy the records, subject to any limitations imposed by the Homeowners' Association Act, as it may be amended from time to time. In the event the copies are made by the Association, the cost shall not exceed twenty-five cents (\$.25) per page. The Association shall not be required to copy two separate documents on a single page for the purposes of minimizing the per-page copy cost. If copies are made by outside vendors, actual costs shall be charged to the Owner. Payment in advance for such costs and fees shall be required. In the event payment is made in a form other than cash, cashier's check, money order or certified check, payment shall not be deemed received unless and until payment has cleared. No copy of a record shall be made unless and until payment of such costs and fees is received. Records not normally kept in written form shall be produced for inspection in the form in which they are normally kept. The cost of converting such records to written forms shall be in addition to the cost of copying such records, and the

Owner or the Owner's authorized representative shall pay the expense of converting such records to written form.

8. The Association may comply with its obligation to make Official Records available for inspection by providing them to the Owner by electronic mail, the internet, or making them available in a computerized format readable with customary programs used in computers of consumers. If, however, an Owner provides the Association with written notice that they do not have access to a computer, the Association must supply the records in paper format for the fees referenced above.

#### **E. Manner of Inspection.**

1. No written request for inspection or copying shall be made in order to harass any Owner, resident, or Association agent, Officer, Director, Committee Member or employee. Inspection and copying requests not in conformance with these rules will be deemed to be harassment.
2. If inspection is requested by any person other than a record Owner of the Parcel, said request shall not be recognized by Association unless and until the record Owners of the Parcel designate such person, in writing, as their authorized representative or unless such person is an attorney admitted to practice in Florida.
3. All persons inspecting or requesting copies of records shall conduct themselves in a courteous and businesslike manner, and shall not interfere with the normal operation of the Association office and the duties of its personnel, or the office where the records are otherwise inspected or copied or the duties of their personnel. Any disruptive, disorderly, or abusive behavior, or excessive visits to the Association office, shall be prohibited. The Association office, or office of inspection, may assign a staff person or officer to assist in the inspection and all requests for further assistance and copying during inspection shall be directed to that staff person.

#### **F. Enforcement of Inspection and Copying Rules.**

1. Any violation of these Rules may result in the immediate suspension of the inspection or copying until such time as the violator agrees in writing to comply herewith.
2. Any requests for inspection and copying not complying with these Rules need not be accepted or honored and may be denied.
3. In addition to any and all other remedies available to the Association, the Association shall have the right to impose suspensions, as well as to impose and collect fines, for failure to comply with these Rules, in accordance with (and to the greatest extent permitted by) the procedures, parameters and requirements set forth in the Homeowners' Association Act of the Florida Statutes, as it may be amended or renumbered from time to time.
4. The Association may take whatever appropriate legal action is available or appropriate in connection with a person's failure to comply with these Rules.

5. Nothing in these Rules shall be construed as a limitation or restriction upon any of the Association's rights or remedies, or act as an election of remedies. All rights and remedies available to the Association shall be cumulative.
6. All of the Rules and Regulations which govern the inspection and copying of records, as set forth herein, may be waived by the Board of Directors, in its sole and absolute discretion, and without being deemed to constitute a waiver as to any other subsequent Owners or instances of inspection or copying of records. In addition, the failure of the Board of Directors to enforce any Rule herein shall not constitute a waiver of their right to do so thereafter.



CFN 20170133130

OR BK 29020 PG 0206  
RECORDED 04/17/2017 11:19:26  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0206 - 272; (67pgs)

This instrument prepared by:  
Stuart J. Zoberg, Esquire  
Shir Law Group  
1800 N.W. Corporate Blvd., Suite 200  
Boca Raton, Florida 33431  
(561) 999-5999

**CERTIFICATE OF APPROVAL OF THE AMENDED AND RESTATED DECLARATION AND  
ALL ATTACHMENTS THERETO, INCLUDING BUT NOT LIMITED TO THE AMENDED  
AND RESTATED BYLAWS, THE AMENDED AND RESTATED ARTICLES AND THE  
REVISED HOUSE RULES**

WHEREAS, the DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS  
FOR TIBURON I HOMEOWNERS ASSOCIATION, INC. ("TIBURON I") was originally duly  
recorded in the Public Records of PALM BEACH COUNTY, Florida, in Official Record Book 2468 at Page  
1 (the "Original Declaration"; and

WHEREAS, by written consent of the membership of TIBURON I a Florida not-for-profit  
corporation, the Original Declaration was amended and restated its in entirety, along with all exhibits referenced  
above, including but not limited to the Amended and Restated Articles, the Amended and Restated Bylaws,  
and the Revised House Rules; all attached hereto as **Exhibit A**.

NOW, THEREFORE, the undersigned hereby certifies that the **Exhibit A** was adopted and approved  
by the Owners in the Matter set forth in the Original Declaration.

**CERTIFICATION**

I HEREBY CERTIFY that **Exhibit A** was adopted by vote of more than a majority of the total  
Parcel Owners. Please see OR Book 11938 Page 207.

DATED this 27<sup>th</sup> day of March, 2017.

Witnesses: ✓

Devin Hill

Print name Devin Hill

Ryan Tougourt

Print Name: RYAN TOUGOURT

**TIBURON I HOMEOWNERS  
ASSOCIATION, INC.**

By: [Signature]  
**ROBERT LUTHY, PRESIDENT**

STATE OF FLORIDA       )  
PALM BEACH COUNTY    )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of March, 2017, by Robert Luthy  
as President of **TIBURON I HOMEOWNERS ASSOCIATION, INC.** who affirmed that the above is  
true and correct and that **Exhibit A** was properly adopted. Robert Luthy is personally known to me.

[Signature]  
NOTARY PUBLIC



CARRIE ANN SPARKMAN  
MY COMMISSION # FF 999958  
EXPIRES: July 7, 2020  
Bonded thru Budget Notary Services

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR TIBURON I**

**SUBSTANTIAL REWORDING OF ORIGINAL DECLARATION-  
SEE CURRENT DECLARATION FOR CURRENT TEXT**

**RECITALS:**

WHEREAS, by and through that certain Declaration of Covenants, Conditions and Restrictions, originally recorded at OR Book 2468, Page 1, et seq. in the Palm Beach County Public Records, as it was later amended prior to the date of recording this Declaration (collectively, with all amendments, the "Original Declaration"), with all of same being incorporated herein, except to the extent specifically changed by this document, the Community Developer did subject the property more particularly described therein to be subject to use covenants, restrictions, reservations, burdens, liens, and easements, and to delegate and assign to the Tiburon I Homeowners Association, Inc. (the "Association") powers pursuant to Chapter 720, Florida Statutes (the "Homeowner's Association Act" or the "Act"), certain control over that property situated in Palm Beach County, Florida, (the "Community" or "Tiburon I") more particularly described in the Declaration.

**The Legal description of the Community is attached hereto as Composite Exhibit A.**

WHEREAS, the requisite number of Association members of all of the Tiburon I Community, voted on and approved this Amended and Restated Declaration (the "Declaration"), the accompanying Amended and Restated Bylaws ("Bylaws") and Amended and Restated Articles of Incorporation ("Articles"); as well as the accompanying Rules and Regulations ("Rules");

WHEREAS, any and all amendments to the original Declaration (as well as the original Declaration itself) or any other Documents recorded against the Community are hereby incorporated by reference, and remain valid, except that this Amended and Restated Declaration supersedes all other documents, but only to the extent this Amended and Restated Declaration conflicts;

WHEREAS, by adoption of this Amended and Restated Declaration, the Association members hereby also adopt and ratify all pre-existing amendments to the Declaration except as they may conflict herewith and hereby restate the Declaration, as amended and the Exhibits in their entirety, except as specifically changed by this document.

**1. DEFINITIONS.** As used herein or elsewhere in the Governing Documents (sometimes simply referred to as "Documents"), unless otherwise provided, the terms used shall be as defined in the Act and as herein provided:

**1.1 "Act" or "Homeowner's Association Act"** means Chapter 720, as it now exists or as it may be amended from time to time, including the definitions therein contained. It is the express intent of this Declaration to incorporate Chapter 617 and Chapter 720 of the Florida Statutes, both as they are amended from time to time, ("Florida Statutes") and the Florida Statutes

are hereby so incorporated. In addition, in the event of a conflict between the language of this Declaration, and the Florida Statutes, the Florida Statutes shall govern. Similarly, the Florida statutes shall specifically supersede any language herein that conflicts with the Florida statutes, regardless of whether more specific language on a topic exists in the Declaration.

**1.2 "Articles"** means Amended and Restated Articles of Incorporation as attached hereto as **Exhibit "B."**

**1.3 "Assessment"** means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Parcels.

**1.4 "Association"** means Tiburon I Homeowners Association., Inc. a Florida Corporation Not For Profit, the entity responsible for the maintenance, operation, and administration of the Community.

**1.5 "Association Property"** means the real and personal property owned by the Association.

**1.6 "Board of Directors" or "Board" or "Directors"** means the representative body which is responsible for the administration of the Association's affairs.

**1.7 "Bylaws"** mean the Amended and Restated Bylaws attached hereto as **Exhibit "C."**

**1.8 "Charge"** means any legal or equitable indebtedness owed to the Association by the Owner or the Parcel other than Assessments for Common Expenses. Said obligations may arise by oral or written contract, by law or in equity, or may be created by this Declaration.

**1.9 "Common Areas" or "Common Property"** mean and include:

**1.9.1** The portions of the Community not located on the parcel, except for areas and items adjacent to the parcel that service only one particular parcel.

**1.9.2** Any other parts of the Community designated as Common Areas by this Declaration, the Articles of Incorporation, the Bylaws or reasonably designated by the Association by majority vote of the Board of Directors.

**1.10 "Common Expenses"** means those expenses for which Parcel Owners are liable to the Association, including but not limited to expenses of administration, maintenance and operation, repair and replacement of Common Areas and such other expenses as may be declared Common Expenses either by this Declaration, the Articles of Incorporation, the Bylaws or any expense whatsoever determined to be in the best interest of the Community by vote of a majority of the Board of Directors at any time. Common Expenses include, but are not limited to such items as cost of premiums for insurance premiums, repairs, replacements and expenses of upkeep, lawn service, utility bills that are not separately metered to individual Parcels, pool service, janitor service, accounting and legal fees, wages and fees for managerial and other services, and reasonable and adequate reserves, all as may be required in the maintenance and management of the Community. The expenses of bulk

cable, master antenna television, or communications services as defined in chapter 202, information services, or Internet services obtained pursuant to a bulk contract may be considered a Common Expense, but only if so designated by the Board in the Association's budget. Common Expenses also include (without limitation) reasonable insurance for Directors and Officers, road maintenance and operation expenses, and security services, which are reasonably related to the general benefit of the Owners. Common Expenses also include the expenses of any items or services required or recommended by any federal, state, or local governmental entity to be installed, or supplied to the Community by the Association. Without limiting the foregoing, the Board may designate any expense whatsoever that it deems is in the best interest of the Community as a common expense.

**1.11 "Common Surplus"** means the excess of all receipts of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Areas, above the amount of the Common Expenses.

**1.12 "Community Documents" or "Governing Documents"** means this Declaration, the Amended and Restated Articles of Incorporation attached as **Exhibit "B"**; The Amended and Restated Bylaws attached hereto as **Exhibit "C"**; and the Rules and Regulations attached hereto as **Exhibit "D"**. Amendments to the Rules in the future need not (but may) be recorded in the County Public Records in order to be valid. Moreover, although the Rules attached hereto were voted on and approved by the Owners as part of the Amended and Restated Declaration, in the future, the Rules may be amended, modified or repealed in the sole discretion of only the Board of Directors.

**1.13 "County"** means the County of Palm Beach, State of Florida.

**1.14 "Declaration"** means this instrument, and all documents it incorporates, and as it may be amended from time to time.

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

**1.15.1** One natural person, his spouse if any, and their custodial children, if any.

**1.15.2** two natural persons, who reside together and hold themselves out to the public as in a committed and loving relationship, and their custodial children, if any.

**1.15.3** The reference to "natural" herein is intended to distinguish between an individual and a corporation or other artificial entity. "Family" member is a person who resides in a home as part of the Owner's Family, but is not a title holder.

**1.16 "Fractional Ownership" or "Parcel Sharing"** means any arrangement (whether written or verbal) whereby multiple individuals, artificial entities, or other combinations acquire title to a home (or any other possessory or use right in a home) with the intention of allocating use rights among legal or beneficial owners, whether pursuant to verbal or written agreements, regarding the sharing of use and possession rights for a home.

**1.17 "Guest"** means any person who is not the recorded Owner or a Tenant or a member of the recorded Owner's or Tenant's immediate Family, who is physically present in, or occupies the home at the invitation of the Owner or other legally permitted occupant.



**1.18** Institutional Mortgagee shall mean and refer to a bank, savings and loan association, insurance company, pension fund, agency of the United States Government, or Federal National Mortgage Association that holds a first mortgage against any Parcel. Institutional Mortgagee also only includes any of the above lending institutions holding a FIRST mortgage of record, where the mortgage of record properly identifies the lending institution that is holding the first mortgage in the text of the recorded mortgage on any property subject to this Declaration. Institutional Mortgagee shall also mean and include any subsequent assignee or holder of the first mortgage, but if and only if the subsequent assignee and holder of the first mortgage records the assignment of the mortgage in the public records prior to filing the foreclosure action. To the extent necessary to permit financing of a home by Fannie Mae or another mortgage holder, the Board is empowered (but not obligated) to determine in its sole discretion that it will record a subordination agreement that further subordinates the Association's lien and/or expands the definition of an Institutional Mortgagee.

**1.19** "Invitee" mean a person or persons allowed entry or otherwise entering the Community on a temporary basis at the express or implied consent of the Owner.

**1.20** "Lease," when used in the context of the renting of homes or parcels, means the grant by an Owner of a right of use of the Owner's Parcel or home in exchange for consideration.

**1.21** "Parcel" shall mean a lot in the Community.

**1.22** "Member" means the record Owner(s) of legal title to a Parcel.

**1.23** "Occupant" when used in connection with a home, means a person who is physically present in a home on two or more consecutive days, or any person who stays overnight or is present in the home for any period of time between the hours of 1:00 A.M. and 6:00 A.M.

**1.24** "Owner" means the grantee(s) on the most recent deed recorded in the County records.

**1.25** "Primary Occupant" means a natural person designated for occupancy of a home when title to the Parcel is held in the name of two or more persons who are not husband and wife or by a trustee or a corporation or other entity which is not a natural person.

**1.26** "Rules and Regulations" means the Rules and Regulations attached hereto as **Exhibit D** unless and until amended in the future. Future rules and regulations may be promulgated by the Board of Directors alone. Rules may be passed governing the use, occupancy, alteration, maintenance, transfer and appearance of Parcels, Common Areas, and the operation and administration of the Association, subject to any limits set forth in the Declaration.

**1.27** "Tenant" or "Lessee" means a person occupying a home or Parcel, other than the Owner, pursuant to either a verbal or written agreement, where said occupancy by the non-owner is in exchange for consideration, the payment of money, the exchange of goods and services, etc. The term "Tenant" shall be used interchangeable with the term "Lessee."

**1.28 "Voting Interest"** means and refers to the arrangement established in the Community Documents by which each Parcel is entitled to one vote in the Association matters.

**2. STATEMENT OF GOVERNING LAW.** This Community is governed by Chapter 720 of the Florida statutes, as it is amended from time to time. In the event of a conflict between this Declaration, and Chapter 720 as it is amended from time to time, Chapter 720 shall govern and shall be incorporated herein by reference. Without limitation, Chapter 720 as amended from time to time will trump and supersede all inconsistent provisions herein.

**3. COMMUNITY NAME.** The name by which this community is identified is Tiburon I.

**4. SURVEY AND GRAPHIC DESCRIPTION.** A survey of the land and various graphic depictions of the Community are attached to the original Declaration, recorded at OR Book 2468, Page 1, et seq. in the County records (the "Original Declaration") and also attached hereto as **Exhibit A**.

**5. ASSOCIATION NAME.** Tiburon I Homeowners Association., Inc, a Florida Corporation Not For Profit, is the name of the entity responsible for the operation of the Community (the "Association").

**6. VOTING RIGHTS/COMMON EXPENSES.** The voting rights of the Owner of each Parcel shall be one vote per Parcel. Each Parcel shall be responsible for 1/122 of the Total Budget of the Association's Common Expenses.

**7. COMMON AREAS; EASEMENTS.**

**7.1 Definition.** The term "Common Areas" is defined in Section 1.9 above.

**7.2 Easements.** Each of the following easements and easement rights is reserved through the Common Areas and is a covenant running with the land and notwithstanding any of the other provision of this Declaration, may not be revoked and shall survive the exclusion of any land from the Community, unless released in connection with termination of the Community. None of these easements may be encumbered by any leasehold or lien by any Parcel owner for any reason whatsoever. Any lien encumbering these easements shall automatically be subordinate to the rights of the Owners with respect to such easements.

**7.2.1 Utility and Other Easements.** The Association, through the Board of Directors, has the power, without joinder of any Owner, to grant, modify or move easements such as electric, gas, cable television, or other access, utility or service easements, or relocate any existing easements, in any portion of the Common Areas or Association Property, as the Board shall deem necessary or desirable for the proper operation and maintenance of the Community. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with ingress and egress to the Home or Parcel. The Association, through the Board of Directors, may also transfer title to utility-related equipment, facilities or material, and may take any other action to satisfy the requirements of any utility company or governmental agency.

**7.2.2 Ingress and Egress.** A non-exclusive easement shall exist in favor of each Owner and Occupant, their respective Guests, Tenants, and Invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portion of the Common Areas as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portion of the Common Areas as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways. However, the Board shall have the right to install speed bumps or other traffic safety devices or (without limitation) otherwise materially alter such easement rights without the consent of the Owner so long as reasonable ingress and egress to the Parcels is always provided.

**7.2.3 Owner Maintenance.** An easement shall exist in favor of each Owner over and through the Common Areas or the adjacent Parcel as is reasonably necessary to maintain his own Home or Parcel. However, notwithstanding the foregoing, the Board may pass reasonable rules and regulations that specify the scope of this easement or reasonably limit this easement.

**7.3 Restraint Upon Separation and Partition.** The undivided share of the Common Surplus appurtenant to a Parcel cannot be conveyed or separately hypothecated. The shares in the funds and assets of the Association cannot be assigned by an Owner, pledged or transferred except as an appurtenance to the Parcels.

**8. MAINTENANCE.** The maintenance of the Townhome and the Parcel shall be the responsibility of the Owner. Without limitation, the Owner must also maintain the exterior of the Townhome structure and may make no changes or alterations to the exterior of any Home without the express written approval of the Association or the Architectural Review Board. Without limitation, the decorative wood beams that were installed by the developer on the outside of the Townhome must remain installed at all times. In addition, if the wood beams are removed by act of God, nature, force majeure, or any reason whatsoever, they must be immediately restored with the same or similar wood beams by the Owner. In addition, the Owner must maintain any area of Association Property that is intended for the specific use of a particular Parcel. Notwithstanding the foregoing, the Association may (but is not required to) in its discretion, clean, repair or otherwise maintain any such area as it sees fit, in its sole discretion as a Common Expense.

**9. TOWNHOUSE "HOME" MAINTENANCE.** In addition, without limiting the above, each Owner is responsible, at his own expense, for all maintenance, repair, and replacement of the following areas:

**9.1.1 Windows.** The Parcel Owner shall maintain, repair and replace the window installations, including but not limited to, the window pane, frame, locks, latches, hardware and similar parts relating to the window structure.

**9.1.2 Hardware and Locks.** The Parcel Owner shall maintain, repair and replace door and window hardware locks.

**9.1.3 Electrical.** The Parcel Owner shall maintain, repair and replace all electrical fixtures/facilities located within the home or on the Parcel, which service only the

individual home or Parcel plus all electrical facilities from the electrical meter inward, which service only the Owner's home or Parcel.

**9.1.4 Screens and Frames.** The Parcel Owner shall maintain, repair and replace all window screens, screen doors or balcony screens (including hardware, framing and the door thresholds).

**9.1.5 Sliding Glass Doors.** The Parcel Owner shall maintain, repair and replace sliding glass doors and the structural components thereof (including frames and fixed panels), including trim, caulking and the door thresholds.

**9.1.6 Front Door.** The Owner shall maintain, repair and replace front entry door.

**9.1.7 Other Doors.** The Owner shall maintain, repair and replace all other doors and the framing and structural components thereof (including trim, caulking, locks and hardware and thresholds) within or servicing the home.

**9.1.8 Plumbing and Mechanical.** The Parcel Owner shall maintain, repair and replace the electrical, mechanical and plumbing fixtures and outlets (including connections) within a home and serving only that Parcel or home including sinks, toilets, tubs, showers, shower pans, and all related Fixtures and installations.

**9.1.9 Heating and Air Conditioning Equipment; Ductwork.** The Parcel Owner shall maintain, repair and replace all portions of the heating and air conditioning equipment (including compressors, air handlers, ductwork, freon lines and discharge lines) and utility installations and connections serving an individual Parcel, no matter where located, dryer vents to the point of termination (even if exterior to the home), air conditioner discharge lines to the point of termination or connection to another discharge (even if exterior to the home).

**9.1.10 Plumbing (Incoming).** The Parcel Owner shall maintain, repair and replace all incoming plumbing from the shut-off valve (at hot water) inward.

**9.1.11 Plumbing (Outgoing).** The Parcel Owner shall maintain, repair and replace outbound plumbing until the point of connection to a vertical disposal, even if outside the home.

**9.1.12 Other Facilities and Fixtures.** The Parcel Owner shall maintain, repair and replace all other Facilities or Fixtures located or contained entirely within a home or located on an Owner's Parcel which serve only that Owner's home or Parcel.

**9.1.13 Drywall.** The Parcel Owner shall maintain, repair and replace all drywall within the Parcel, the finishes thereof (including trim), and the structural framing related thereto, including studs and insulation.

**9.1.14 Covered Driveways, if applicable or Asphalt Parking Area.** The Parcel Owner shall maintain, repair and replace all covered driveways or asphalt parking areas.

**9.1.15 Party Walls and Party Roofs.** Each wall built as part of the original construction of such Townhomes and placed on (or within one foot of, which for these purposes will be deemed to be on) the dividing line between Parcels on which they are situated shall constitute a party wall, and each Owner of one of the Townhomes shall own that portion of the wall which exists on his own Parcel together with a cross-easement of support in the other portion. In addition, the portion of each roof of such Townhome that is attached and extending over and above the dividing line between the Parcels shall constitute a party roof, and each Owner shall own that portion of the roof which is constructed on his own Parcel together with a cross-easement of support for the other portion. Notwithstanding ownership however, owners shall be required to maintain and repair Party Walls and Party Roofs as follows: each Parcel is responsible to maintain the portion of the Party Wall that faces their home, and the Party Roof above their home. To the extent the entire Party Wall or Party Roof is destroyed or needs to be maintained or repaired, each parcel owner must pay for one half of the required maintenance or replacement of any portion of a Party Wall or Party Roof that serves or is adjacent to two homes and needs replacement. However, where a portion of the Party Wall or Party Roof extends out and a portion of the Party Wall or Party Roof serves only one home, then as to the portion of the Party Wall or Party Roof that serves only one home, that portion must be maintained and/or replaced entirely by the Owner whose home it serves.

**9.1.16 Association's Remedy if Party Walls and Party Roofs are not Maintained.** Anything above notwithstanding, in the event of a dispute between Owners as to whether a Party Wall or Party Roof must be repaired or replaced, or in the event a Party Wall or Party Roof is not repaired, maintained or replaced to the satisfaction of the Association, and without limiting the Association's other remedies, the Association may maintain, repair or replace all or a portion of any Party Wall or Party Roof, and in that event, without regard to which home the Party Wall or Party Roof serves or faces, both owners shall be jointly and severally liable for the cost of repairs, which if unpaid by the owners after demand by the Association, the joint and several amount shall be treated as a Charge against each home, and will be secured by such rights as exist for collecting Common Expenses under these Documents through a lien for Charges.

**9.2 Additional Owner Obligations/Maintenance and Rennovations.** In connection with his maintenance, repair and replacement obligations, the Parcel Owner shall have the responsibility to obtain the prior written approval of the Association, through the Board of Directors, before performing changes, renovations, modifications or alterations to the physical appearance of the Property visible from any exterior vantage, as well as any maintenance, repairs or modifications requiring the following; excavation; access to the Building roof; removal, modification or relocation of any load-bearing walls; the use of heavy or noisy equipment; or such other actions as may cause concern for the peace and safety of the residents or the aesthetics of the Property as viewed from the outside, as determined by the Board. The Association may condition such approval on criteria as the Board deems reasonable, including but not limited to:

- Preservation of uniformity of appearance (including but not limited to maintaining the wood beams described in section 8) as well as any architectural criteria adopted by the Association;
- Use of licensed and insured contractors;

- Right (but not duty) of oversight by the Association or its agent;
- The submission of plans as to the scope of the contemplated repair;
- Restrictions as to hours of work;
- Imposition of time limits in which jobs must be completed and prohibitions against major renovations during certain times of day or months of the year.
- Restrictions regarding equipment that may be parked or stored on or near the Property during construction.
- Restrictions regarding the transport and storage of materials and supplies necessary for the construction to be performed.

In addition, and without regard to the above, there can be no construction or erection of anything at all anywhere on the Parcel without a waiver of the setback requirements from the Association. More specifically, the Townhomes are constructed on the border of where any construction whatsoever is permitted by these deed restrictions. All other area on the parcel is part of a setback that may not be constructed on by the Parcel Owner absent written permission by the Association to waive the setback, and said permission shall be granted or denied in the Association's sole and unfettered discretion.

Parcel owners may not engage in "extensive" remodeling work or "heavy" construction activity, except with prior approval of the Board of Directors, and such work may be prohibited completely during certain times of the year. "Extensive" remodeling and "heavy" construction shall be as defined by the Board of Directors from time to time, but, whether so defined or not, shall include, but not be limited to, activities involving the following:

- Activities involving the use of power equipment such as jackhammers, drills, saws, etc... which create substantial noise, as determined by the Board.
- Activities resulting in the creation of substantial noise that can be heard outside of the home using only unaided auditory senses and that causes discomfort, annoyance or is otherwise disturbing to a reasonable person of normal sensibilities., regardless of whether power equipment is used or not, as determined by the Board.
- Activities rendering the home uninhabitable during the performance of the work or where the work, if performed while a tenancy is ongoing would be deemed a constructive eviction of the tenant.
- Activities requiring the storage of materials or equipment on the premises outside of the home.

- Activities involving the presence of work crews or significant numbers of workers, as determined by the Board.
- Activities requiring the use of scaffolding, booms, or other forms of exterior access.

Nothing shall preclude the Association from acting as the Owner's agent and obtaining the services of contractors to perform Parcel Owner maintenance responsibilities in the event of an emergency, or in non-emergency situations, provided that in non-emergency situations, the Association and the Owner so agree, or absent such agreement when such work is deemed necessary, as determined by the Board to facilitate projects involving the Association's maintenance of the Property. The term "Emergency situations" shall be defined for purposes of this provision as any work required for the purpose of remedying conditions that create an imminent peril to life, health or property. In all such cases the Parcel Owner shall be deemed to consent to reimbursement of expenses incurred, secured by such rights as exist for collecting Common Expenses under these Documents through a lien for Charges. Parcel Owners shall at all times be responsible to ensure, whether or not Association approval is required for work being done within the home or Parcel, that all contractors and other persons performing services for the Parcel Owner are properly licensed and insured, including required Worker's Compensation insurance, and that the Common Areas are kept free from liens. The Parcel Owner shall hold the Association harmless from any claim of any nature arising out of failure to comply with this requirement.

**9.2.1 Alterations/Remodeling.** No Owner may make or permit the making of any modifications or alterations to any portion of his home visible from the exterior, or in any manner change the appearance of any portion of the Property, or make any structural change within the interior, without first obtaining the written consent of the Board of Directors.

The Board may, in appropriate circumstances, require sealed plans from an Architect or Professional Engineer licensed to practice in Florida as a condition of reviewing any requested structural modification, alteration or addition. The Board, in reaching its decision, may take into account uniformity of appearance, compatibility with architecture, the quality of the proposed alteration, objections of neighboring residents, and such other criteria as the Board may reasonably adopt in reaching its decision.

**9.3 Additional Parcel Owner Responsibility for Alterations and Additions.** If an Owner (or his predecessors in title) makes, or has made, any modifications, installations, or additions to the exterior of the home, or any other area in the Community except the home itself, the Owner (and his heirs, successors in title and assigns) shall be financially responsible for the insurance, maintenance, care, preservation, reconstruction, repair or replacement of such modifications, installations or additions. In these instances, the Owner shall execute such documents as the Association may require, if any, evidencing said financial responsibility which shall exist with or without any additional documents. The Association shall have the right to require removal of any modification, alteration, or addition to the Property made to the exterior of the home, or any other area in the Community except the home itself, if prudent for the Association to perform its obligations in connection with maintaining the Property. In such cases, the Parcel Owner who installed the alteration, addition, or improvement (and/or their successors in title) shall be obligated

to reimburse the Association for any costs affiliated with removal and/or re-installation of the item, with said obligation being secured by a right of lien for Charges, or alternatively, said Owner may be required to remove and reinstall said additions, if so determined by the Board of Directors. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent, although the Association may provide for stricter liability standards in contracts with contractors.

**9.4 Enforcement of Maintenance.** If, after reasonable notice, the Owner fails to maintain the portions of the Property that the Owner is required to maintain, the Association shall have, without waiver of other remedies, the right but not the obligation to enter the Owner's home or Parcel and perform or cause performance of the necessary work, and/or institute legal proceedings to enforce compliance, and/or to take any and all other lawful actions to remedy such violation, in which event the Owner shall be charged for the costs, expenses and attorney's fees of same, which shall be secured by a lien for Charges.

**9.5 Damage.** Each Parcel Owner shall be liable to the Association for the expense of any maintenance, repair or replacement of the Association Property, made necessary by his act or by the act of any member of his Family or his or their Occupants, Guests, Tenants or Invitees, without regard to fault. Without limiting the preceding sentence, any damage to Association Property, or to other Parcels or homes, caused by any defective condition or malfunction existing on a Parcel or portion of the Common Area that the Parcel Owner is obligated to insure, maintain, repair, or replace shall be the responsibility of the Parcel Owner on whose Parcel the defective condition or malfunction exists or occurs. Without limitation, the Association shall have, without waiver of other remedies, the right to collect the amounts due pursuant to this paragraph, and the right to assess the amounts due in accordance with this paragraph to the lot responsible, and such assessment shall be secured as a lien for Charges.

**9.6 Claims against the Association.** Any claim of a Parcel Owner against the Association relative to damage to the Property, to the extent the Association might otherwise be liable, shall be predicated upon the Parcel Owner making the claim being adequately insured based on local standards and conditions. Should any Parcel Owner fail to maintain such insurance, any claim will be reduced to the extent such Parcel Owner's insurance, if obtained pursuant to the above-described standards, would have provided coverage or compensation for the loss and without waiving any other remedy of the Association regarding Parcel Owner insurance requirements. The requirement that the individual Parcel Owner obtain insurance shall not be construed to confer any additional liability on the Association, but is intended to require Parcel Owners and the Association, to respectively insure risks that are customarily experienced in South Florida, including but not limited to damages occasioned by windstorms, hurricanes, tornadoes, floods, rainstorms, bursting pipes, water seepage and leakage, and mold and mildew.

**9.7 Utility Services.** Owners are also required to ensure that electricity, and if separately metered, water and sewer, are always available to service the home. If an Owner fails to maintain Utility Services to the home or Parcel, the Association shall have, without waiver of other remedies, the right (but not the obligation) to enter to the Owner's Parcel and take any and all lawful actions to make the utilities available to service the Parcel. Under such circumstances,



the Parcel Owner shall be charged for such activities (including attorneys' fees incurred by the Association) by the Association which shall be secured by a lien for Charges.

**9.8 Association Maintenance.** The maintenance, repair and replacement of all Common Areas and Association Property (except those Areas for which this Declaration specifically or generally delegates responsibility to the Owner) shall be performed by the Association, and the cost is a Common Expense, except as may otherwise be specifically noted. Without limitation, material alterations or substantial additions to the Common Areas or Association real property may be authorized by a vote of the Board of Directors and without limiting other options, included in the budget or specially assessed for.

**9.8.1 Incidental Damage.** If in connection with the discharge of its maintenance, repair or replacement responsibilities, the Association must remove, disassemble, or destroy portions of the Property which the Owner is required to maintain, repair, or replace, or otherwise destroys property of the Owner, and the Owner is without fault and if real property, the real property was either installed by the original developer, or approved by the Association, then the Association shall be responsible for reinstallation or replacement of that item provided that the item is one that was installed by the original developer or is a reasonable upgrade from same that is typical found elsewhere in the Community.

**10. ASSESSMENTS AND CHARGES.** Notwithstanding the definition of Act in Section 1.1 above, if permitted by law, the text of this Article 10 shall govern as written below. However, anything to the contrary below notwithstanding, the Association's board is empowered although not obligated to waive any of the provisions below and subordinate its lien to any lending institution by majority vote of the Board. Such waiver must be evidenced by a document recorded in the public records.

**10.1 Liability for Assessments and Charges.** An Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments and Charges and fines coming due while he/she is the Owner. Except as provided in this Article 10, any person or entity which acquires title to a Parcel shall also be jointly and severally liable with their predecessor in title for all unpaid Assessments, Charges and fines owed by the predecessor Owner, and also liable for all attorney's 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 Owner may have to recover from the prior owner the amounts paid by the Owner. The liability for Assessments or Charges or fines may not be avoided by waiver of the use or enjoyment of any Common Areas or by the abandonment of the Parcel for which the Assessments or Charges are made, or for any other reason whatsoever. Moreover, this Owner liability to the Association is without setoff counterclaim, or deduction for any reason whatsoever.

**10.2 Default in Payment.** Assessments and Charges, fines, and any installments thereof, not paid within ten (10) days from the date when they are due, shall incur a late fee and bear interest in an amount as may be determined by the Board of Directors which, unless otherwise specified, and in the absence of Board specification, shall be the maximum allowed by law. The Board may accelerate unpaid Assessments in the manner prescribed by Chapter 720 of the Florida

Statutes, as it is amended from time to time, and if no such method is prescribed, then for the remainder of the fiscal or calendar year, whichever is greater.

**10.3 Superior Lien.** The Association has a first lien superior to all others (except those listed in 10.4) on each parcel for any unpaid Assessments or Charges on such parcel. The Association shall also have a first lien superior to all others for fines, so long as the aggregate total of all fines are One Thousand Dollars (\$1,000.00) or greater plus interest, late charges and for reasonable attorney's fees, costs, and other collection expenses, including those expenses provided in contracts between the Association and third parties, including but not limited to Community Association Management Firms, incurred by the Association incident to the collection of the Assessment or Charge or fine or the enforcement of the lien. Without limitation, if an owner has fifteen (15) unrelated fines of one hundred dollars (\$100.00) each, the total amount due of one thousand five hundred dollars (\$1,500.00) may be lienied for. The lien is in effect until all sums secured by it have been fully paid. Once a lien is properly recorded by the Association, it must be paid in full before being released and the minimum lien threshold for fines does not apply if at the time of recordation, the threshold was met. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon recording, the Association's claim of lien shall relate back to the date of the filing of the Declaration originally recorded by the developer, which was recorded prior to the any Home being constructed or sold by the original developer. Upon payment in full, the Parcel is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose a lien for Assessments or Charges or fines in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid Assessments or Charges or fines without waiving any claim of lien. In any such action, the Association shall be entitled to reimbursement of the attorneys' fees and costs incurred in obtaining such monetary judgment.

**10.4 Attachment of Rental Income When Parcel is Delinquent.** Notwithstanding any other remedy available to the Association under this Declaration, the Bylaws, or applicable law, the Association shall have the following options when payment of Assessments or Charges or fines are in default (more than ten days in arrears). The Association may, without order of the Court, direct rental income (by written notice to the tenant with copy to Parcel Owner) from Parcels in default to be paid directly to the Association until all outstanding Assessments, Charges, interest, costs, collection expenses, attorney's fees and receiver's fees, if applicable, are satisfied. 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 Parcel in default paid directly to the Association, the court registry, or a receiver, as the Court may direct. As an alternative, the Association may also file an eviction action to remove the tenant utilizing the summary eviction proceedings provided in Florida Statutes, chapters 51 and/or 83. Under such circumstances the Owner shall be deemed to consent to the Association filing suit in the place of the Landlord and obtaining a writ of possession to restore possession to the Owner/Landlord. Without limitation, in the event the Association reasonably believes a home is abandoned, the Association may enter the Home for the purpose of determining if it is abandoned or in need of emergency repairs, and if it is abandoned, renting it and attaching Rental Income pursuant to this section. The Association may choose any of these courses of action as the Board deems appropriate without same constituting a waiver or election of remedies.

**10.5 Institutional (First) Mortgagee.** As to Institutional First Mortgagees only, the lien of the Association shall be subordinate to the lien of an Institutional First Mortgage. However, without regard to lien priority, a Parcel owner is jointly and severally liable with the previous Parcel owner(s) for all unpaid assessments, interest, late fees and attorney's fees, that came due prior to the transfer of title without regard to a foreclosure action by an Institutional First Mortgagee or other transfer. This liability is without prejudice to any right the present Owner may have to recover any amounts paid that were originally incurred by the previous owner. For the purposes of this paragraph, the term "previous owner" shall not include an association that acquires title to a delinquent property through foreclosure or by deed in lieu of foreclosure. Notwithstanding the foregoing, the liability of an Institutional First Mortgagee, or its successor or assignee as a subsequent holder of the Institutional Mortgage, where such entity also acquires title to a Parcel by foreclosure of its Institutional Mortgage is limited to (for the unpaid assessments that became due before the Institutional First Mortgagee's acquisition of title) the greater of: The parcel's unpaid common expenses and regular periodic or special assessments that accrued or came due during the 12 months immediately preceding the acquisition of title; or one (1) percent of the recorded mortgage debt, or the amount permitted by Chapter 720 as amended from time to time

The limitations on Institutional First Mortgagee liability provided above apply only if the Institutional Mortgagee filed suit against the Parcel owner and initially joined the association as a defendant in the mortgagee foreclosure action. No sale or transfer shall relieve such Parcel from lien rights for any Assessments thereafter becoming due and, except as provided herein, such lien shall continue as a lien on such Parcel following any transfer or conveyance. Moreover, anything above to the contrary notwithstanding, the Association shall have a super priority first lien superior to all others (including Institutional First Mortgagees) that relates back to the recording of the original declaration recorded by the developer without any exception for Institutional First Mortgages with regard to any Charges that are incurred in connection with repairs to the Parcel or Home thereon or directly caused by the failure to maintain the Parcel or Home thereon.

**10.6 Possession of Parcel.** Any person who acquires an interest in a Parcel, including without limitation, persons acquiring title by operation of law, shall not be entitled to occupancy of the Home or enjoyment of the Common Areas until such time as all unpaid amounts due and owing by the former Owner as limited above if an Institutional First Mortgagee only have been paid and all other Association requirements pertaining thereto have been satisfied.

**10.7 Certificate of Unpaid Assessments.** Any Parcel Owner has the right to require from the Association a certificate showing the amount of unpaid Assessments against him/her with respect to his/her Parcel, or stating that the Parcel is current if no such unpaid assessments (or other charges or amounts) are due. The Association, its agents, and counsel shall be entitled to charge a fee for preparing such information, in amounts established by the Board, or in a management agreement between the Association and a Community Association Management Firm, or based on reasonable and customary fees charged by legal counsel.

**10.8 Lien for Charges.** In addition to any lien at common law, a contractual lien for charges is created herein to secure any amounts whatsoever due the Association (except as to amounts that relate to fines, which may be liened for only as provided in 4.14 of the Bylaws and

Chapter 720 as it is amended from time to time). The lien for Charges includes but is not limited to amounts related to services which the Association provides for an individual Parcel Owner or expenses which the Association incurs in regard to a Parcel Owner and which is not otherwise secured by the statutory lien. By way of further example, but not limitation, a lien for Charges also exists to secure repayment to the Association when it maintains, repairs or replaces items which are the Owner's responsibility in connection with the Association's discharge of its Common Area maintenance responsibilities, or if the Owner fails to do so. The lien for Charges shall also secure interest, costs or expenses (whether taxable court costs or not), late fees, and attorney's fees related to same, and may be foreclosed in the same manner as the Common Expense lien. Without limitation, costs or expenses (whether taxable court costs or not) interest, late fees, and attorney's fees incurred before, during or after trial or in any appellate proceedings or in the trial court to determine the reasonable amount of fees, costs or expenses, in any action or participation in, or in connection with, any case or proceeding under the United States Bankruptcy Code, or any successor statutes, or incurred in the collection of any awarded judgment shall also be secured by the lien for Charges. Moreover, although various paragraphs of the governing documents explicitly set forth the Association's right to lien for amounts due the Association (except as to amounts that relate to fines, which may be liened for only as provided in 4.14 of the Bylaws and Chapter 720 as it is amended from time to time), and/or a right to attorney's fees, such language shall not be read to limit the remedy only to those paragraphs and shall be deemed emphasis only in the paragraphs where same appears because the Association has the right to lien for all amounts due it as set forth herein.

**11. ADMINISTRATION AND MANAGEMENT OF COMMUNITY.** The administration and management of the Community shall be by the Association, which shall have by and through its Officers and Directors, such powers, authority and responsibilities as are vested in the Officers and Directors of a corporation not-for-profit under the laws of the State of Florida, including but not limited to those set forth more specifically elsewhere in the Governing Documents. The Association, through its Board of Directors shall have authority to enter into management and other agreements concerning the matters of common interest. The management of the Association, and election of members to the Board of Directors, shall be as set forth in the Bylaws. Without limiting the foregoing, the Association shall have the following rights and powers:

**11.1. Maintain.** The Power to maintain, repair, replace, renovate or remodel any portion of the Community that the Association is obligated to maintain, or any portion of the Community (including the Parcels), that the Association in its reasonable discretion elects to maintain, repair or replace.

**11.2 Assessments.** The power to make and collect regular and special Assessments and other Charges against Parcel Owners.

**11.3 Delegation.** The power to enter into contracts with others, for valuable consideration, for maintenance and management of the Property and in connection therewith, or to delegate the powers and rights herein to its Officers, or to any third party agents, including, without limitation, the collection of Assessments and other Charges against Parcel Owners, and perfecting liens for non-payment thereof.

**11.4 Regulations.** The power to promulgate new Rules and Regulations, or amend those Rules and Regulations covering the details of the operation of the Association and use of the Property that were originally ratified by the Owners and attached hereto as **Exhibit D**.

**11.5 Acquisition or Transfer of Real Property; Leasing Association Property.** The power to acquire or transfer real property owned by the Association, or to otherwise convey and mortgage real property, for the use and benefit of its members with the same approval of Parcel Owners as needed to amend the Declaration. The Association, without the need for Parcel Owner approval, has the right to purchase (or mortgage) any Parcel in the Community. In addition, the Association has the right, without the need for Parcel Owner approval, to lease Parcels or Association Property. Lease fees, use fees, and other fees related to same may be approved by the Board in any amount deemed reasonable by the Board in its discretion.

**11.6 Access.** Without limiting the Association's other rights with regard to access, the right to emergency access to the home and reasonable access to the parcel when necessary and to protect the health, welfare and safety of the Community.

**11.7 Membership Agreements.** The power to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities, or to require Parcel Owners to obtain such memberships, with the same approval of Parcel Owners as needed to amend the Declaration.

**12. SINGLE FAMILY RESIDENCE.** Except as specifically set forth elsewhere herein regarding Guests, a Parcel shall be used only as a Single Family residence. As used in the Documents, "Single Family" means one natural person, or two married people, or two natural persons who reside together and hold themselves out to be in a loving committed relationship and the custodial children of any of the aforementioned. No Home may be divided or subdivided into a smaller home nor any portion sold or otherwise transferred.

**12.1 Maximum Permitted Occupancy of Homes/Screening and Approval of all Occupants.** Without limiting section 12 above, or anything else set forth in this Declaration, no more than 5 persons may reside in a home that is two bedrooms. No more than 6 persons may reside in a home that is three bedrooms or more. Anything to the contrary herein notwithstanding, all occupants of a home, whether or not they are on the deed or related to anyone on the deed may be screened and approved by the Association at the Association's discretion unless they are a Guest exempt from screening pursuant to Article 15.

### **13. USE RESTRICTIONS.**

**13.1 Nuisance.** The 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 Property, nor which becomes a source of annoyance to the residents, or which will increase insurance rates. All property shall be kept in a neat and orderly manner. The Common Areas shall be used for the

purpose of furnishing services and facilities as herein provided for the welfare and enjoyment of such residents. The Common Areas shall be used in accordance with all federal, state, and local laws and ordinances, and any such use that violates same shall be deemed a nuisance per se and a violation of this Declaration. Nuisances shall include, but not be limited to, any disturbances to the quiet enjoyment of other residents, unsightly condition of the Parcel, illegal activity on the Parcel, insect or rodent infestation, failure to regulate and dictate good behavior of contractors and others working in or on the Parcel, hoarding conditions, excess traffic activity connected with the use of the Parcel, and any other activity by the Owner(s) or the tenants, guests or other invitees of the Owner(s) which disturbs a neighbor's peaceful enjoyment and/or possession of his her property. An Owner's failure to properly prepare his or her home in advance of a named storm, including removal of all portable items from his or her balcony, shall without limitation constitute a nuisance.

**13.2 Signs.** No sign, display, poster, or advertising device of any kind whatsoever may be displayed in public view without the prior written consent of the Board, which consent may be given, withheld or conditioned in the sole and absolute discretion of the Board. Without limitation of the generality of the foregoing, or limiting other remedies, the Association may demand that a unit owner remove any sign that is visible from the exterior of the unit, and if the owner fails to do so, the Association may do so. Notwithstanding, and as the only exception to the foregoing, one 40 sq. inch or less "For Sale" or "For Rent" sign (i.e a 5" x 8" sign) may be placed three feet from the front wall of the structure, or at such other distance and for such time period, as may be determined by the Board.

**13.3 Dogs may not be possessed by Tenants.** Tenants are prohibited from owning or otherwise keeping dogs on the Property, or anywhere in the Community.

**13.4 Two Vehicle Maximum by Tenants.** Not more than two vehicles can be owned, leased or otherwise kept in the Community by occupants of a home that is leased.

**13.5 Commercial Vehicles.** No commercial vehicles are permitted to be parked anywhere in the Community except by visitors or vendors who are temporarily visiting a home. Commercial vehicles shall mean, without limitation, vehicles that are not designed and used for customary personal/family use, or that are manufactured, designed, marketed or used for transporting goods of any nature, or that are used primarily in connection with the conduct of any business activity and not being used primarily for the transportation of people. Prohibited commercial vehicles include, but are not limited to: (1) vehicles displaying any advertising, logo, business related information or other signs and/or having print, lettering or decoration anywhere on the vehicle referencing any commercial undertaking or enterprise (unless covered by a magnetic panel of the same color as the vehicle); (2) vehicles that have racks (except racks used to carry personal items such as luggage, wheelchairs or bicycles) or otherwise containing equipment either stored inside or on the exterior of the vehicle; (3) vehicles the State registration for which contains a designation of the type of vehicle as anything other than "automobile"; (4) ) pick-up trucks where the cargo box has been altered or enlarged to facilitate the transportation of people or goods for commercial purposes; (5) trucks or pick-up trucks with a load capacity of more than one (1) ton; (6) passenger vehicles, including sports utility vehicles, hybrid utility vehicles, vans or trucks that do not contain side and rear windows or rear passenger seats; (7) motor homes, mobile homes, campers, buses,

trailers, tractors, buses, courtesy vans, taxis or stretch limousines; (8) any vehicle with more than two (2) axles.

**13.6 Boats, trailers, motorcycles, etc.** No boat, trailer, recreational vehicle, camper, jet ski, craft, motor home, golf cart, scooter or motorcycle may be parked, stored or kept anywhere in the Community except temporarily, and also only if the owner has obtained the written consent of the Association, which may be withheld at the sole discretion of the Board regardless of any past consent granted to the requesting Owner or any other Owners.

**13.7 Prohibition against Commercial Use.** In order to preserve the residential character of the neighborhood, no business, trade or profession of any type whatsoever shall be conducted from within any home except that Owners (and their family members residing with them) may use homes for "home office" or "telecommuting" purposes, provided that such uses do not involve: (a) the manufacturing of goods; (b) customers or clients coming into the neighborhood; (c) the use of additional employees, workers, salespeople, independent contractors, customers or the like; (d) the storage of materials, inventory and/or equipment; (e) the postage of any signs on the Association Property; (f) more than two (2) regular deliveries per day of correspondence or similar items from customary express or other delivery services; (g) any other activity that may, or that may become, an annoyance or nuisance. Hobbies (even those that might involve an occasional sale), telephone, or telemarketing operations, storing business literature, or other inventory in the home, will not be considered operating a home business. The Association shall possess the additional authority to promulgate rules and regulations governing the manner, method and to what degree said uses may be permitted. In no event shall any Home in the community be used for transient residency, or as a boarding house or assisted living facility, unless required by law. The foregoing restriction shall not apply to the provision of in home healthcare to any Owner, or his or her Family members.

**13.8 Trucks.** No Trucks or pick-up trucks shall be permitted in the Community absent written permission by the Board of Directors. Permission by the Board may be withheld at the sole discretion of the Board regardless of any past permission granted to the requesting Owner or any other Owners. A truck shall include, but not necessarily be limited, to any vehicle that is primarily sold as a truck or deemed a truck by Florida's Department of Motor Vehicles. Prior to any owner or occupant contemplating purchasing a truck or pickup truck, the owner or occupant must send a written request for approval to the Association that includes a picture of the potential vehicle. Similarly, no modifications, changes, or alterations to the Truck that are visible from the exterior, including but without limitation oversized or any changes to tires, lift kits, exterior paint changes, bumper modifications, custom exhaust modifications, changes to any of the wheels, etc...

**13.9 Towing of Vehicles.** Without limiting other remedies, all vehicles or trucks parked in violation hereof anywhere in the Community, including on the Parcel, may be towed by the Association in compliance with Chapter 715 of the Florida Statutes.

**13.10 Limitation on Pets (use and number).** No Owner may own or otherwise possess more than two (2) animals in any home, except birds or fish do not count toward the limit. However, any pet in excess of the limit that is owned by an owner on the date this Declaration is

recorded is grandfathered in. However, for clarity and emphasis, only the excess pet residing as of the date of these rules is grandfathered, not the owner. Therefore, an owner who has (e.g) four (4) pets as of the date of this Declaration, may not replace or add a pet until it is under the two (2) pet limit. Thus, for example, the owner with four (4) pets may not get a new pet until at least three (3) of its pets have died or otherwise ceased residing in the home or the Parcel. Moreover, the grandfathering will not apply if the pet is a nuisance. More generally, the housing of any pets whatsoever is subject to termination by the Board of Directors if the pet becomes a nuisance or the pet's owner does not follow the rules regarding pets herein. In addition, no pets shall be kept, bred, or maintained for any commercial purpose. If a pet is outside, the Owner must at all times accompany the pet, and the pet must be confined on a leash which affords the Owner adequate control over the pet. In addition, and without limitation, all rules regarding pet waste must be abided by.

**13.11 Nuisance Pets.** Without limiting the above, or the general nuisance provision, it shall be a *per se* nuisance if any dog barks, yelps, whines or makes any noise for more than 5 minutes in any one (1) hour period or on a continuous basis.

In addition, and without limiting the above, a pet shall be a nuisance if it:

- Consistently or constantly makes excessive noise, causes damage to or destruction of another's property; causes unsanitary, dangerous or offensive conditions; or
- Create a pest, parasite or scavenger control problem which is not effectively treated; or
- Chases, runs after, or jumps at moving vehicles or persons; or
- Attacks, bites or injures a person, or snaps, growls, snarls, jumps upon or otherwise threatens persons without provocation; or
- Feeds from, turns over, or otherwise disturbs garbage containers; or
- Scratches or digs in flowerbeds or otherwise damages the property.

**14. ADDITIONAL RESTRICTIONS.** The Rules and Regulations are attached hereto as **Exhibit D**. However, although these Rules were initially voted on by Parcel Owners as part of their vote to adopt this Declaration, in the future, the Rules may be added to, or amended, from time to time by the Board of Directors. The future Rules and Regulations may, but need not be, recorded in the Public Records. Additional use restrictions are also contained elsewhere in the Documents. New Owners (owners who take title after the date of this Amended and Restated Declaration) who may not have received copies of new rules are responsible to comply with these rules and are responsible to contact the Association for a copy of the most current version of the Board rules.

**15. GUEST OCCUPANCY.** A "Guest" is defined as a person who enters upon the Property at the invitation of a Parcel Owner or Tenant, (or their respective families) for the purpose of temporarily visiting the Parcel Owner or tenant (or their respective families), occupying the home for less than thirty (30) days during any calendar year, and where such occupancy is without any consideration. There are various types of Guest uses, which are regulated as follows:



**15.1 Non-Overnight Visitation by Guests When Parcel Owner or Tenant is in Residence.** There is no restriction against this type of Guest usage, provided that same does not create a nuisance or annoyance to other residents, nor prevent their peaceful enjoyment of the premises. The Association may restrict or prohibit Guest visitation by convicted criminals, including but not limited to registered sex offenders and persons who have been convicted of narcotic offenses. Non-overnight Guests need not be registered with the Association. The Board may establish additional restrictions on non-overnight Guest usage or presence on Association Property, including but not limited to the maximum numbers of Guests who may be present at a single time without the express advance approval of the Board.

**15.2 Overnight Guests When Parcel Owner or Tenant is in Residence.** Parcel Owners and Tenants (and their respective Families) may have related or unrelated Overnight Guests, so long as the Parcel Owner or Tenant is in simultaneous residence, and this paragraph and any association rules on the topic are complied with. Without limitation, the Association may restrict or prohibit Guest visitation by convicted criminals, including but not limited to registered sex offenders and persons who have been convicted of narcotic offenses. Under no circumstances may more than eight (8) persons (including the Parcel Owners, Tenants, their Families, Guests or any other Occupants) sleep Overnight in a home. For purposes of this Article 15, the term, "Overnight" shall include any guest or person that is present in the home (or the areas adjacent to the home) between the hours of 1:00 A.M. and 6:00 A.M. without regard to whether they sleep in the home. Moreover, anything to the contrary herein notwithstanding, at the discretion of the Board, a Long Term Guest may be requested to be screened and approved in accordance with the procedures set forth in Article 16, and may not stay Overnight in the property long term without such approval. The term "Long Term Guest" is someone who occupies the unit for more than fourteen (14) consecutive days or more than thirty (30) days in any twelve month period.

**15.3 Guests in the Absence of the Unit Owner or Tenant (Whether Overnight or Not).** Parcel Owners and Tenants are not permitted to have Guests when the Parcel Owner or Tenant is absent without the express written approval of the Board of Directors.

## **16. SALE AND OCCUPANCY RESTRICTIONS**

### **16.1. Transfers and Occupancy Subject to Approval**

**16.1.1 Sale.** No Owner may dispose of any Parcel or any interest in a Parcel by sale without the prior written approval of the Association.

**16.1.2 Lease.** No Owner may lease a Parcel or any portion of a Parcel without the prior written approval of the Association. Without limitation, no Owner (other than the Association) may lease any Parcel or any interest in any Parcel unless the Owner (or at least one of the owners) previously resided in the Parcel for three consecutive years, and prior to the Association obtaining a One Thousand Dollars (\$1,000.00) USD deposit from the Owner and an additional One Thousand Dollars (\$1,000.00) USD deposit from the proposed tenant(s). This deposit is to ensure compliance with the Declaration, and is not solely as a security against damage. Moreover, the Association is not a landlord and therefore, Chapter 83 of the Florida Statutes as amended from time to time with regard to keeping of deposits shall not apply. The Association shall establish reasonable policies

with regard to the return of deposits. As a condition of approval or continuing approval, the Owner shall fully Indemnify the Association from any claims by the Tenant in connection with the deposit or any claims whatsoever by the Tenant against the Association.

**16.1.23 Gift.** If any Owner shall acquire title to a Parcel by gift, the occupancy of the home shall be subject to the written approval of the Association with the same application and screening requirements as that for purchasers or tenants.

**16.1.24 Devise or Inheritance.** If any Parcel Owner shall acquire title by devise or inheritance, the occupancy of the home shall be subject to the written approval of the Association with the same application and screening requirements as that for purchasers or tenants

**16.1.25 Permanent Occupancy.** For the purpose of this Section 16, the term "Permanent" shall not literally mean "Permanent." Any time the word Permanent is used, it includes, but is not limited to, any individual whose driver's license lists the Parcel as the home address, who receives mail at the Parcel, or who intends to utilize the Parcel as a primary residence for any period of time. No Parcel Owner may dispose of any possessory interest (including, but not limited to, roommates or additional family members) or permit any permanent occupant to occupy a home without the prior written approval of the Association. Without limitation, if any person shall acquire any possessory interest in a Home or Parcel in any manner whatsoever, or begin occupying a Home for any reason whatsoever, the continued possession, and/or possessory interest and/or occupancy shall be subject to the written approval of the Association with the same application and screening requirements as that for purchasers or tenants. Without limitation, approval for occupancy may be revoked at any time by the Board in the event of a material change in circumstances following the original approval, i.e. a criminal conviction following the original approval.

**16.1.26 Other Transfers.** If any Parcel Owner shall acquire title to, possession of, or the right to occupy a Parcel by any manner not considered herein, the continuance of ownership, possession or occupancy of the Parcel shall be subject to the written approval of the Association with the same application and screening requirements as that for purchasers or tenants. Without limitation, approval for occupancy may be revoked at any time by the Board in the event of a material change in circumstances following the original approval, i.e. a criminal conviction following the original approval.

## **16.2 Method of Seeking Association Approval**

(a) **Sale.** A Parcel Owner intending to make a bona fide sale of his Parcel or any interest in it shall give to the Association notice of such intention, together with the name and address of the intended purchaser, a fully executed copy of the complete proposed sales contract, along with any and all addenda, a completed application for sale and purchase (provided by the Association), a screening fee in the amount provided below and such other information concerning the intended purchaser and all proposed permanent occupants as the Association may reasonably require, including but not limited to, tax documentation, payroll documentation, investment documentation and other income and financial documentation.

(b) In addition to the Notice described above, the intended purchaser and all proposed permanent occupants must schedule a personal interview with the Board or a Screening Committee or other

designated person selected by the Board. The prospective purchaser and all proposed permanent occupants must agree to a background investigation including, but not limited to, criminal history, credit and financial history, prior residential history and civil litigation history. In the event the prospective purchaser, or any family member, guest, or invitee of the prospective purchaser moves in without the prior written permission of the Association, the purchase application shall be deemed automatically withdrawn and the Association may take all necessary legal acts terminating this unauthorized occupancy, and in such event, the prospective purchaser and the Parcel Owner shall be jointly and severally liable for the Association's costs and reasonable attorney's fees, through all appellate levels, whether suit be brought or not.

(c) Lease. A Parcel Owner intending to make a bona fide lease of the Parcel shall give to the Association notice of such intention, together with the name and address of the intended lessee, a fully executed copy of the complete proposed lease, along with any and all addenda, which shall be on a written lease agreement form approved by the Association, a completed application for lease (provided by the Association), a screening fee in the amount provided below and such other information concerning the intended lessee and all proposed permanent occupants as the Association may reasonably require. As part of this Notice, the intended lessee and all proposed permanent occupants must schedule a personal interview with the Board or a Screening Committee or any designated person selected by the Board. The prospective lessee and all proposed permanent occupants must agree to a background investigation including, but not limited to, criminal history, prior residential history and civil litigation history. Without limiting anything contained herein, no owner (other than the Association) may dispose of any Parcel or portion of the Parcel by Lease unless the Owner (or at least one of the owners) previously resided in the Parcel for three (3) consecutive years, and prior to the Association obtaining a One Thousand Dollars (\$1,000.00) US deposit from the Owner and an additional One Thousand Dollars (\$1,000.00) USD from the proposed tenant(s). In the event the prospective lessee, or any family member, guest, or invitee of the prospective lessee moves in without the prior written permission of the Association, or in violation of any of the above restrictions, the lease application shall be deemed automatically withdrawn and the Association may take all necessary legal acts terminating this unauthorized occupancy, and in such event, the prospective lessee and the Parcel Owner shall be jointly and severally liable for the Association's costs and reasonable attorney's fees, through all appellate levels, whether suit be brought or not, and for any post-judgment collection activities.

(d) Gift, Devise or Inheritance; Other Transfers. A Parcel Owner who has obtained title by gift, devise or inheritance, or by any other manner not previously considered, shall give to the Association notice of the acquisition of title, together with such other information concerning the Parcel Owner and all proposed permanent occupants as the Association may reasonably require, a certified copy of the instrument evidencing the Owner's title, a completed owner's application (provided by the Association), and a screening fee in the amount provided below. As part of this Notice, the intended Owner and all proposed permanent occupants must schedule a personal interview with the Board or a Screening Committee or any person selected by the Board. The prospective Owner and all proposed permanent occupants must agree to a background investigation including, but not limited to, criminal history, prior residential history, credit and financial history and civil litigation history. In the event the prospective Owner, or any family member, guest, or invitee of the prospective Owner moves in without the prior written permission of the Association, the owner application shall be deemed automatically withdrawn and the Association may take all necessary legal acts terminating this

unauthorized occupancy, and in such event, the Owner and the prior Owner shall be jointly and severally liable for the Association's costs and reasonable attorney's fees, through all appellate levels, whether suit be brought or not, and for any post-judgment collection activities.

(e) **Permanent Occupancy.** A Parcel Owner intending to give a bona fide possessory interest of the Parcel or who intends to permit anyone to occupy the Parcel permanently (including but not limited to family members) shall give to the Association notice of such intention, together with the name and address of the intended permanent occupant, a completed application for permanent occupancy (provided by the Association), a screening fee in the amount provided below and such other information concerning the intended permanent occupant as the Association may reasonably require. As part of this Notice, the intended permanent occupant must schedule a personal interview with the Board or a Screening Committee or any person selected by the Board. The prospective permanent occupant must agree to a background investigation including, but not limited to, criminal history, prior residential history and civil litigation history. In the event the prospective permanent occupant moves in without the prior written permission of the Association, the permanent occupancy application shall be deemed automatically withdrawn and the Association may take all necessary legal acts terminating this unauthorized occupancy, and in such event, the prospective permanent occupant and the Parcel Owner shall be jointly and severally liable for the Association's costs and reasonable attorney's fees, through all appellate levels, whether suit be brought or not and for any post-judgment collection activities. Without limitation, approval for occupancy may be revoked at any time by the Board in the event of a material change in circumstances following the original approval, i.e. a criminal conviction following the original approval.

**16.3 Failure to Comply.** Any event purporting to transfer ownership or possession of a Parcel which shall occur in violation of any of the provisions in this Declaration shall be void *ab initio*. Without limitation, any event transferring ownership by gift, devise or inheritance, or by any other manner not previously considered, must be in accordance with the above, and the continuance of ownership and occupancy is subject to Association approval. The Association may take any and all legal acts as may be necessary to terminate any prohibited transfer or continued ownership or possession, including but not limited to stepping in the shoes of the Owner and evicting the occupant utilizing summary eviction proceedings as provided for in Chapters 51 and 83 of the Florida Statutes. The Association shall recover its costs and reasonable attorney's fees from the Owner and/or possessor of the Parcel, jointly and severally, through all appellate levels, whether suit be brought or not, and for any post-judgment collection activities.

#### **16.4 Certificates of Approval/Disapproval.**

(a) **Sale.** If the proposed transaction is a sale, then within thirty (30) days after receipt of such notice and all documentation, information and fees required under this Article 16, the Association must either approve or disapprove the proposed transaction or notify the applicant in writing of the need for additional information. If approved, the approval shall be stated in a certificate executed by any officer of the Association, in recordable form.

(b) **Lease.** If the proposed transaction is a lease, and the lease does not otherwise violate the express provisions herein regarding the deposit and the requirement that the Owner desiring to lease previously resided in the home for at least three (3) continuous years, then within thirty (30) days after

receipt of such notice and all documentation, information and fees required under Article 16, the Association must either approve or disapprove the proposed transaction or notify the applicant in writing of the need for additional information. If approved, the approval shall be stated in a certificate executed by any officer of the Association.

(c) Gift, Devise or Inheritance; Other Transfers. If the Parcel Owner giving notice has acquired title by gift, devise, inheritance, or in any other manner not previously considered, then within thirty (30) days after receipt of such notice and all documentation, information and fees required under Article 16, the Association must either approve or disapprove the occupancy of all permanent residents of the Parcel or notify the applicant in writing of the need for additional information. If approved, the approval shall be stated in a certificate executed by any officer of the Association, in recordable form.

(d) Permanent Occupancy. If the proposed transaction is for a permanent occupant, then within thirty (30) days after receipt of such notice and all documentation, information and fees required under Article 16 the Association must either approve or disapprove the proposed occupancy or notify the applicant in writing of the need for additional information. If approved, the approval shall be stated in a certificate executed by any officer of the Association.

(e) Entity Ownership. Inasmuch as the Parcel may be used only for residential purposes, and a corporation or other non-natural person cannot occupy a Parcel for such use, if the Parcel Owner, purchaser, or lessee of a Parcel is a corporation or any non-natural person, the approval of ownership and/or possession shall be conditioned upon all natural persons intending to occupy the Parcel receiving prior written approval from the Association for such occupancy. A corporate or other non-natural person owner or possessor of a Parcel shall follow the same procedure and adhere to the same requirements as a natural person who desires to permanently occupy a Parcel, when the corporation or other non-natural person designates the occupant of the Parcel. Moreover, in the event the home is titled in the name of an artificial entity or trust, then in the case of an entity, only the majority owner/shareholder of that entity shall be deemed the Owner entitled to possession along with his or her family, and in the case of a trust, only the beneficiary of the trust shall be deemed the owner and entitled to possession along with his or her family. If no one holds a majority interest in the entity, it shall designate a single person to be treated as the Owner who must be listed on the Florida Division of Corporations website (if a Florida entity) as the President or Managing Member. Without limitation, the Association may ask for any evidence it deems appropriate to determine whether a home owned by an entity or person is complying with this section. Anyone other than individuals deemed Owners pursuant to this section and their immediate family shall be deemed to be tenants, and may occupy if and only if screened and approved and comply with all other provisions of this Declaration regarding tenants.

(f) Screening Fees; Security Deposit. Every request for approval of a proposed sale, lease, permanent occupant, or other transfer, whether by gift, devise, inheritance, or otherwise, shall be accompanied by an approval fee, per applicant, in the highest amount permitted by Chapter 720, Florida Statutes, as same may be amended or renumbered from time to time, or in the absence of such a statute, then in the amount of Two Hundred Fifty Dollars (\$250.00), or such other amount as the Board may, from time to time, determine by duly adopted rule. This screening fee is in addition to, and not in lieu of, the deposits required of any Parcel that is proposed to be leased. The approval and deposit fees (if a lease) shall be paid with the giving of the notice of transfer, and the notice of transfer shall not be

complete unless and until the approval and deposit fee (if a lease) is paid. The timeframe for approval of the transfer shall not begin to run until all true, correct and completed documentation has been received, including any additional documentation or information reasonably requested by the Association, and if a lease, the deposit fee is paid. In the event payment of the approval or if applicable the deposit fee is in a form other than cash, cashier's check, certified check, or money order, payment shall not be deemed received unless and until the funds have cleared. The security deposit in the event of a Lease shall serve as security for the full and faithful performance by the Parcel Owner and prospective lessee of the terms, provisions, obligations and duties set forth in Chapter 720, Florida Statutes, this Declaration, Articles of Incorporation of the Association, Bylaws of the Association and Rules and Regulations of the Association (collectively the Governing Documents), including the timely payment of assessments and fines and the payment of attorney's fees incurred by the Association in connection with any default or breach of the Governing Documents by the Parcel Owner or prospective lessee. In the event the security deposit, or any portion thereof, shall be applied to cover debts of the Owner or tenant, the Parcel Owner or tenant shall deposit with the Association, upon written demand therefor, an amount sufficient to restore such security deposit to its original amount, and the failure to do so shall constitute a material violation of the Governing Documents and shall be a valid basis for the Association to seek eviction of the Tenant utilizing the summary eviction proceedings provided for by Florida Statutes 51 and 83. Any lessee who vacates or abandons the Parcel at or prior to the expiration of the term specified in the written lease shall give at least seven (7) days written notice by certified mail or personal delivery to the Association prior to vacating or abandoning the Parcel, which notice shall include the address where the tenant may be reached. Failure of the tenant to give such notice shall relieve the Association of the requirement to remit the balance, if any, of the deposit unless and until such notice is given. It shall be presumed that the tenant has abandoned the Parcel if the tenant is absent from the Parcel for a period of one month, unless the tenant has notified the Association, in writing, of an intended absence. The remedies provided for herein are cumulative and in addition to any other remedy available to the Association, and nothing herein shall be deemed to limit or exclude any of the Association's rights or remedies or method of enforcement.

(g): Disapproval by Association For Good Cause. If the Association shall disapprove a transfer of ownership of a Parcel for Good Cause, it shall be handled as set forth below. The Board shall consider the following factors and may confer freely with counsel in reaching its decision. If the Board disapproves prospective purchaser(s) or occupant(s) for Good Cause, the Association shall have no duty to purchase the Parcel or furnish an alternate purchaser, and the transaction shall not be made. The following may be deemed to constitute good cause for disapproval:

1. The application for approval on its face, or subsequent investigation thereof, indicates that any of the prospective purchaser(s) or prospective occupant(s) intend to act in a manner inconsistent with the covenants and restrictions applicable to the community.
2. Any of the prospective purchaser(s) or prospective occupant(s) has/have been convicted, pled no contest/nolo contendere or had adjudication withheld, of a crime, involving violence to persons, a crime demonstrating dishonesty or moral turpitude; a criminal offense involving the sale, distribution or use of illegal drugs; or a criminal offense involving sexual battery, sexual abuse, or lewd and lascivious behavior, or any felony;

3. The prospective purchaser(s) is/are unable to meet the obligations that are incumbent upon an Owner in the Community; the purchase of the Parcel is beyond the financial ability of the person(s) seeking approval; inquiry into the financial responsibility of the person(s) seeking approval indicates an inability to afford the mortgage, maintenance assessment and other Parcel obligations in addition to other financial obligations not related to the Parcel; or the person(s) seeking approval has/have a history of not paying monetary obligations, has/have a poor credit history, has/have a bad credit score; has/have foreclosure(s); or has/have filed bankruptcy.
4. Any of the prospective purchaser(s) or occupant(s) has/have a history of disruptive behavior or disregard for the rights or property of others as evidenced by conduct in other organizations or associations, or by conduct in this Community as a tenant, occupant, guest or Owner;
5. Any of the prospective purchaser(s) or prospective occupant(s) or the Parcel Owner has/have failed to provide the information required to process the application in a timely manner; has materially misrepresented any fact or information provided in the application or screening process; has failed to pay the transfer/approval fee or security deposit, or payment has been dishonored; has failed to make an appointment for or attend the personal screening; or has not agreed, failed to provide, or refused to release to the Association the background investigation.
6. The Parcel Owner requesting the transfer has had fines assessed against him or her which have not been paid; or,
7. All Assessments and other Charges against the Parcel have not been paid in full.
8. Without limiting or altering the above, any of the prospective purchaser(s) or prospective occupant(s) has/have failed to meet any of the requirements set forth in this Article.

#### **16.5 Sale Where Good Cause Does Not Exist To Disapprove.**

**16.5.1 The Association may purchase a unit, or substitute a purchaser, in lieu of approving a sale:** If after the Owner has made a written demand, or, at the Association's election, the Association may waive the requirement to make a written demand, at the time the notice of intended sale is delivered to the Association, the Association may purchase the Parcel if it so desires. Similarly, where a proposed transaction is a bona fide sale, and the prospective purchaser and all prospective occupants have met all the requirements set forth in this Article, and Good Cause does not exist to disapprove the sale, the Association may purchase the unit itself or substitute a purchaser in lieu of approving the sale. Under such circumstances, within thirty (30) days after receipt of such notice and all documentation, information and fees required by this Article, the Association may deliver or mail by certified mail, return receipt requested, to the Parcel Owner an agreement to purchase the Parcel signed by a purchaser approved by the Association, or an agreement to purchase signed on behalf of the Association by its President and attested by its Secretary. The Parcel Owner shall sell the Parcel to the named purchaser at the price and upon the terms stated in the disapproved contract to sell, excepting that at the option of the named purchaser the purchase price may be paid in cash at closing and the closing date shall be extended until thirty(30) days after the Association sends its agreement to purchase the property pursuant to this section.

- (a) The sale shall be closed within thirty (30) days after delivery or mailing of the agreement to purchase, or upon the date designated by the disapproved contract, whichever date shall be later.

(b) A certificate of the Association executed by any of its officers in recordable form shall be delivered to the purchaser.

(c) If the Association shall fail to purchase or provide a purchaser and Good Cause does not exist to disapprove, or if the purchaser furnished by the Association shall default in his agreement to purchase and Good Cause does not exist to disapprove, the proposed transaction shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, in recordable form.

**16.6 Lease.** The Maximum Lease Term shall be one year. Thereafter, the lease must be re-submitted for re-approval. If the proposed transaction is a lease, and the Association disapproves the lease, or the Owner is not qualified to Lease because he or she has not resided in the Parcel for three (3) consecutive years, then the lease shall not be made, and if made, shall be void *ab initio*. The remedies of the Association shall be as set forth above, including but not limited to eviction of the lessee, as well as recovering all attorney's fees against the owner and lessee, jointly and severally, whether suit be brought or not.

**16.7 Tenant Conduct; Remedies.** The Association may require that any permitted lease be on a uniform written form of lease. The Association may require the Owner and Tenant to sign a lease addendum. All lease (whether uniform or not), addenda will provide, or be deemed to provide that the Tenants have read and agreed to be bound by the Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations as the same may be amended from time to time. The uniform lease or addendum and other leases shall further provide or be deemed to provide that any violation of the Documents shall constitute a material breach of the lease and subject the Tenant to eviction as well as any other remedy afforded by Florida law. If a Tenant, other Home Occupant, Guest or Invitee fails to abide by the Documents, the Parcel Owner(s) shall be responsible for the conduct of the Tenants, Occupants, Guests and Invitees and shall be subject to all remedies set forth in the Documents and Florida law, without waiver of any remedy available to the Association as to the Tenant. The Parcel Owner shall have the duty to bring his Tenant's conduct (and that of the other home Occupants, Guests and Invitees) into compliance by whatever action is necessary, including without limitation the institution of eviction proceedings. If the Parcel Owner fails to bring the conduct of the Tenant into compliance with the in a manner deemed acceptable by the Association, the Association shall have the authority to act as agent of the Parcel Owner to undertake whatever action is necessary to abate the Tenants' noncompliance with the Documents (or the other noncompliance of other Occupants, Guests or Invitees), including without limitation the right to institute an action for eviction against the Tenant in the name of the Association in its own right, or as agent of the Parcel Owner utilizing the summary eviction proceedings provided for in Florida Statutes 51 and 83. The Association shall have the right to recover any costs or fees, including attorney's fees, incurred in connection with such actions, from the Parcel Owner which shall be secured by a continuing lien in the same manner as assessments for Common Expenses, to wit, secured by a lien for Charges.

**17. METHOD OF AMENDMENT OF DECLARATION.** Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:



**17.1 Proposal of Amendments.** An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

**17.2 Proposed Amendment Format.** Proposals to amend the existing Declaration of shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF DECLARATION. SEE ARTICLE NUMBER FOR PRESENT TEXT."

**17.3 Notice.** Copies 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.

**17.4 Adoption of Amendments.** An amendment is adopted if approved by a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of a majority of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the officers of the Association, upon Board approval, without need for Association membership vote.

**17.5 Effective Date.** An amendment when adopted shall become effective after being recorded in the Palm Beach County Public Records according to law. However, it shall relate back to the date of the declaration originally recorded by the Developer and owners are on notice that rules and covenants may change, and that they are not entitled to the status quo. Nevertheless, at the discretion of the Association's Board of Directors, any violation may be "grandfathered" in as to existing violations that pre-date any amendment.

**17.6 Automatic Amendment.** Whenever Chapter 720, Florida Statutes Chapter 617, Florida Statutes or other applicable statutes or administrative regulations, as amended from time to time, are amended, same will be incorporated herein by reference and will supersede any language specific or otherwise herein to the contrary.

## **18. COMPLIANCE AND DEFAULT.**

**18.1 Duty to Comply; Right to Sue.** Each Parcel Owner, his Family, Tenants, Guests, Invitees and all home Occupants and the Association shall be governed by and shall comply with the provisions of the Act and the Documents. Action for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Parcel Owner, against:

**18.1.1** The Association;

**18.1.2** A Parcel Owner; or

**18.1.3** Anyone who occupies a Parcel as a Parcel Owner, Family member, Tenant, Occupant or Guest. Parcel Owners shall be jointly and severally liable for violations of the Documents by their Family members, Tenants, Guests, Invitees and home Occupants.

**18.14** The Association shall have no obligation to pursue legal action against violations of the governing documents in circumstances where the Association, acting upon its best business judgment or upon the advice of its legal counsel, reasonably believes such legal action is not in the best legal, economic, or practical interests of the Association. Under such circumstances, interested members who feel differently may file an enforcement action on their own behalf against the violating party.

**18.2 Attorney's Fees.** In any legal proceeding arising out of an alleged failure of a Parcel Owner, Family member, Tenant, Guest, Invitee home Occupant or the Association to comply with the requirements of the Act or the Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs and expenses of the proceeding and a reasonable attorney's fee before trial, at trial and on appeal. In addition, and without limitation, the prevailing party in any litigation shall be entitled to reimbursement of all attorney's fees, costs and expenses of the litigation or related investigation, all as actually incurred, including, without limitation, attorneys' fees, costs (whether taxable court costs or not), and expenses of investigation incurred before, during or after trial or in any appellate proceedings or in the trial court to determine the reasonable amount of fees or in any action or participation in, or in connection with, any case or proceeding under the United States Bankruptcy Code, or any successor statutes, or incurred in the collection of any awarded judgment.

In addition, and without limiting the above or the lien for Charges, the Association shall also recover attorney's fees it incurs related to an Owner's noncompliance where no court action is filed including, but not limited to, arbitration/mediation and pre-litigation fees incurred and fees reasonably incurred by the Association in obtaining compliance with the Documents. Notwithstanding the foregoing, the Board shall provide at least one (or more at the Board's discretion) notice and opportunity to cure to the owner without demanding attorney's fees, although the attorney's fees incurred in connection with same (or prior to same) shall be due by the Owner to the Association if the Owner does not comply with the notice and opportunity to cure. Any amounts due pursuant to this paragraph or awarded by the Court if applicable shall be secured by a lien for Charges.

**18.3 No Election of Remedies.** All rights, remedies and privileges granted to the Association herein shall be deemed to 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 Association from exercising such other additional rights, remedies, or privileges as may be granted by the Documents, or at law or in equity, unless explicitly limited by these documents.

**18.4 Waiver of Application of Documents.** The Association shall have the right to waive the application of one or more of the covenants or restrictions of the Documents, or to permit a deviation from said covenants or restrictions, as to any Parcel where, in the discretion of the Board, hardship circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event the Association fails to enforce violation of said covenants or restrictions, such actions or inactions shall not be deemed to prohibit nor restrict the right of the Association, or any other person having the right to enforce said covenants or restrictions, from insisting upon strict compliance with respect to all other Parcels, nor shall any such actions be deemed a waiver of any of the covenants or restrictions contained in the Documents as same may be applied in the future.

## **18.5 Notice of Claim or Suit**

**18.5.1 Notice of Claim.** Anything to the contrary herein notwithstanding, as a condition precedent to any claim against the Association for any relief whatsoever, and in addition to the pre-suit mediation required by Chapter 720 if applicable, the Owner must give the Association notice of its intent to seek money or other relief from the Association and with a reasonable opportunity to cure, if possible before taking any curative or legal action, including but not limited to the mediation demand letter set forth in the Act. Without limitation, if the owner undertakes repairs or otherwise incurs an expense without providing such notice and opportunity to cure, the absence of such notice and opportunity to cure where it would have been possible to do so shall create a conclusive presumption that the Association is not liable for the expense or claim, or that the relief sought by the owner should not be granted. The Board of Directors may waive this presumption in their sole discretion.

**18.5.2 Notice of Suit.** A Parcel Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Parcel, or impose liability on the Association, such notice to be given five (5) days after the Parcel Owner receives actual knowledge thereof. However, failure of an Owner to comply with this Section will not affect the validity of any judicial suit; however, the failure may render the Owner liable to any party injured by such failure.

## **19. MISCELLANEOUS PROVISIONS.**

**19.1 Covenants Running with the Land.** The covenants and restrictions as herein contained, or forming a part of the Documents, shall be deemed to run with the land.

**19.2 Savings Clause.** If any provision of the Governing Documents or any portion thereof, shall be held invalid by any Court, or other governmental agency with proper authority to so hold, the validity of the remainder of said Documents shall remain in full force and effect. Moreover, as to the offending provision, the Court shall be permitted to reform it or "blue pencil" it and enforce it to the maximum extent permitted by law.

**19.3 Heirs, Successors and Assigns.** These Documents shall be binding upon the heirs, nominees, successors, administrators, executors and assigns of all Parcel Owners.

**19.4 Notices.** All notices shall be given as provided in the Bylaws.

**19.5 Compliance with Fair Housing Laws.** There shall be no limitation upon sale, lease, or occupancy of any Parcel based upon race, creed, color, sex, religion, national origin, handicap, or familial status. The Association may make reasonable accommodations, including reasonable waiver of the covenants and restrictions of the Documents, when necessary to afford handicapped individuals the opportunity to enjoy the premises, or to comply with other legal requirements. The Association may establish procedures or forms for applying for reasonable accommodations.

**19.6 Conflicts.** In the event of a conflict between any provision of the Documents and the Act, the Act shall control, except in cases where the Act permits the Documents to regulate the subject,

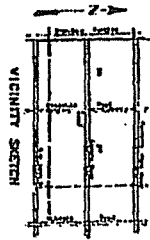
in which case the Documents will control. In the event of a conflict between this Declaration and the other Documents, same shall be governed as provided in the Bylaws.

**19.7 Interpretation.** The Board of Directors shall be responsible for interpreting the provisions of the Documents. The Board's interpretations shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Association's legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the interpretation is valid.

**19.8 Captions and Headings.** The headings and captions used in the Documents are solely for convenience sake and shall not be considered a limitation of any nature in interpreting the Documents.

**19.9 Towing.** In the event any vehicle is parked in violation of this Declaration, or otherwise in violation of the Rules, then, without limiting the Association's other remedies, it may be towed from the premises in accordance with Chapter 715 of the Florida Statutes.

**20. Flags.** Any homeowner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and one portable, removable official flag, in a respectful manner, not larger than 4 1/2 feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW-MIA flag. Any other flags are prohibited unless approved in writing by the Association.



**TIBURON I - PHASE I**  
**A PLAT OF A PORTION OF SECT. 27, TWP. 47S, RGE. 42E**  
**AND ALSO BEING A REPLAT OF A PORTION OF TRACT 53, BOCA DEL MAR NO. 3, AS RECORDED**  
**IN PLAT BOOK 30, PAGES 82-84, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA**  
**JOHN A. GRANT, JR., INC.**  
**CONSULTING ENGINEERS & LAND SURVEYORS**  
**PALM BEACH COUNTY, FLORIDA**  
**BOCA RATON, FLORIDA**

# **MORTGAGE CERTIFICATE**

THIS CERTIFICATE IS TO BE FILED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, IN THE OFFICE OF THE CLERK OF THE COURT, IN THE CITY OF PALM BEACH, FLORIDA, IN THE YEAR 1925.

IDENTIFYING THE PLAT

# **ACKNOWLEDGMENT**

I, the undersigned, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the Public Records of Palm Beach County, Florida, in the Office of the Clerk of the Court, in the City of Palm Beach, Florida, in the year 1925.

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# **DEDICATION**

THE UNDERSIGNED, JOHN A. GRANT, JR., INC., a Florida Corporation, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the Public Records of Palm Beach County, Florida, in the Office of the Clerk of the Court, in the City of Palm Beach, Florida, in the year 1925.

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R.U.D.  
**TIBURON I - PHASE I**  
A PLAT OF A PORTION OF SECT. 27, TWP 47 S., RGE. 42 E.  
AND ALSO BEING A REPLAT OF A PORTION OF TRACT 53, BOCA DEL MAR NO. 3, AS RECORDED  
IN PLAT BOOK 30, PAGES 82-84 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA  
PALM BEACH COUNTY, FLORIDA

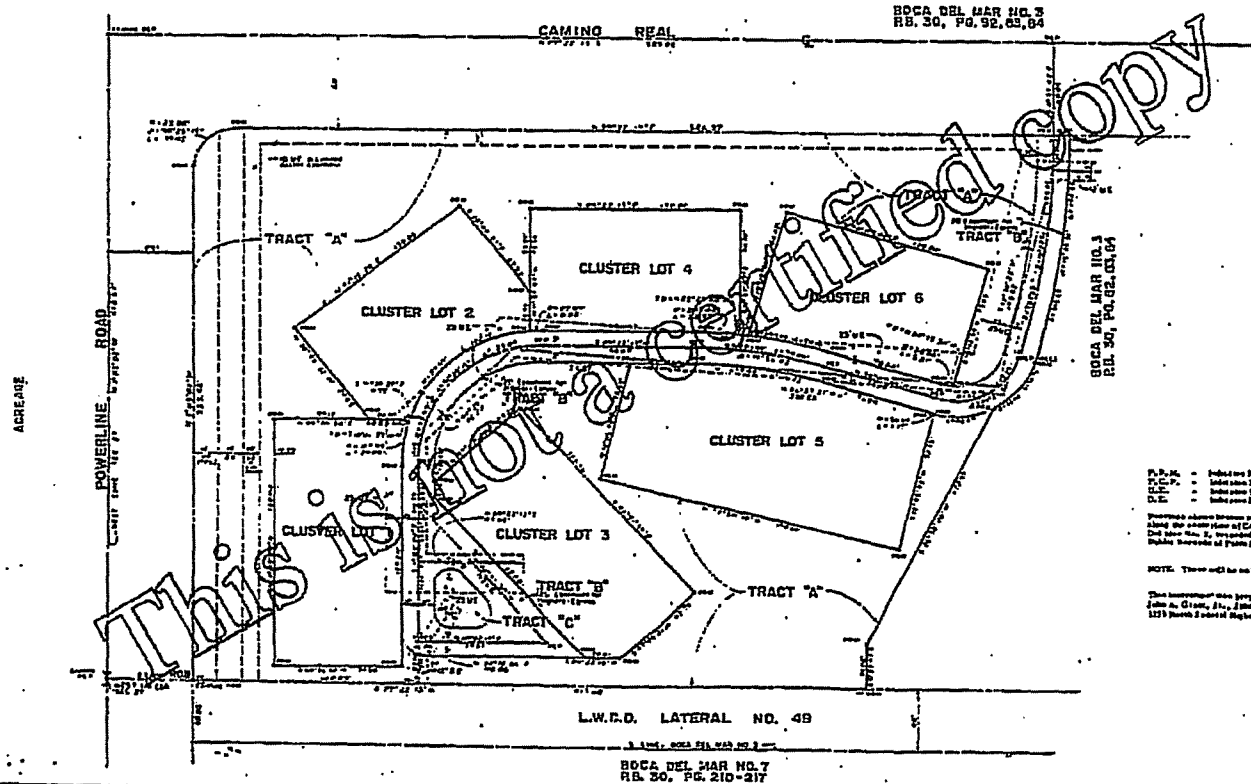
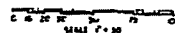
JOHN A. GRANT JR., INC.

CONSULTING ENGINEERS & LAND SURVEYORS

BOCA RATON, FLORIDA

FEBRUARY 1970

9-117 2-1-2



**NOTES**

- P.L.M. - Indicated by Permanent Monument
- T.C.P. - Indicated by Permanent Control Point
- C.E. - Indicated by Chain Extension
- D.E. - Indicated by Distance Extension

Tract shown herein was based on a bearing of 86° 20' 27" E. and the corner line of Cluster Lot 4 shown on the Plat of Boca Del Mar No. 3, recorded in Plat Book 30, Page 82 of the Public Records of Palm Beach County, Florida.

NOTE: There will be no easements, here, or shown placed on easements.

This instrument was prepared by:  
John A. Grant, Jr., 2100 N. Grant, 27, 2nd  
1275 North 2nd of Highway, Boca Raton, Fla.

L.W.C.D. LATERAL NO. 49

BOCA DEL MAR NO. 7  
R.B. 30, PG. 210-217

RECORDER'S MEMO: Legibility  
of Writing, Typing or Printing  
unsatisfactory in this document  
when received.

**AMENDED AND RESTATED**  
**BYLAWS**  
**OF**  
**TIBURON I HOMEOWNERS ASSOCIATION, INC**

**SUBSTANTIAL REWORDING OF BYLAWS -  
SEE CURRENT BYLAWS FOR CURRENT TEXT**

**1. IDENTITY.** These are the Amended and Restated Bylaws (hereinafter "Bylaws") of **TIBURON I HOMEOWNERS ASSOCIATION, INC**, a Florida not-for-profit Corporation formed for the purpose of administering the Tiburon I Community (hereinafter referred to as the "Community") which is located in Palm Beach County Florida, upon the lands described in the Declaration of Covenants, Conditions and Restrictions (The corporation may hereafter be referred to as the "Association.")

**1.1 Office.** The office of the Association shall be at any place, as may from time to time be determined by the Board of Directors, and such address shall be listed on the State of Florida's Sunbiz Website, for so long as the state of Florida maintains such website.

**1.2 Fiscal Year.** The fiscal year of the Association shall be the calendar year, unless otherwise determined by the Board of Directors.

**1.3 Seal.** The corporate seal of the Association may be changed by the Board of Directors and shall bear the name or abbreviated name of the Association, the word "Florida," the year of establishment, and shall identify the Association as a not-for-profit corporation. A common seal may be used in lieu of a raised corporate seal and in no event shall a seal be required to validate corporate actions unless specifically required by law.

**1.4 Definitions.** All terms used in these Bylaws shall have the same meaning, to the extent applicable, as set forth in the Amended and Restated Articles of Incorporation for the Association ("Articles"), the Amended and Restated Declaration of Covenants, Conditions and Restrictions, ("Declaration") and Chapter 720 of the Florida statutes, which is called the Homeowner's Association Act, or hereinafter, the "Act," all as amended from time to time.

**2. MEMBERS' MEETINGS.**

**2.1 Annual Meetings.** Annual Members' meetings shall be held at such convenient location as may be determined by the Board of Directors. The annual meeting shall be held on the date and time determined by the Board for the purpose of transacting any business authorized to be transacted by the members. At least one annual meeting shall be held per calendar year and it may be no more than eighteen (18) months after the prior annual meeting date.

**2.2 Special Meetings.** Special Members' meetings shall be held whenever called by the President or by a majority of the Board of Directors. Special meetings shall also be called by

the President or Secretary within a reasonable time of receipt of written notice from at least 50% of the Voting Interests of the Association.

**2.3 Notice of Members' Meetings.** Notice of all Members' meetings, stating the time, place, and purpose(s) of the meeting, shall be sent to each Parcel Owner by United States regular mail, unless waived in writing, at least 14 days prior to the meeting. Hand delivery and electronic notice is acceptable where permissible by law. Officers required to give notice may delegate the actual giving of notice to another person, such as an Assistant Officer or managing agent or any of their staff. Any Members' meeting or election at which one or more Directors are to be elected must be noticed as provided for in Section 2.4 unless the Board by Majority votes in advance of any particular election elects to waive the procedure set forth in Section 2.4 and hold an election utilizing proxies and without secret ballots as permitted by Chapter 720 of the Florida Statutes.

Notice of specific meetings may be waived before or after the meeting and the attendance of any Member (or person authorized to vote for such member) shall constitute such Member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the sole and express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

**2.4 Board of Directors Election Meetings - Notice and Procedure.** The regular election of Directors shall occur as the first item of business at the annual meeting, which may only be convened if a quorum is obtained. The meeting shall take place as set forth below, unless a majority of the Board members decides in advance to hold an election utilizing proxies and without secret ballots as permitted by Chapter 720 of the Florida Statutes. If secret ballots are used, then:

**2.4.1** Not less than 60 days before a scheduled annual meeting, the Association shall mail, or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each Parcel Owner entitled to vote, a first notice of the date of the election. Any person desiring to be a candidate for the Board of Directors shall give written notice by a cutoff date that shall be set in the notice. Not less than 14 days before the election, the Association shall mail or deliver a second notice of the election to all Parcel Owners entitled to vote therein, together with a written ballot with the names of the candidates and which shall also include an information sheet (if provided by the candidate), no larger than 8½ inches by 11 inches furnished by the candidate, with the costs of mailing and copying to be borne by the Association. The ballots shall be placed in a secret ballot envelope and that secret ballot envelope then placed in a second envelope, which has the home's identification on it. Notwithstanding the foregoing, Owners may waive the secrecy of their ballot and use only one envelope.

**2.4.2** In the event that there are only as many (or fewer) candidates pre-qualified for election as there are open seats on the Board, the pre-qualified candidates shall automatically become members of the Board and elected unopposed after the annual meeting. In the event there are more candidates than open Board seats, the Board shall hold the election at the annual meeting and shall count all ballots received, whether or not the owner is in attendance. Nominations from the floor will not be permitted or recognized.



**2.4.3** Anything above to the contrary notwithstanding, The Board may establish additional election rules or procedures as it deems appropriate to ensure a fair election process or vote to use another election process altogether. To the extent the above process is used, substantial compliance is sufficient.

**2.5 Quorum/Voting.** A quorum at Members' meetings shall consist of the presence, in person or by proxy, of Parcel owners owning at least Twenty (20) Percent of the Parcels. Decisions made by a majority of the people present in person or by proxy at any meeting where a quorum was obtained shall be binding and sufficient for all purposes except such decisions as may by the Declaration, the Articles or the Bylaws, all as amended from time to time require a larger percentage. Parcel Owners may join in any action taken at a meeting of the members through written approval of such action executed after the meeting, and such approval shall be as though the Parcel Owner duly approved the action of the meeting in question.

**2.6 Indivisible Vote.** Each Parcel shall have one indivisible vote. If a Parcel is owned by multiple individuals, any record Owner may vote on behalf of the Parcel. If a Parcel is owned by a trust or other similar entity, any person asserting the right to vote on behalf of a Parcel shall be conclusively presumed to be entitled to vote on behalf of said Parcel, unless the Parcel has filed voting instructions with the Association designating some other person entitled to vote or multiple votes on behalf of a Parcel are received. If multiple Owners or non-individual Owners of a Parcel cannot agree on a vote, or more than one vote is submitted on behalf of a Parcel by owners of the Parcel, and reference to the public records or voting instructions on file with the Association cannot cure the dispute, the Parcel's vote shall not be counted. Voting certificates are permissible and preferable but not necessary.

**2.7 Proxies.** Except as otherwise specifically provided, votes may be cast in person or by proxy. Proxies shall be in writing, signed and dated, and shall be valid only for the particular meeting designated therein or an adjournment thereof, but in no event for more than 90 days, and must be filed with the Association before or at the voter registration immediately preceding the meeting, or adjournment thereof. Limited proxies and general proxies may be used to establish a quorum. A PDF, photographic, photostatic, facsimile, electronic or equivalent reproduction of a signed proxy is a sufficient proxy. Owners may retroactively cure any alleged defect in a proxy by signing a statement ratifying the Owner's intent to cast a proxy vote. The use of proxies is to be liberally construed.

**2.8 No Quorum.** If any meeting of members cannot be organized because a quorum is not present, or if insufficient Voting Interests are represented to approve a proposed item of Association business, the Members who are present, either in person or by proxy, may recess, adjourn or continue the meeting from time to time until a quorum is present or enough votes can be cast to decide a question.

**2.9 Order of Business.** The order of business at annual members' meetings and, as far as applicable at all other members' meetings, shall be as determined by the Board of Directors in advance of the Meeting. Unless otherwise determined by the Board in advance of the Meeting, the Order of business shall be:

**2.9.1** Call to order by the President;

**2.9.2** At the discretion of the President, appointment by the President of a chairman of the meeting (who need not be a member or a Director);

**2.9.3** Appointment by the Chair of inspectors of election;

**2.9.4** Election of Directors;

**2.9.5** Calling of the roll, certifying of proxies and determination of a quorum; or, in lieu thereof, certification and acceptance of registration procedures establishing the number of persons present in person or by proxy;

**2.9.6** Proof of notice of the meeting or waiver of notice;

**2.9.7** Disposal of unapproved minutes;

**2.9.8** Reports of officers;

**2.9.9** Reports of committees;

**2.9.10** Unfinished business;

**2.9.11** New business;

**2.9.12** Adjournment.

**2.10 Action Without a Meeting.** Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any annual or special meeting of members, or any action which may be taken at any annual or special meeting of such members, may be taken without a meeting, without prior notice, and without a vote if a consent in writing setting forth the action so taken, shall be signed by the requisite number of voting interests to approve the action.

### **3. BOARD OF DIRECTORS.**

**3.1 Number, Term, and Qualifications.** The affairs of the Association shall be governed by a Board composed of Directors, the amount of which shall be determined by the Association's Board in advance of the Meeting, or absent such a determination, the same amount as were elected the preceding year, which as of the date hereof is 3, said number being ratified by the adoption of these Bylaws. All Directors shall be Parcel Owners or the spouse of a Parcel Owner. When a Parcel is owned by a trust, the Primary Occupant, as designated pursuant to the Declaration, and the spouse of the Primary Occupant shall be eligible for Board membership. Persons who are convicted felons, who have not had their civil rights restored for at least five (5) years, are not eligible to serve on the Board. The term of each Director's service shall extend until their elected term is completed and thereafter until their successor is duly elected and qualified or until the Director is recalled in the manner provided in the Act, or resigns. Resignations of Directors are effective when received by the Association in writing, unless a later date is stated. However, the resignation of a director who verbally announces his or her resignation and does not provide a resignation letter shall be effective ten (10) days following said announcement unless the director changes his or her mind within that time. Without

limiting the foregoing, ten days following a verbal resignation, if the director does not change his or her mind, it shall be deemed as if that director abandoned the office.

**3.2 Board Vacancies.** Vacancies in the Board of Directors shall be filled by appointment by a majority vote of the remaining Directors for the remainder of the unexpired term; provided that when a Director has been recalled by the membership, the vacancy created by his removal cannot be filled with the same person as has been removed from the Board, and when a majority of the Board has been recalled, vacancies shall be filled by the membership, as provided by law.

**3.3 Organizational Meeting.** The organizational meeting of each newly-elected Board of Directors to elect officers shall be held at such place and time as shall be fixed by the Directors, provided a quorum of the Board shall be present. Notwithstanding the foregoing, the Organizational meeting may be held immediately following the annual meeting, even if not separately noticed.

**3.4 Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings, unless fixed by Board resolution, shall be given to each Director personally or by mail, electronic mail, telephone, or facsimile at least two days prior to the day named for such meeting.

**3.5 Special Meetings.** Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of any two (2) Directors. Not less than two days' notice of the meeting (except in an emergency) shall be given to each Director personally or by mail, electronic mail, telephone, or facsimile, which notice shall state the time, place, and purpose of the meeting.

**3.6 Waiver of Notice.** Any Director may waive notice of a meeting before, at, or after the meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting.

**3.7 Notice to Owners of Board Meetings.** Notice of meetings, which notice shall specifically include an agenda, shall be posted conspicuously at least 48 continuous hours in advance of the meeting for the attention of Parcel Owners, except in an emergency. If closed circuit television is available, the Board may use same in lieu of posting notices, as permitted by law. Meetings at which a regular monthly or quarterly Assessment or Special Assessment is to be considered shall specially state that Assessments will be considered and the nature, estimated cost, and description of the purpose for such Assessments. However, written notice of any meeting at which non-emergency special assessments, or at which amendment to rules regarding Parcel use will be considered shall be mailed or delivered (including electronic delivery as provided by law) to the Parcel Owners and posted conspicuously not less than 14 continuous days prior to the meeting.

**3.8 Owner Participation in Board Meetings.** Meetings of the Board of Directors at which a majority of the Board members of the Board are present, shall be open to all Parcel Owners only. Parcel Owners may not designate third persons, through power of attorney or otherwise, to attend Board meetings, with the sole exception being that a Parcel owner may bring

a Florida licensed attorney and/or a court reporter. The Parcel Owner's right to attend Board meetings includes the right to speak with reference to all designated agenda items; provided, however, the Board may adopt reasonable rules governing the frequency, duration, and manner of Parcel Owner statements. Unless otherwise provided by the Board, each Parcel Owner is entitled to speak for a maximum of three minutes with reference to designated agenda items. Board meetings subject to the attorney-client privilege shall not be subject to Parcel Owner attendance.

**3.9 Board Meetings, Quorum, and Voting.** The designation of the agenda for Board meetings shall be at the discretion of the President. However, the President shall be obligated to include any item on the agenda for a Board meeting, if requested, in writing, by any two Board members. A quorum at a Board Meeting occurs when a majority of the Board Members appear at a meeting and shall be determined without regard to any vacancies based on the total number of actual sitting directors. The acts approved by a majority of the Board of Directors present and voting at a meeting shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings (except that Directors may vote by secret ballot when electing Officers) and a vote or abstention for each member present shall be recorded in the minutes. If at any meeting of the Board there be less than a quorum present, the Director(s) present may adjourn the meeting from time to time until a quorum is present and no further notice need be given except for announcement at the meeting as to the date, time, and place of the adjournment. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum or counted as official vote for the Board's meeting. Directors may participate telephonically in Board meetings, as provided by law.

**3.10 Presiding Officer.** The presiding officer at Directors' meetings shall be the President, and in his absence, the Vice President. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

**3.11 Director Compensation.** Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred.

**4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.** All of the powers and duties of the Association existing under the laws of Florida generally, Florida Not For Profit Corporation Statute, the Act, and the Governing Documents, all as amended from time to time, shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees, when said powers and duties have been delegated by the Board, subject only to the approval by Parcel Owners when such is specifically required. The powers of the Directors shall include, but shall not be limited to, the power:

**4.1 To Assess.** The Directors shall adopt budgets and make and collect special and periodic Assessments against owners to defray the costs of the Association.

**4.2 To Expend Association Funds.** The Directors shall use the proceeds of Assessments in the exercise of its powers and duties.

**4.3 To Maintain The Common Property in the Community.** The Directors shall maintain, repair, replace, and operate the Common property within the Community.

**4.4 To Adopt Regulations.** The Directors may enact or amend Rules or Regulations concerning the transfer, use, appearance, maintenance, and occupancy of the Parcels and Association Property, and may also enact rules, policies, and resolutions pertaining to the operation of the Association or related in any way whatsoever to the all portions of the Community, including but not limited to the Parcels.

**4.5 To Approve Transfers and/or Leases.** The Directors may approve or disapprove proposed transactions or transfers or occupancy of the homes or Parcels in the manner provided by the Declaration and without limitation, to charge a preset fee determined by the Board in connection with such right of approval.

**4.6 To Enforce.** The Directors may enforce by legal means the provisions of applicable laws (all applicable laws shall be deemed incorporated into the Governing Documents) and the Governing Documents, and may interpret the Governing Documents, as the final arbiter of their meaning, unless such interpretation is wholly arbitrary, or contrary to law and without regard to common law rules of construction that might otherwise favor strict construction in favor of the Parcel Owner.

**4.7 To Contract.** The Directors may contract for management, maintenance, and operation of the Community.

**4.8 To Insure.** The Directors shall carry insurance for the protection of the Parcel Owners and the Association as determined by the Board in their reasonable discretion, and as required by law.

**4.9 To Pay Utility Bills.** The Directors shall pay the cost of all utility services rendered to the common property and not billed to Owners of individual Parcels.

**4.10 To Hire and Discharge.** The Directors may employ personnel and/or hire independent contractors and grant them such duties as seem appropriate for proper administration of the purposes of the Association.

**4.11 To Sue and Be Sued.** The Directors may bring and defend suits and other proceedings and may exercise its business judgment as to whether the interests of the Association are best served with respect to settlement of a matter or whether a suit or other proceeding should be commenced.

**4.12 To Contract Regarding Real and Personal Property and Borrow Money.** The Directors may execute contracts, deeds, mortgages, notes, leases, and other instruments by its officers and to purchase, own, Lease, convey, and encumber real or personal property. The Directors may grant or modify easements and licenses over the Common Property.

**4.13 To Enter Into Contracts for Products and Services.** All contracts for the purchase, Lease, or renting of materials or equipment, or which are not to be fully performed within one year, and all contracts for services shall be in writing.

**4.14 To Levy Fines.** The Directors may impose fines against a Parcel in the amount determined by the Board in its sole discretion, but in no event more than Five Thousand Dollars for a single or continuing violation for failure to comply with the provisions of the Board policies and resolutions, the Governing Documents, including the Rules and Regulations, and applicable laws by Parcel Owners, their Families, Occupants, Tenants, and Invitees.

**4.14.1** A fine may be imposed for each day of continuing violation with a single notice and opportunity for hearing, provided that no fine shall in the aggregate exceed Five Thousand United States Dollars

**4.14.2** The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing by being given notice of not less than fourteen (14) days that a fine is being considered. The notice shall contain the date of the fine hearing, and advise the owner that the owner has an opportunity to appear.

**4.14.3** Should the Association initiate legal proceedings to collect a duly levied fine, (whether in the form of a foreclosure action, if permitted by law, or in the form of a general civil litigation), the prevailing party in an action to collect said fine shall be entitled to an award of costs, and all reasonable attorney's fee incurred (including but not limited to in connection with the preparation for and conduct of fining hearings, and the time spent determining the amount of attorneys fees). Parcel Owners shall be jointly and severally liable for the payment of fines levied against Tenants, Guests, Invitees, or other Occupants of a Parcel.

**4.15 To Appoint Committees.** The Directors may appoint Committees and delegate to such Committees those powers and duties of the Association as the Board deems advisable. All Committees and Committee members shall serve at the pleasure of the Board. Committees of the Association that take final action on behalf of the board or make recommendations to the board regarding the association's budget shall conduct their affairs in the same manner as provided in these Bylaws for Board of Director meetings. All other Committees may meet and conduct their affairs in private without prior notice or Owner participation, unless otherwise directed by the Board of Directors.

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

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

**4.16.2** The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

**4.16.3** During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any

practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

**4.16.4** The Board may change or postpone the annual meeting date to a date and time determined by the Board for up to three months, even if such change will result in not holding an annual meeting in a particular calendar year.

**4.16.5** Corporate action taken in good faith during an emergency under this Section shall have the rebuttable presumption of being reasonable and necessary.

**4.16.6** The Board may use reserve funds to meet Association needs, and may use reserve funds as collateral for Association loans. By adoption of this provision, the owners specifically authorize the Board to use reserve funds for nonscheduled purposes in the event of an emergency. The Board may adopt emergency assessments with such notice deemed practicable by the Board. Any reserves used in accordance with this provision must be repaid to the reserve fund by the end of the fiscal year or in three (3) months, whichever time period is greater, unless the Parcel Owners vote not to restore the reserves.

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

**4.16.8** This Section 4.16 shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

**4.16.9** For purposes of this Section only, an "emergency" exists only during a period of time that the Community, or the immediate geographic area in which the Community is located, is subjected to:

**4.16.9.1** a state of emergency declared by civil or law enforcement authorities;

**4.16.9.2** a hurricane warning;

**4.16.9.3** a partial or complete evacuation order;

**4.16.9.4** federal or state "disaster area" status;

**4.16.9.5** a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the Community, such as a tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism; or,

**4.16.9.6** an unanticipated set of circumstances, which, if not acted upon with immediacy, is likely to cause imminent and significant financial harm to the Association, the Parcel Owners, or the Community.

**4.17 To Enter Into Contracts and Borrow Money.** The Directors may make contracts and incur liabilities, borrow money at such rates of interest as the corporation may

determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage and pledge of all or any of its property, franchises, or income.

**4.18 To Tow.** To tow cars in accordance with Chapter 715 of the Florida Statutes.

## **5. OFFICERS.**

**5.1 Executive Officers.** The executive Officers of the Association shall be the President, one or more Vice Presidents, a Secretary, a Treasurer, and such Assistant Officers as may be desired, all of whom shall be elected annually by and from the Board of Directors, and who may be peremptorily removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary. Assistant Officers need not be Directors.

**5.2 President — Powers and Duties.** The President shall be the chief executive officer of the Association, shall preside at all meetings of the Board of Directors and Association meetings. The President shall have general supervision over the affairs of the Association and shall have all of the powers and duties which are usually vested in the office of President of a corporation.

**5.3 Vice-President — Powers and Duties.** The Vice-President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

**5.4 Secretary — Powers and Duties.** The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep and have custody of the records of the Association, except those of the Treasurer. He shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President.

**5.5 Treasurer — Powers and Duties.** The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the Assessment rolls and accounts of the members. He shall keep the books of the Association in accordance with good accounting practices and shall perform all other duties incident to the office of the Treasurer of a corporation.

**5.6 Officers' Compensation.** Officers shall not be entitled to compensation for service as such, but shall be entitled to reimbursement of expenses reasonably incurred. This provision shall not preclude the Board of Directors from employing an Officer or Director as an agent or employee of the Association, subject to the Act.

## **6. INDEMNIFICATION.**

**6.1 Indemnity.** The Association shall indemnify any Officer, Director, or Committee Member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or



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

**6.2 Defense.** To the extent that a Director, Officer, or Committee Member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 6.1 above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

**6.3 Advances.** Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of a demand by or on behalf of the affected Director, Officer, or Committee Member for indemnification.

**6.4 Miscellaneous.** The indemnification provided by this Article 6 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of Members, or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, or Committee Member and shall inure to the benefit of the heirs and personal representatives of such person.

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

**6.6 Amendment.** Anything to the contrary herein notwithstanding, the provisions of this Article 6 may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

**7. MINUTES AND INSPECTION OF RECORDS.** Minutes of all meetings of Parcel Owners and of the Board of Directors shall be kept in a business-like manner. The records, shall

be available for inspection by Parcel Owners and Board members at all reasonable times. Provided, however, that the Directors may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and any copying.

## **8. FISCAL MANAGEMENT.**

**8.1 Budget.** The budget shall be adopted by the Board. A proposed annual budget of Common Expenses and anticipated revenues shall be prepared by the Board of Directors which shall include all anticipated income/revenue and expenses for operation, maintenance, and administration of the Community. The proposed budget may also include expenses of security, in-house communications, Directors and Officers insurance, transportation services, communications services as defined in chapter 202, information services, or Internet services, cable, food or drink or any entertainment at any meeting or gathering that is open to all members of the Association, all of which (without limitation of Article 1.11 of the Declaration's delineation of common expenses) are declared to be Common Expenses under these Bylaws. The budget may contain a reasonable allowance for contingencies and provide funds for all operating expenses previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year, provided that notice of the Board meeting at which the revised budget will be considered along with a copy of the proposed revisions to the budget shall be mailed to each member as provided in Article 8.2 hereof.

**8.2 Mailing and Posting.** A copy of the proposed budget shall be mailed or hand-delivered to the Parcel Owners 14 or more days prior to the budget meeting together with a notice of the meeting, and also posted 14 or more days in advance in a conspicuous location.

**8.3 Assessments.** The annual shares of the Parcel Owners of the Common Expenses shall be made payable in installments due monthly or quarterly (as determined by the Board) in advance and shall become due on the first day of each such period and shall become delinquent 10 days thereafter. No invoice or payment coupon or other reminder must be sent by the Association, although the Association may do so or not in its sole discretion. The Association shall have the right to accelerate Assessments of an Owner delinquent in the payment of Common Expenses. Accelerated Assessments shall be due and payable on the date a claim of lien is filed and may include the amounts due for the remainder of the fiscal year for which the claim of lien was filed. Failure to pay such assessments entitle the Association to lien and foreclose on the Parcel as set forth in the Declaration.

**8.4 Special Assessments.** Special Assessments for Common Expenses which are not funded through the budget may be made by the Board of Directors, and the time of payment shall likewise be determined by them. Notice of the Board meeting at which such Assessments shall be considered shall be posted and mailed to each Parcel Owner as provided in Article 3 hereof, except in the event of an emergency. The funds collected pursuant to a Special Assessment shall be used only for the purpose(s) set forth in such notice. However, upon completion of such purpose(s), any excess funds will be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Owners or applied as a credit towards future Assessments.

**8.5 Assessment Roll.** The Assessments for Common Expenses and Charges shall be available for inspection at all reasonable times by Parcel Owners. Such roll shall indicate for each Parcel the Assessments and Charges paid and unpaid.

**8.6 Liability for Assessments and Charges.** A Parcel Owner shall be liable for all Assessments, Charges interest and attorney's fees coming due while the Owner of a Parcel, and also jointly and severally liable for all Assessments, Charges interest and attorney's fees, that came due prior to acquiring title. Liability may not be avoided by waiver of the use or enjoyment of any Common Elements or Association Property or by abandonment of the Parcel for which the Assessments or Charges are due.

**8.7 Liens for Assessments.** The unpaid portion of an Assessment, including an accelerated Assessment which is due, together with all costs, collection expenses, interest, late fees, and reasonable attorney's fees for collection, including appeals, shall be secured by a continuing lien upon the Parcel.

**8.8 Lien for Charges.** Unpaid Charges due to the Association together with costs, interest, late fees, expenses and reasonable attorney's fees shall be secured by a common law and contractual lien upon the Parcel and all appurtenances thereto when a notice claiming the lien has been recorded by the Association.

**8.9 Collection — Interest; Administrative Late Fee; Application of Payments.** Assessments or Charges paid on or before ten days after the date due shall bear interest, but such interest shall be waived when the Owner makes payment. All sums not paid on or before ten days shall bear interest from the original date due at the highest rate permitted by law. In addition to such interest the Association may charge an administrative late fee to be determined by the Board. The Association may also accelerate all Assessments or Charges which are accrued, but not yet due, in the manner provided by law. All payments upon account shall be first applied to interest, then the late fee, then to any costs and collection expenses and reasonable attorney's fees incurred, and then to the Assessment payment first due.

**8.10 Collection — Suit.** The Association, at its option, may collect delinquent Assessments or Charges by suit at law, by foreclosure of the lien securing the Assessments or Charges, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment, or decree, together with those which have become due by acceleration or which have thereafter become due, plus interest thereon, and all costs and expenses incident to the collection and the proceedings, including reasonable attorney's fees, incurred before trial, at trial, and on appeal. The Association may attach rental income for delinquent Parcels and may withhold approval for the sale, Lease, or other transfer of a Parcel, or any interest therein, until all past due Assessments, interest, late fees, costs, and attorney's fees have been paid in full. The Association further has any and all remedies with regard to suits for eviction, and enforcement of such attachment as provided in Chapter 720 of the Florida statutes, as amended from time to time. The Association must deliver or mail by certified mail to the Parcel Owner written notices of its intention to file a lien and to foreclose the lien, as provided by law.

**8.11 Association Depository.** The Depository of the Association in which the funds of the Association shall be deposited, shall be financial institutions authorized to do business in Florida which carry FDIC insurance or equivalent private insurance such as insurance placed through the Securities Investor Protection Corporation (SIPC), as shall be designated by the Board of Directors. Alternatively, the Association may deposit funds with brokerage houses or institutions which are members of the National Association of Securities Dealers, Inc. and

insured by SIPC or equivalent industry insurance. Withdrawal of money from those accounts shall be only by checks or other withdrawal instruments signed by those persons as are authorized by the Directors.

**8.12 Commingling of Funds.** All funds of the Association shall be maintained separately in the Association's name. No community association manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes, as amended from time to time, no agent, employee, Officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other condominium association or community association as defined in Section 468.431, Florida Statutes, as amended from time to time, or with those of any other entity. Reserve funds and operating funds of the Association may be commingled for investment purposes, as provided by law.

**8.13 Fidelity Bonding.** The Association shall obtain and maintain adequate fidelity bonding for each person (whether or not a Director) who controls or disburses Association funds, and the President, Secretary and Treasurer. The Association shall bear the cost of bonding of Directors and Officers. In the case of a community association manager or management firm, the cost of bonding may be allocated as the parties may agree but any person or management company providing services to the Association, or otherwise having the authority to control or disburse Association funds, shall be adequately insured in such fashion.

**8.14. Suspension of Rights--**The Association may suspend, for a reasonable period of time, the right of a Parcel owner, or a Parcel owner's tenant, guest, or invitee, to use the common facilities, or any other association property for failure to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. If a Parcel owner is more than 90 days delinquent in paying a monetary obligation due to the association, the association may suspend the right of the Parcel owner or the Parcel's occupant, licensee, or invitee to use the common facilities, or any other association property until the monetary obligation is paid in full. The Association may also suspend the voting rights of a Parcel or member for failure to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association or due to nonpayment of any monetary obligation due to the association which is more than 90 days delinquent. A voting interest or consent right allocated to a Parcel or member which has been suspended by the association shall be deemed not to exist for all purposes including but not limited to quorum. The Suspensions referenced in this paragraph may only be effectuated in the manner provided for in Chapter 720, as it is amended from time to time, and if such provisions of the statute are removed, then, utilizing the procedures required by Chapter 720, as it existed on the date of the recording of these Bylaws.

**9. BYLAW AMENDMENTS.** Amendments to the Bylaws shall be adopted in the following manner:

**9.1 Proposal of Amendments.** An amendment may be proposed by the President of the Association or a majority of the Directors.

**9.2 Proposed Amendment Format.** Proposals to amend existing Bylaws shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately

preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF BYLAWS. SEE BYLAW NUMBER \_\_\_ FOR PRESENT TEXT."

**9.3 Notice.** Copies 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.

**9.4 Adoption of Amendments.** An amendment is adopted if approved by a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of a majority of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the officers of the Association, upon Board approval, without need for Association membership vote.

**9.5 Effective Date.** An amendment when adopted shall become effective after being recorded in the Palm Beach County Public Records according to law.

**9.6 Automatic Amendment.** Whenever Chapter 720, Florida Statutes, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, same shall be incorporated herein by reference and without regard to a specific provision to the contrary that may appear in these Bylaws on the topic covered by the amended statute.

**10. MISCELLANEOUS.** The following miscellaneous provisions shall apply to these Bylaws and the Governing Documents.

**10.1 Conflicts.** The term "Governing Documents," as used in these Bylaws and elsewhere shall include the Declaration the Articles, these Bylaws, the Rules and Regulations of the Association, the Plats, Surveys, Plot Plans, and graphic descriptions of improvements of record, and all other exhibits to the original Declaration. In the event of a conflict between the language in the Declaration and the graphic descriptions of record, the graphic description of record shall control. In the event of a conflict between language in any of the other Governing Documents, the following priorities shall control:

1. Declaration;
2. Articles;
3. Bylaws; and,
4. Rules and Regulations.

In addition, except with regard to the graphic descriptions of record, which shall always control over all else, in the event of a conflict or other ambiguity which can be resolved by looking only to the language of the Amended and Restated Declaration of Covenants, Conditions and Restrictions, such interpretation technique shall be used and the language of the Amended and Restated Declaration of Covenants, Conditions and Restrictions shall govern over all other documents.

**10.2 Gender.** The use of the term "he," "she," "his," "hers," "their," "theirs" and all other similar pronouns should be construed to include all genders and encompass the plural as well as the singular.

**10.3 Severability.** In the event that any provisions of these Bylaws is deemed invalid, the remaining provisions shall be deemed in full force and effect.

**AMENDED AND RESTATED**  
**ARTICLES OF INCORPORATION**  
**OF**

**TIBURON I HOMEOWNERS ASSOCIATION, INC**

**SUBSTANTIAL REWORDING OF ARTICLES OF INCORPORATION –  
SEE CURRENT ARTICLES OF INCORPORATION FOR CURRENT TEXT**

These are the Amended and Restated Articles of Incorporation for the **TIBURON I HOMEOWNERS ASSOCIATION, INC** originally filed with the Florida Department of State the 31st day of December 1975. Matters of only historical interest have been omitted.

1. **NAME.** The name of the corporation is **TIBURON I HOMEOWNERS ASSOCIATION, INC.** For convenience, the corporation shall be referred to as the "Association," the amended and restated Declaration of Covenants, Conditions and Restrictions governing the Tiburon I Community as "Declaration," these Articles of Incorporation as the "Articles," and the Amended and Restated Bylaws of the Association as the "Bylaws."

2. **PURPOSE.** The purpose for which the Association is organized is to provide an entity pursuant to the Florida Homeowners Association Act as it is amended from time to time (the "Act") for the operation of the Tiburon Community (the "Community").

3. **DEFINITIONS.** The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration and the Act, unless herein provided to the contrary, or unless the context otherwise requires.

4. **POWERS.** The powers of the Association shall include the following:

❖ **General.** The Association shall have all of the common-law and statutory powers of a corporation not for profit under the Laws of Florida that are not in conflict with the provisions of the Declaration, these Articles or of the Act.

❖ **Enumeration.** The Association shall have all the powers and duties set forth in the Act except as limited by the Declaration, these Articles, and the Bylaws (all as amended from time to time), and all of the powers and duties reasonably necessary to operate the Community including but not limited to the power:

4.1.1 To make and collect Assessments and other Charges against Members as Parcel Owners, and to use the proceeds thereof in the exercise of its powers and duties.

4.1.2 To buy, own, operate, lease, sell, mortgage and trade both real and personal property as may be necessary or convenient in the administration of the Community

without regard to deed restrictions as to same governing owners, which shall not be applicable to the Association when it owns property.

4.1.3 To maintain, repair, replace, reconstruct, add to, and operate the Community Property and other property acquired or leased by the Association.

4.1.4 To purchase insurance for the protection of the Association, its Officers, Directors, Committee Members, or any insurance whatsoever that is deemed prudent to be purchased by the Board for the benefit of the Community or the Members of the Association.

4.1.5 To make and amend reasonable rules and regulations that relate in any way to the Community, including but not limited to Rules that Regulate the Parcels.

4.1.6 To approve or disapprove the leasing, transfer, mortgaging, ownership, and possession of Parcels as may be provided by the Declaration, and to supplement those rules with additional rules as deemed prudent by the Board.

4.1.7 To enforce by legal means the provisions of the Act, the Declaration, these Articles, the Bylaws, and the Rules and Regulations of the Association.

4.1.8 To contract for the management of the Community and any facilities used by the Parcel Owners, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Association except those which require specific approval of the Board or the membership of the Association. Parcel owners acknowledge and agree that the delegation of such duties is lawful, and shall look only to Management or the party whom the powers have been delegated to in the event the duties are not performed properly, or at all.

4.1.9 To employ personnel to perform services that reasonably relate to the Community.

4.1.10 To make contracts and incur liabilities, borrow money at such rates of interest as the Board may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage and pledge of all or any of its property, franchises, or income, including but not limited to Assessments, which may be levied specifically to provide collateral to a lender.

4.2 **Association Property.** All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Act, the Declaration, these Articles and the Bylaws.

4.3 **Distribution of income.** The Association shall make no distribution of income to its members, Directors or Officers.

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

5. **MEMBERS.** The Members of the Association shall consist of all of the record Owners of Parcels in the Community, and after termination of the Community or the deed restrictions



attaching to the lots shall consist of those who were Members at the time of the termination and their successors and assigns.

**5.1 Assignment.** The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Parcel for which that share is held.

**5.2 Voting.** On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Parcel, which vote shall be exercised or cast in the manner provided by the Bylaws. Any person or entity owning more than one Parcel shall be entitled to one vote for each Parcel owned.

**5.3 Meetings.** The Bylaws shall provide for an annual meeting of members, and may make provision for regular and special meetings of members other than the annual meeting.

**6. TERM OF EXISTENCE.** The Association shall have perpetual existence.

**7. OFFICERS.** The affairs of the Association shall be administered by the Officers designated in the Bylaws. The Officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The Bylaws may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers.

## **8. DIRECTORS.**

**8.1 Number and Qualification.** The property, business and affairs of the Association shall be managed by a Board consisting of the number of Directors determined by the Bylaws.

**8.2 Duties and Powers.** All of the duties and powers of the Association existing under the Act, the Declaration, these Articles, the Bylaws and the Rules and Regulations (all as amended from time to time) shall be exercised exclusively by the Board of Directors, subject only to approval by Parcel Owners when such approval is specifically required.

**8.3 Election; Removal.** Directors of the Association shall be elected at the annual meeting of the Members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

**9. BYLAWS.** The Bylaws of this Corporation may be altered, amended, or repealed in the manner provided in the Bylaws.

**10. AMENDMENTS.** These Articles may be amended in the following manner:

**10.1 Proposal of Amendments.** An amendment may be proposed by the President of the Association or by a majority of the Directors.

**10.2 Proposed Amendment Format.** Proposals to amend existing Articles of Incorporation shall contain the full text of the Article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change

is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF ARTICLE. SEE ARTICLE NUMBER \_\_\_ FOR PRESENT TEXT."

**10.3 Notice.** Copies 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.

**10.4 Adoption of Amendments.** An amendment is adopted if approved by a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of a majority of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the officers of the Association, upon Board approval, without need for Association membership vote.

**10.5 Effective Date.** An amendment when adopted shall become effective after being recorded in the Palm Beach County Public Records according to law and filed with the Secretary of State according to law.

**10.6 Automatic Amendment.** Whenever Chapter 720, Florida Statutes Chapter 617, Florida Statutes or other applicable statutes or administrative regulations, as amended from time to time, same are incorporated herein by reference, and such amendment and incorporation shall be without regard to specific language to the contrary in these Articles on a particular issue.

**11. REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT.** The registered office address and the name of the registered agent of the corporation shall be as determined by the Board of Directors from time to time.