

Return to: (enclose self-addressed stamped envelope)

Name:

Angela Tompkins, Paralegal

Address:

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Naples, Florida 34103

This Instrument Prepared by:

Mark F. Grant, Esq.  
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5150 North Tamiami Trail, Suite 502  
Naples, Florida 34103

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**AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
ESTERO PALMS**

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ESTERO PALMS ("Amendment") is made as of the 17<sup>th</sup> day of April, 2009, by TAYLOR MORRISON OF FLORIDA, INC., a Florida corporation, f/k/a TAYLOR WOODROW HOMES FLORIDA INC., successor in title to TAYLOR WOODROW HOMES - SOUTHWEST FLORIDA DIVISION, L.L.C., a Florida limited liability company ("Declarant").

WHEREAS, Estero Palms Development Company, LLC, a Florida limited liability company, has previously executed and caused to be recorded that certain Declaration of Covenants, Conditions and Restrictions for Estero Palms, recorded February 23, 2004, in Official Records Book 4205, Pages 3815 through 3863, of the Public Records of Lee County, Florida (the "Declaration"); and

WHEREAS, Estero Palms Development Company, LLC, a Florida limited liability company, assigned its rights as Declarant under the Declaration to Estero Heights at The Park, L.L.C., a Florida limited liability company, by Assignment of Declarant's Rights dated April 9, 2004, and recorded on September 12, 2008, in Instrument Number 2008000243121, of the Public Records of Lee County, Florida; and

WHEREAS, Estero Heights at The Park, L.L.C., a Florida limited liability company, assigned its rights as Declarant under the Declaration to Taylor Woodrow Homes - Southwest Florida Division, L.L.C., a Florida limited liability company, by Assignment of Declarant's



Rights dated June 30, 2005, and recorded on September 30, 2005, in Instrument #2005000048206 of the Public Records of Lee County, Florida; and

WHEREAS, the Declaration provides in Section 12.3 that Declarant may, in its sole discretion, unilaterally modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of the Declaration or any of its Exhibits until Declarant no longer holds any Lots or Dwelling Units within the Neighborhood for sale in the ordinary course of business, or upon turnover of control of the Association to the Members, whichever is earlier; and

WHEREAS, as of the date of this Amendment, turnover of control of the Association has not occurred; and

WHEREAS, Declarant is desirous of amending Section 9.2 of the Declaration to remove the square footage requirement on the size of the Dwelling Units; and

WHEREAS, Declarant is desirous of amending the Declaration to comply with the requirements of the South Florida Water Management District.

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. Section 1.27 of the Declaration is hereby amended to read as follows:

1.27 "Surface Water Management Systems" means and refers to the surface water management system serving the Land, including without limitation all berms, drainage easements, lakes, wetland and other preserve areas and all water management, drainage and related facilities located on, over, under and across the same or otherwise comprising a portion of the surface water management system serving the Land. A copy of South Florida Water Management District ("SFWMD") Environmental Resource Permit Number 36-04490-P is attached hereto as Exhibit "1", and incorporated herein by reference. Copies of the permit and any future SFWMD permit actions shall be maintained by the Association's registered agent for the Association's benefit.

2. Section 9.2 of the Declaration is hereby amended to read as follows:

9.2. Building Setback Lines, Size of Buildings, Site Restrictions and Building Height. All Dwelling Units shall contain at least 2000 square feet of air-conditioned space. Air-conditioned space means the total enclosed floor area within the horizontal dimensions of each level of a Dwelling Unit, excluding garages, terraces, decks and lanais. In addition, all structures shall conform to the requirements of the Neighborhood Documents, be properly permitted, and be constructed as approved and permitted by Lee County.



3. The Declaration is hereby amended by adding a new Section 10.6 to the Declaration as follows:

10.6 Enforcement by South Florida Water Management District.  
The SFWMD has the right to take enforcement action, including a civil  
action for an injunction and penalties against the Association to compel it to  
correct any outstanding problems with the Surface Water Management  
System facilities or in mitigation or conservation areas under the  
responsibility or control of the Association.

(Words bolded and double underlined are added; words ~~struck through~~ are deleted)

IN WITNESS WHEREOF, Declarant has executed this Amendment as of the day and year first above written.

TAYLOR MORRISON OF FLORIDA, INC.,  
a Florida corporation

Print Name John Asher  
Print Name Kelly L. Boone

By: [Signature]  
Printed Name: TERRY L. FOOTE  
Its: V.P. LAND DEV.

(CORPORATE SEAL)

STATE OF FLORIDA )  
COUNTY OF SARASOTA ) SS


I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Terry L. Foote, as V.P. LAND DEV. of TAYLOR MORRISON OF FLORIDA, INC., a Florida corporation, freely and voluntarily under authority duly vested in them by said corporation, and that the seal affixed thereto is the true seal of said corporation, who is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 17 day of April, 2009.

[Signature]  
Notary Public, State of Florida at Large

My Commission Expires:

Typed, Printed or Stamped Name of Notary Public

 **KELLY L. BOONE**  
Notary Public, State of Florida  
My Comm. Exp. Nov. 9, 2011  
Commission No. #00722964