

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
CYPRESS PINES PROPERTY OWNERS ASSOCIATION, INC.**

These are the Amended and Restated Articles of Incorporation for Cypress Pines Property Owners Association, Inc., originally filed with the Florida Department of State the 3rd day of August, 1995, under Charter Number N95000003704. Matters of only historical interest have been omitted. Amendments included have been added pursuant to Chapters 617 and 720, Florida Statutes.

1. **NAME.** The name of the corporation shall be Cypress Pines Property Owners Association, Inc. For convenience, the corporation shall be referred to in this instrument as the "Association", the Declaration of Restrictions and Covenants as "Declaration", these Articles of Incorporation as the "Articles", and the Bylaws of the Association as the "Bylaws".

2. **PURPOSE.** The purpose for which the Association is organized is to serve as a "Homeowners' Association" as described in Section 720.301, Florida Statutes, to operate, maintain and administer the Common Areas in Cypress Pines, to operate the surface water management system for Cypress Pines, to take such actions as are authorized by the Governing Documents, and to promote the health, safety, welfare and recreational opportunity of its Members and their property within Cypress Pines.

3. **DEFINITIONS.** The terms used in these Articles shall have the same definitions and meaning as those set forth in the original Declaration of Restrictions and Covenants for Cypress Pines, recorded in Official Records Book 1642, at Page 2161, *et seq.*, of the Public Records of Lee County, Florida, and as subsequently amended, unless herein provided to the contrary, or unless the context otherwise requires.

4. **POWERS** The powers of the Association shall include and be governed by the following:

4.1 **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, the Bylaws or prohibited by law.

4.2 **Enumeration.** The Association shall have all the powers and duties set

forth in Chapters 617 and 720, Florida Statutes, as amended from time to time, except as they may be limited by the Declaration and as it may be amended from time to time, these Articles and as they may be amended from time to time, and the Bylaws and as they may be amended from time to time, including but not limited to the following:

4.2.1 To make and collect assessments and other charges against Members, as Owners of Parcels within Cypress Pines, and to use the proceeds thereof in the exercise of its powers and duties.

4.2.2 To buy, own, operate, lease, sell and trade both real and personal property as may be necessary or convenient in the administration of the Association.

4.2.3 To maintain, repair, replace, reconstruct, add to, and operate the Common Area property and other property acquired or subject to the jurisdictions of the Association.

4.2.4 To purchase insurance upon the Common Areas and insurance for the protection of the Association, its officers, Directors, and Members.

4.2.5 To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Common Areas and Parcels and for the health, comfort, safety and welfare of the Owners.

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

4.2.7 To contract for the management of the Association and any facilities used by the Members, 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 of Directors or the membership of the Association.

4.2.8 To employ personnel to perform the services required for proper operation of the Association.

4.3 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 Declaration, these Articles and the Bylaws.

4.4 Distribution of income. The Association shall make no distribution of income to its Members, Directors or Officers.

4.5 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration, these Articles and the Bylaws.

5. MEMBERS AND VOTING. The qualification of Members, the manner of their admission to membership and voting by Members shall be as follows:

5.1 Members. The membership of the Association shall be comprised of the Owner Members. Membership shall be established as follows:

5.1.1 Owner Members.

The Owner of every Parcel subject to Assessment shall be an Owner Member upon recordation in the Public Records of an instrument establishing the ownership by said Owner of such Parcel. Each such Owner shall notify this Association of said recordation within thirty (30) days thereof and shall transmit to the Association true copies of such instrument.

5.2 Voting Rights. The voting rights of the Members shall be as follows:

5.2.1 Number of Votes. Each Member shall possess one vote for any Parcel owned by such Member.

5.3 Each and every Member shall be entitled to the benefits of membership, and shall be bound to abide by the provisions of the Governing Documents.

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, but which shall consist of not less than three (3) Directors.

8.2 Duties and powers. All of the duties and powers of the Association existing under the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to members 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

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by the Bylaws.

9. BYLAWS. The Bylaws of this Association may be altered, amended or replaced in the manner provided in the Bylaws.

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

10.1 Method of proposal. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than twenty-five percent (25%) of the voting interests of the Association.

10.2 Notice. The subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

10.3 Adoption. An amendment so proposed may be approved by a majority of the voting interests of the Association, present, in person or by proxy, and voting at a duly noticed meeting of the Association at which a quorum is present. 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.

10.4 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of the applicable Florida Statutes, and a copy certified by the Secretary of State shall be recorded in the Public Records of Lee County, Florida.

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.

**AMENDED AND RESTATED BYLAWS
OF
CYPRESS PINES PROPERTY OWNERS ASSOCIATION, INC.**

1. Identity. These are the Bylaws of Cypress Pines Property Owners Association, Inc. (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, organized for the purpose of administering Cypress Pines, a residential Community located in Lehigh Acres, Lee County, Florida.

1.1 Mailing Address. The mailing address of the Association shall be designated by the Board of Directors from time to time.

1.2 Seal. The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation.

2. Definitions. The terms used herein shall have the same definitions as stated in the Declaration unless the context requires otherwise.

3. Members. The Members of the Association shall be the record owners of fee title to the Parcels (Lots or Dwelling Units). In the case of a Parcel subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the Parcel for purposes of determining voting, assessment and use rights.

3.1 Qualifications. Membership shall become effective upon the recording in the Public Records of a deed or other instrument evidencing the Member's legal title to the Parcel.

3.2 Voting Rights: Voting Interests. The Members of the Association are entitled to one (1) vote for each Assessable Parcel owned by them. The vote of a Parcel is not divisible. The right of a Member to vote may be suspended by the Association for the nonpayment of regular annual assessments that are delinquent in excess of 90 days. The following persons shall be authorized to cast a vote on behalf of a Parcel depending on the specified ownership interests:

(a) If a Parcel is owned by one natural person, that person has the right to cast a vote on behalf of the Parcel.

(b) If a Parcel is owned jointly by two or more persons, any of the record owners may cast a vote on behalf of the Parcel.

(c) If a Parcel is subject to a life estate, any of the life tenants may cast a vote on behalf of the Parcel, or the holder(s) of the remainder interest may cast the vote.

(d) If the owner of a Parcel is a corporation, any officer of the corporation may cast the vote on behalf of the Parcel.

(e) If a Parcel is owned by a partnership, any general partner may cast the vote on behalf of the Parcel.

(f) If a limited liability company owns a Parcel, any authorized agent may cast the vote on behalf of the Parcel.

(g) If a Parcel is owned by a trustee(s), the vote for the Parcel may be cast by any trustee of the trust, or by any grantor or beneficiary of the trust provided the grantor or beneficiary occupies the Parcel, and provide proof to the Association that he or she is a beneficiary.

In a situation where there are two or more persons authorized to cast a vote on behalf of a Parcel, it shall be presumed that the person casting the vote has the consent of all such persons. In the event the persons who are authorized to vote on behalf of a unit do not agree among themselves how their one vote shall be cast, which disagreement must be provided to the Association in writing, that vote shall not be counted.

3.3 Approval or Disapproval of Matters. Whenever the decision of a Parcel Owner is required upon any matter, whether or not the subject of an Association meeting, such decision may be expressed by any person authorized to cast the vote of such Parcel at an Association meeting as stated in Section 3.2 above, unless the joinder of all owners is specifically required.

3.4 Termination of Membership. The termination of membership in the Association does not relieve or release any former Member from liability or obligation incurred under or in any way connected with the Community during the period of membership, nor does it impair any rights or remedies which the Association may have against any former Member arising out of or in any way connected with such membership and the covenants and obligations incident thereto.

4. Members' Meetings: Voting.

4.1 Annual Meeting. The annual Members' meeting shall be held on the date, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than thirteen (13) months after the last preceding annual meeting. However, the failure to hold an annual meeting within the required time frame shall not serve to invalidate actions of the Association, or the Board. The purpose of the meeting shall be to elect directors and to transact any other business authorized to be transacted by the Members.

4.2 Special Meetings. Special Members' meetings may be called by the President, Vice President, or by a majority of the Board of Directors of the Association, and must be called by

the Association upon receipt of a written request from twenty percent (20%) of the voting interests. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

4.3 Notice of Meeting: Waiver of Notice. Notice of a meeting of Members shall state the time, place, date, and the purpose(s) for which the meeting is called. The notice shall include an agenda. The notice of any Members' meeting shall be provided to every Member by one of the following methods: (1) mailed postpaid and correctly addressed to the Member's address shown in the current records of the Association, or (2) be hand delivered to the Member who must in that event sign a receipt, or (3) be electronically transmitted to a correct facsimile number or electronic mail address at which the Member has consented in writing to receive notice. Each Member bears the responsibility of notifying the Association of any change of address. Consent by a Member to receive notice by electronic transmission shall be revocable by the Member by written notice to the Association. The mailing of the notice shall be affected not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. Notice must also be posted conspicuously and continuously at the Community property for not less than 14 days before the meeting. Proof of notice shall be given by affidavit of the person giving notice.

Notice of specific meetings may be waived before or after the meeting and the attendance of any Member shall constitute such Member's waiver of notice of such meeting, except when 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.

4.4 Quorum. A quorum at Members' meetings shall be obtained by the presence, either in person or by proxy, of persons entitled to cast thirty (30%) percent of the Voting Interests.

4.5 Majority Vote. The acts approved by a majority of the Voting Interests present and voting, in person or by proxy, at a meeting at which a quorum shall have been attained shall be binding upon all Parcel Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles or these Bylaws.

4.6 Proxies. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote (including persons authorized by Power of Attorney), but shall only be valid for the specific meeting for which originally given and any lawful adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be filed in writing, signed by the person authorized to cast the vote for the Parcel and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Holders of proxies must be persons eligible to cast a vote on behalf of a unit as set forth in Section 3.2 of these Bylaws, or a spouse of an eligible voter.

An executed facsimile appearing to have been transmitted by the proxy giver, or a photographic, photostatic, facsimile or equivalent reproduction of a 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 and ratifying the vote cast by his or her proxy.

4.7 Adjourned Meetings. If any proposed meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting.

4.8 Order of Business. If a quorum has been attained, the order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be:

- (a) Call to order by President;
- (b) At the discretion of the President, appointment by the President of a chairperson of the meeting (who need not be a Member or a director);
- (c) Calling of the roll, certifying of proxies, and determination of a quorum, or in lieu thereof, certification and acceptance of the preregistration and registration procedures establishing the owners represented in person, by proxy;
- (d) Proof of notice of the meeting or waiver of notice;
- (e) Reading and disposal of any unapproved minutes;
- (f) Reports of officers;
- (g) Reports of committees;
- (h) Call for final balloting on election of directors and close of balloting.
- (i) Appointment of inspectors of election;
- (j) Election of directors;
- (k) Unfinished business;
- (l) New business;
- (m) Adjournment.

Such order may be waived in whole or in part by direction of the President or the chairperson.

4.9 Minutes of Meeting. The minutes of all meetings of Parcel Owners shall be kept available for inspection by Parcel Owners or their authorized representatives at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.

4.10 Action Without a Meeting. Anything to the contrary herein notwithstanding, to the extent lawful, any action required or permitted to be taken at any annual or special meeting of Members may be taken without a meeting, provided the Association mails or delivers a letter or similar communication to each owner that explains the proposed action. The communication shall include a form of consent to permit each owner to consent to the proposed action, and instructions on consent procedures. The Association may proceed with the proposed action without further notice and without a vote at a membership meeting provided consents in writing, setting forth the action so taken, shall be signed by the Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of Members at which a quorum of Members entitled to vote thereon were present and voted. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved by vote of the Members at a meeting of the Members held on the sixtieth (60th) day. Within ten (10) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. Members may also consent in writing to actions taken at a meeting by providing a written statement to that effect and their vote shall be fully counted as though they had attended the meeting.

5. Directors.

5.1 Number, Tenure and Qualifications. The number of Directors which shall constitute the whole Board of Directors shall be nine (9). All Directors shall be elected for three (3) year terms. A Director's term ends at the annual election at which his successor is to be duly elected, or at such other time as may be provided by law. Directors shall be elected by the Members as described in Section 5.3 below, or in the case of a vacancy, as provided in 5.4 below.

5.2 Qualifications. Every director must be at least 18 years of age and a person that is eligible to cast a vote on behalf of a unit as set forth in Section 3.2 of these Bylaws, or a spouse of an eligible voter.

5.3 Election of Directors. The following procedures shall apply to the election of directors:

(a) The Board of Directors may appoint a nominating committee to nominate or recommend specific persons for election to the Board, and shall generally recruit and encourage eligible persons to run as candidates for election to the Board.

(b) Any eligible person desiring to be a candidate may submit a self nomination, in writing, not less than forty (40) days prior to the scheduled election and shall automatically be entitled to be listed on the ballot.

(c) The ballot prepared for the annual meeting shall list all Director candidates in alphabetical order. Ballots shall be mailed to all voting interests with notice of the annual meeting and may be returned to the Association prior to the meeting, or cast at the meeting.

(d) Nominations shall also be accepted from the floor on the date of the election, so long as required by law.

(e) The election shall be by plurality vote (the nominees receiving the highest number of votes are elected). Tie votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by Parcel, such as the flipping of a coin by a neutral party.

(f) No election shall be necessary if the number of candidates is less than or equal to the number of vacancies.

5.4 Vacancies on the Board.

If the office of any director becomes vacant for any reason, a successor or successors to fill the remaining unexpired term or terms shall be appointed or elected as follows:

(a) If a vacancy is caused by the death, disqualification or resignation of a director, a majority of the remaining directors, even though less than a quorum, shall appoint a successor, who shall hold office for the remaining unexpired term.

(b) If a vacancy occurs as a result of a recall and less than a majority of the directors are removed, the vacancy may be filled by appointment by a majority of the remaining directors, though less than a quorum. If vacancies occur as a result of a recall in which a majority or more of the directors are removed, the vacancies shall be filled by the Members in the agreements used to recall the Board Members, or by vote at the recall meeting, as applicable.

For purposes of the foregoing provisions, in order to establish a quorum at the Board of Director's meeting held to appoint a replacement Member to the Board, it shall be necessary only for a majority of the remaining directors to attend the meeting, either in person or by telephone conference participation.

5.5 Removal of Directors. Any or all directors, may be removed with or without cause by a majority vote of the entire voting interests, either by a written petition or at any meeting called for that purpose. The question shall be determined separately as to each director sought to be removed. If a special meeting is called by twenty percent (20%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. All recall proceedings shall be in accordance with the provisions of Section 720.303(10), Florida Statutes (2004), as amended from time to time.

5.6 Organizational Meeting. The organizational meeting of newly-elected directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the directors. Notice of the organizational meeting shall be posted at the designated location on the Community property at least 48 continuous hours in advance of the meeting.

5.7 Regular Meetings. Regular meetings of the Board of Directors shall be held at such times as shall be determined by a majority of the Directors. Except for meetings with the Association's attorney which are subject to the attorney-client privilege, as provided by law, meetings of the Board of Directors shall be open to all Parcel Owners. Conspicuous notice of such meetings shall be posted at a designated location in the Community at least forty-eight (48) continuous hours in advance for the attention of the Members of the Association, except in the event of an emergency. Conspicuous written notice of any meeting at which a special assessment, or at which rules regarding Parcel use, will be considered, shall be provided to the Parcel Owners via one of the methods set forth in Section 4.3 of these Bylaws and posted at a designated location in the Community not less than 14 continuous days prior to the meeting. Evidence of compliance with this 14-day notice shall be by affidavit by the person providing the notice, and filed among the official records of the Association.

5.8 Special Meetings. Special meetings of the Directors may be called by the President, or Vice President, and must be called by the President or Secretary at the written request of two (2) Directors. Special meetings of the Board of Directors shall be noticed and conducted in the same manner as provided herein for regular meetings. Parcel Owners may petition for an item of business to be discussed at a board meeting to the extent and so long as permitted by Section 720.303(2)(d), Florida Statutes, as amended from time to time.

5.9 Notice to Board Members/Waiver of Notice. Notice of Board meetings shall be given to Board Members in person, by telephone or one of the methods set forth in Section 4.2 of these Bylaws which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than forty-eight (48) hours prior to the meeting. Any director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said director of notice. Attendance by any director at a meeting shall constitute a waiver of notice of such meeting, except when attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

5.10 Quorum. Except as provided in Section 5.4 hereof, a quorum at directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of directors is specifically required by the Declaration, the Articles or these By-Laws. Directors may not vote by proxy. Directors may vote by secret ballot for the election of officers. At all other times, a vote or abstention for each director present shall be recorded in the minutes.

5.11 Adjourned Meetings. If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

5.12 Joinder in Meeting by Approval of Minutes. A Member of the Board may submit in writing his or her agreement or disagreement with any action taken at a meeting that the Member did not attend, but such action may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

5.13 Presiding Officer. The presiding officer at the directors' meetings shall be the President (who may, however, designate any other person to preside). In the absence of the presiding officer, the directors present may designate any person to preside.

5.14 Order of Business. If a quorum has been attained, the order of business at directors' meetings shall be:

- (a) Proof of due notice of meeting;
- (b) Reading and disposal of any unapproved minutes;
- (c) Report of officers and committees;
- (d) Unfinished business;
- (e) New business;
- (f) Adjournment.

Such order may be waived in whole or in part by direction of the President, or the presiding officer.

5.15 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Parcel Owners, or their authorized representatives, at any reasonable time after a written request is received, and a scheduled time is arranged. The Association shall retain these minutes for a period of not less than seven (7) years.

5.16 Executive Committee: Other Committees. The Board of Directors may, by resolution duly adopted, appoint an Executive Committee to consist of three (3) or more Members of the Board of Directors. Such Executive Committee shall have and may exercise all of the powers of the Board of Directors in management of the business and affairs of the Community during the period between the meetings of the Board of Directors insofar as may be permitted by law, except that the Executive Committee shall not have power (a) to determine the Common Expenses required for the affairs of the Community, (b) to determine the assessments payable by the Parcel Owners to meet the Common Expenses, (c) to adopt or amend any rules and regulations governing the details of the operation and use of the Parcels or Common Areas, (d) to fill vacancies on the Board of Directors or (e) to borrow money.

The Board of Directors may by resolution create other committees and may invest in such committees such powers and responsibilities as the Board shall deem advisable. The Board may authorize the President to appoint committee Members, and designate the chairpersons of each committee.

Any committee authorized to take final action on behalf of the Board regarding (1) the approval or disapproval of architectural decisions or (2) the authorization of expenditures of Association funds, 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. Notwithstanding any other law or documentary provision, the requirement that committee meetings be open to the Parcel Owners is inapplicable to meetings between a committee and the Association's attorney which is subject to the attorney-client privilege, as provided by law.

6. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Community and the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these Bylaws may not be delegated to the Board of Directors by the Parcel Owners. Such powers and duties of the Board of Directors shall include the following:

(a) *Operating and maintaining the Common Areas, including surface water and drainage facilities and systems.*

(b) *Determining the Common Expenses required for the operation of the Community and the Association.*

- (c) Collecting the assessments for Common Expenses from Parcel Owners.
- (d) Employing and dismissing the personnel necessary for the maintenance and operation of the Community and the Association.
- (e) Adopting and amending rules and regulations concerning the operation and use of the Common Areas and to establish criteria for architectural approval, as provided in the Declaration.
- (f) Maintaining accounts at depositories on behalf of the Association and designating the signatories.
- (g) Purchasing Parcels at foreclosure or other judicial sales, in the name of the Association, or its designee.
- (h) Enforcing obligations of the Parcel Owners.
- (i) Levying fines against Parcel Owners for violations of the Governing Documents or the Rules and Regulations. The Board of Directors may levy a fine against a Parcel Owner, not to exceed one hundred dollars (\$100.00) per violation and two thousand five hundred dollars (\$2,500.00) for each day of a continuing offense, for each violation, by the Parcel Owner, or his or her family members, tenants, guests, visitors, or invitees. A separate fine for each repeat or continued violation, may be levied, however, written notice of the nature of the violation and an opportunity to attend a hearing shall be given prior to the levy of the initial fine. No written notice or hearing shall be necessary for the levy of a separate fine for repeat or continued violations if substantially similar to the initial violation for which notice and a hearing was provided. The Board of Directors shall have the authority to adopt rules, regulations and policies to fully implement its fining authority.

The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days and said notice shall include:

1. A statement of the date, time and place of the hearing;
2. A statement of the provisions of the Declaration, Association Bylaws, or Association Rules which have allegedly been violated; and
3. A short and plain statement of the matters asserted by the Association.

The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an

opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The hearing shall be conducted before a panel of three (3) Parcel Owners appointed by the Board, none of whom may then be serving as a director, officer or employee of the Association, or be a spouse, parent, child, brother, or sister of an officer, director, or employee. If the panel, by majority vote, which may be taken by secret ballot, does not agree with the fine, it may not be levied.

(j) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of the Community. The Association may pledge personal property (including reserve funds and assessment rights) as security for a loan, but may not mortgage the Common Area.

(k) Contracting for the maintenance of the Community, and management services. All contracts for the purchase, lease or renting of materials or equipment, all contracts for services, and any contract that is not to be fully performed within one year, shall be in writing. For so long as required by law, the Association shall obtain competitive bids for any contract which requires payment exceeding ten (10%) percent of the total annual budget of the Association (except for contracts with employees of the Association, management firms, attorneys, accountants, architects, engineers, or landscape architects), unless the products and services are needed as the result of any emergency or unless the desired supplier is the only source of supply within the county serving the Association. The Board need not accept the lowest bid.

(l) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these Bylaws (ii) all powers incidental thereto, and (iii) all other powers granted by statute or other law to a Florida corporation not for profit.

(m) Convey a portion of the Common Areas or personal property of the Association to a condemning authority or a utility for the purpose of providing utility easements, right-of-way expansion, or other public utility purposes, whether negotiated or as a result of eminent domain proceedings.

7. Emergency Board 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 (2004), and Section 617.0303, Florida Statutes (2004), as amended from time to time.

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

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

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

(d) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

(e) The Board may use reserve funds to meet Association needs.

(f) 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.

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

(h) 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:

- (1) a state of emergency declared by local civil or law enforcement authorities;
- (2) a hurricane warning;
- (3) a partial or complete evacuation order;
- (4) federal or state "disaster area" status;
- (5) a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the Community, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism; or,
- (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 Unit Owners, the Community, or Association Property.

(i) **Additional Board Authority.** In addition to Board authority granted by law and the Governing Documents, the Board shall have the following power and authority to declare any portion of the Common Area unavailable for occupation by owners, tenants, or guests after a casualty, including during the rebuilding process. Such decision by the Board shall be made only if necessary to protect the health, safety, or welfare of the Association, owners, tenants, or guests.

8. Officers.

8.1 Executive Officers. The executive officers of the Association shall be a President, Vice-President, a Treasurer and a Secretary (the president and vice-president must be directors). All officers shall be elected by the Board of Directors and may be peremptorily removed at any meeting by concurrence of a majority of the directors. A person may hold more than one (1) office, except that the President may not also be the Secretary or Treasurer. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association.

8.2 President. The President shall be the chief executive officer of the Association, and shall have all of the powers and duties that are usually vested in the office of president of an association.

8.3 Vice-President. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President, and shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice-president of an association and as may be required by the directors or the President.

8.4 Secretary. The Secretary shall keep the minutes of all proceedings of the directors and the Members, shall attend to the giving of all notices to the Members and directors and other notices required by law, shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed, and shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the directors or the President.

8.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness, shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a Treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer and as may be required by the directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.

8.6 Delegation. The Board of Directors may delegate any or all of the functions of the Secretary or Treasurer to an agent or employee, provided that the Secretary or Treasurer shall in such instance generally supervise the performance of the agent or employee in the performance of such functions.

9. Compensation. Neither directors nor officers shall receive compensation for their services as such, provided however, the Board of Directors may hire a Director or officer as an employee of the Association, and may contract with a Director or officer for management or any other compensable service, in their reasonable business discretion.

10. Resignations. Any director or officer may resign his post at any time by written resignation, including electronic transmission, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Parcels owned by any director or officer shall constitute a resignation of such director or officer without need for a written resignation.

11. Fiscal Matters. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following:

11.1 Budget. The Board of Directors shall adopt a budget of Common Expense for the Community. The assessment is payable annually, unless the Board resolves to permit quarterly or monthly payments. The Board of Directors shall post notice of the budget meeting, along with a copy of the proposed budget, at least 48 hours in advance as set forth in Article 5.7 of these Bylaws, and after adoption of the budget, shall provide a copy of the budget to each Parcel Owner or written notice advising that a copy of the budget shall be provided upon request at no cost to the Member.

11.2 Reserves. The Board may establish one or more reserve accounts in the operating budget for contingencies, operating expenses, repairs, capital improvements or special projects. These reserves may be used to offset cash flow shortages, provide financial stability, and avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be included in the proposed annual budget. These funds may be spent for any purpose approved by the Board.

11.3 Special Assessments. Special assessments may be approved by the Board of Directors. All special assessments shall be secured by a lien in the same manner as regular annual assessments per the Declaration.

11.4 Fidelity Bonds. The President, Vice-President, Secretary and Treasurer, and all other persons who are authorized to sign checks, or have access to or control of Association funds

shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premium on such bonds is a Common Expense.

11.5 Financial Reports. In accordance with Chapter 720, Florida Statutes, not later than 60 days following the close of the fiscal year or such other deadline as may be provided in the Statute, as amended from time to time, the Board shall, as a minimal requirement, distribute to the owners of each unit a report showing in reasonable detail the financial condition of the Association as of the close of the fiscal year, and an income and expense statement for the year, detailed by accounts. The Board of Directors may, in its discretion, engage a CPA and have a more comprehensive analysis accomplished, which shall be mailed or delivered to the Members. In lieu of the distribution of financial reports as provided herein, the Association may mail or deliver each unit owner not later than the required deadlines, a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner.

11.6 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each calendar year. The Board of Directors may adopt a different fiscal year in accordance with law and the regulations of the Internal Revenue Service.

11.7 Depository. The depository of the Association shall be such bank, banks or other federally insured depository, in the State, as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited not to exceed the amount of federal insurance available provided for any account. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons authorized by the directors. All funds shall be maintained separately in the Association's name.

12. Roster of Parcel Owners. Each Parcel Owner shall, within thirty (30) days of taking title, file with the Association a copy of the recorded deed or other recorded document showing his ownership. The Association shall maintain such information and may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Parcel Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other owners shall produce adequate evidence, as provided above, of their ownership interest and shall waive in writing notice of such meeting.

13. Parliamentary Rules. Robert's Rules of Order (latest edition) shall be used as a guide in the conduct of members' meetings, Board meetings, and committee meetings to ensure fairness, impartiality, and respect for minority views without unduly burdening majority rights. Meetings shall also be conducted in accordance with these Bylaws and the procedures established by the Board from time to time, including the form of voting documents to be used. The ruling of the Chair of the meetings unless he or the Board of Directors designates a third person, as Parliamentarian, shall be binding unless contrary to law.

14. Amendments. These Bylaws may be amended in the following manner:

14.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

14.2 Resolution. A proposed amendment may be proposed either by the President, the Board of Directors, or by not less than twenty percent (20%) of the Voting Interests of the Association.

14.3 Approval. Except as otherwise required by law, a proposed amendment to these Bylaws shall be adopted if it is approved by not less than a majority of the Voting Interests, present and voting in person or by proxy, at any annual or special meeting, provided that notice of any proposed amendment has been given to the Members of the Association, and that the notice contains the text of the proposed amendment.

14.4 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed with the formalities of a deed. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of Lee County.

15. Rules and Regulations. The Board of Directors may, from time to time, adopt, amend or add to rules and regulations governing the use of Common Areas, the operation of the Association, and architectural standards to the extent permitted by the Declaration.

16. Construction. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

17. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these Bylaws or the intent of any provision hereof.

18. Document Conflict. If any irreconcilable conflict should exist, or hereafter arise, the provisions of the Declaration shall take precedence over the Articles of Incorporation, which shall prevail over the provisions of these Bylaws, which shall prevail over the rules and regulations.

**AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS AND COVENANTS
CYPRESS PINES**

For the purpose of enhancing and protecting the value, attractiveness and desirability of the Parcels, this Community was created by a Declaration of Restrictions and Covenants recorded on October 29, 1982, in Official Records Book 1642, Pages 2161, *et seq.*, Lee County, Florida Public Records and as subsequently amended.

The Community is further described as all Roads, Drainage Easement, Blocks A and B, and all undivided acreage designated as Tract "A", Tract "B", and Tract "C" in Plat Book 35, Pages 39 through 41, inclusive of the Public Records of Lee County, Florida ("the Plat"). A copy of the Plat and the legal description for the Community are attached as Exhibit "A".

All real property in the Community shall be held, owned, sold, transferred, conveyed and occupied subject to the covenants, conditions and restrictions hereinafter set forth, which shall be binding upon persons having any right, title or interest in or to the subject real property, and their heirs, successors and assigns and shall constitute covenants running with the land.

The name of the Homeowners' Association created to operate the Community is Cypress Pines Property Owners Association, Inc., hereinafter called the "Association."

1. DEFINITIONS

1.1 "Act", or "Homeowners' Association Act", or "HOA Act" means Chapter 720 Florida Statutes, as it now exists or as it may be amended from time to time including the definitions therein contained. However, except where specific incorporation of the Act or its procedures are set forth in the Governing Documents, it is the intention of this Declaration that the Community and Association be operated in conformance with the law as existed when the community was created, so as to avoid impairment contract rights or vested rights.

1.2 "Articles" means the Articles of Incorporation of the Association, a copy of which is attached hereto as Exhibit "B" and made a part hereof.

1.3 "Architectural Review Committee", or "ARC" means and refers to the Board of Directors of the Association, or a Committee appointed by the Board of Directors of the Association, for the purposes set forth in this Declaration as to the Architectural Review Committee.

1.4 "Assessable Parcel" means a Parcel which is subject to assessment. An Assessable Parcel shall include:

- (a) a Single Family Lot, whether or not a Dwelling Unit is constructed thereon;
- (b) a Duplex Lot, which shall contain two (2) Assessable Parcels, whether or not a Dwelling Unit has been constructed thereon; and
- (c) A declared Condominium Unit in Kings Greens at Majestic, A Condominium.

1.5 "Assessment" means the assessments levied by the Association against the Parcels, and shall be deemed to include both regular and special assessments.

1.6 "Association" shall mean and refer to Cypress Pines Property Owners Association, Inc., a Florida Corporation Not For Profit, its successors and assigns.

1.7 "Board" means the Board of Directors of the Association.

1.8 "Bylaws" means the Bylaws of the Association, a copy of which is attached hereto as Exhibit "C" and made a part hereof.

1.9 "Common Area" or "Common Properties" means real property owned by the Association for the common use and enjoyment of the Owners, or property which has been dedicated and/or leased to the Association or Parcel Owners for common use or enjoyment.

1.10 "Common Expenses" means the expenses payable by the Members to the Association for the purposes and in the manner set forth in this Declaration, the Articles or Bylaws.

1.11 "Condominium Unit" means a Condominium Parcel declared to condominium ownership by the Declaration of Condominium for Kings Greens at Majestic, A Condominium, described in the Declaration of Condominium thereof recorded at O.R. Book 3819, Pages 4217, *et seq.* of the Lee County Public Records, as amended from time to time.

1.12 "Declaration" means this Declaration of Restrictions and Covenants and all other terms and provisions contained in this document, as the same may be amended from time to time.

1.13 "Duplex Lot" means Lots 22 through 34 inclusive of Block A and Lots 1 through 15, inclusive of Block B, as described on the Plat.

1.14 "Dwelling Unit" means residential structure which is constructed on a Single Family Lot, a Duplex Lot, or a declared Condominium Unit.

1.15 "Guest" means a person who enters upon a Parcel at the invitation of a Parcel Owner, Resident or Occupant, for the purpose of visiting.

1.16 "Improvement" means any structural component built or constructed on a Parcel or Lot or added to a Dwelling Unit, or placed on a Parcel or Lot, including but not limited to houses, swimming pools, garages, spas, which is affixed to the Parcel.

1.17 "Invitee" means a person or persons that enter the Community for purposes of personal business with the Owner or Occupant.

1.18 "Lot" means any plot of land located within the Community and designated as a "Lot" on the Plat of the Community and intended for residential use, but shall not include the Common Areas as hereinafter defined.

1.19 "Maintenance" means the exercise of reasonable care to keep buildings, roads, landscaping, lighting and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted.

1.20 "Member" means those Owners who are holders of membership interests in the Association; as such interests are set forth in Article 2.

1.21 "Occupant" means the person(s) occupying a Dwelling Unit as a Resident or Guest.

1.22 "Owner", "Lot Owner" or "Parcel Owner" means the record Owner of fee simple title to any Parcel, whether one or more persons or entities.

1.23 "Parcel" means the real property interests which is owned in fee simple and as designated as a parcel in the records of Lee County.

1.24 "Vacant Lot" shall mean a Single Family Lot or Duplex Lot on which no Dwelling Unit has been constructed.

1.25 "Rules and Regulations" means the rules, regulations and policies governing the Community that may be promulgated by the Board from time to time by resolution.

1.26 "Resident" means the person or persons occupying a Dwelling Unit and may be an Owner, Guest or Tenant.

1.27 "Single Family Lot" means Block A Lots 1 through 21 inclusive and Block B, Lots 16 through 37, inclusive, as described on the Plat.

1.28 "Tenant" means a person who occupies a Dwelling Unit as a Resident in exchange for the payment of consideration.

1.29 "Unimproved Multi-Family Parcel" shall mean Tract "A", as described on the Plat, which may be developed as Phase 3 of Kings Greens at Majestic, A Condominium.

2. MEMBERSHIP AND VOTING RIGHTS

2.1 Member. Every Owner of a Parcel shall be a Member of the Association. Membership is appurtenant to and not divisible from ownership of a Parcel. Owners agree to maintain such membership in good standing as long as they own such property.

2.2 Transfer. Transfer of ownership, whether voluntary or by operation of law, shall terminate membership in the Association and said membership is then vested in the transferee.

2.3 Multiple Owners. When more than one person or entity shall at any time be the Owner of a Parcel subject to a membership interest, the vote attributed to such Parcel shall be exercised as provided in the Bylaws.

3. ASSESSMENTS

3.1 Common Expense. The costs and expenses incurred by the Association with regard to the ownership, operation, maintenance and repair of the Common Areas (including drainage system, lighting and streets) and the administration of affairs of the Association shall constitute Common Expenses. Other expenses properly and reasonably incurred by the Association in performing and carrying out its duties and obligations as specified in this Declaration shall constitute Common Expenses.

3.2 Allocation of Assessments

Except for any maintenance surcharge which may be imposed on any Parcel pursuant to this Declaration of Covenants, assessments of the Association shall be apportioned on the basis of the number of Assessable Parcels.

3.3 Purpose of Assessment. There is hereby imposed upon each Parcel and its Owner, the affirmative covenant and obligation by acceptance of a deed or title to a Parcel to pay to the Association; and upon the Association the obligation to assess, collect and expend for the Association's Expenses as listed but not necessarily limited to:

3.3.1 Charges levied for utility services to the Common Areas, whether supplied by a private or public firm, including without limitation, charges for water, gas, electricity, telephone, sewer and any other type of utility or service charge for Common Areas. Bulk cable television may be provided by the Association, as a Common Expense, if approved by a majority of the Voting Interests present (in person or by proxy) and voting at a duly noticed meeting of the Association at which a quorum is present. Lots or Condominium Property with no Dwelling Units located thereon

shall not be assessed for bulk cable television until a Certificate of Occupancy is issued for the Dwelling Unit.

3.3.2 The premiums on any policy or policies of insurance required herein, together with the costs of such other policies of insurance as the Board shall determine to be in the best interest of the Association.

3.3.3 The cost to the Association of purchasing adequate fidelity insurance or bonds to protect against dishonest acts on the part of Officers, Directors, trustees, agents and employees of the Association and other persons who operate or are responsible for operating the Association.

3.3.4 Expenses necessarily incurred in maintaining, preserving, repairing and replacing the Common Areas and other facilities within the jurisdiction of the Association.

3.3.5 Sums necessary to repair, replace, construct or reconstruct buildings or improvements located in the Common Areas to the extent insurance proceeds are insufficient to pay the costs thereof.

3.3.6 The costs of administration for the Association, including any secretaries, bookkeepers and other employees necessary to carry out the obligations and covenants of the Association under the Declaration, Articles or Bylaws. In addition, the Association may retain a manager or management company to assist in the operation of the Association and to perform or assist in the performance of certain obligations of the Association hereunder. The fees or costs of any management company so retained are a Common Expense.

3.3.7 The costs to the Association to indemnify its Officers and members of the Board for costs and expenses incurred in pursuance of their duties, obligations and functions hereunder.

3.3.8 The costs of establishing an adequate reserve fund for replacement and/or capital refurbishment of the Common Areas in amounts determined proper and sufficient by the Board. Each Owner understands that no Owner shall have any separate or divisible interest, claim or right to any such funds comprised of the same.

3.3.9 Special assessments that may be levied to defray Common Expenses for which insufficient funds exist or are expected to be produced under the budget.

3.3.10 Expenses properly incurred by the Association, including but not limited to expenses of the operation, maintenance, repair, replacement, protection of the Common Area, costs of carrying out the powers and duties of the Association, and any other expense, whether or not included in the foregoing, designated as Common Expense by the Act, the Declaration, or the Bylaws.

3.3.11 Other costs and expenses determined by the Board to be reasonable and necessary in carrying out and accomplishing the purposes, duties and obligations of the Association that are not inconsistent with this Declaration, the Articles or Bylaws.

3.4 Budget. The Board shall prepare and adopt an estimated annual budget, as required by the Bylaws of the Association, which shall reflect the estimated Common Expenses for the next succeeding year.

3.5 Amendment of Budget. Adjustments may be made by the Board in assessments from time to time to allow for any changes for Common Expenses.

3.6 Time of Payment. Assessments shall be payable by Parcel Owners to the Association in advance as set forth in the Bylaws and as determined by the Board.

3.7 Special Assessments. In addition to the annual assessments the Board may levy a special assessment for defraying in whole or in part Common Expenses not met or expected to be met by annual assessments provided, however, that should any assessment exceed \$300.00 per parcel in any fiscal year, the assessment shall be approved by a majority of the voting interests present, in person or by proxy, and voting at a duly noticed meeting of the Association at which a quorum is present.

3.8 Lien. Assessments for Common Expenses, including special assessments and expenses assessed pursuant to Article 6 for same, and installments thereof (collectively, the "assessments"), with interest thereon and costs of collection, including reasonable attorney's fees and costs incurred in attempting to collect assessments before suit or after the filing of suit, at the trial level, appellate level or otherwise, are hereby declared to be a charge and a continuing lien upon the Parcel against which such assessments are made. Each assessment against a Parcel, together with such interest thereon at the highest rate allowed by law, late fees, and costs of collection thereof, including attorney's fees, shall be the personal obligation of the person, persons or entity owning the Parcel assessed and shall be the joint and several liability of all Owners of the Parcel. It is the intention of this provision that assessment liability is both the personal obligation of the person owning the Parcel when the assessment became due and the obligation of any successors in interest as a charge running with the land. Said lien shall be effective from the date of recordation amongst the Public Records of Lee County, Florida. The lien shall set forth the amounts due to the Association as of the date the statement is signed and shall be acknowledged by an Officer or agent of the Association. The lien shall secure additional amounts that become due, as well as interest, late fees, attorney fees, and other costs and expenses of collection. Upon recordation, the lien shall relate back to the date of recording the original Declaration. However, as to first mortgages of record, the lien is only effective from and after recording of a claim of lien against the Parcel. Upon full payment of all sums secured by that lien and costs and fees accrued, the party making payment shall be entitled to a recordable Satisfaction of Lien. If any first mortgagee obtains title to a Parcel as a result of a foreclosure of a mortgage or a deed (or assignment) is given in lieu of foreclosure, such acquirer of title, shall not be liable for the share of assessments pertaining to such Parcel or chargeable to the former Owner which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu of foreclosure and for charges assessed pursuant to Article 3 unless such

share is secured by a Claim of Lien for assessments and recorded prior to the recordation of a mortgage.

3.9 Remedies for Delinquency. In the event any Owner fails to pay assessments or any installment thereof charged to the Parcel fifteen (15) days after the same becomes due an administrative late charge as provided by law or \$25.00 or 5 percent of the installment, whichever is more, shall become due along with interest at the maximum rate permitted by law, and the Association, through its Board, shall have, but not be limited to, the following remedies.

3.9.1 To accelerate the entire amount of any assessments for the remainder of the calendar year, notwithstanding any provisions for the payment thereof in installments.

3.9.2 To advance on behalf of said Owner funds to accomplish the needs of the Association. The amount or amounts of money so advanced, including attorney's fees and expenses which might have been reasonably incurred because of or in connection with such advance, including costs and expenses of the Association if it must borrow to pay expenses because of said Owner, together with interest at the highest rate allowable by law, may thereupon be collected or enforced by the Association and such advance or loan by the Association shall not waive the default.

3.9.3 To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in a like manner as the foreclosure of a mortgage on real property or as otherwise provided by law.

3.9.4 To file an action at law to collect said assessments, plus interest at the highest rate allowable by law plus court costs, without waiving any lien rights and/or rights of foreclosure by the Association.

3.9.5 The Association may apply to a court of competent jurisdiction, either in connection with the institution of a foreclosure suit, a personal suit, or otherwise to have rental proceeds of a Parcel in default paid directly to the Association, the court registry, or a receiver, as the court may direct.

3.9.6 The Association may elect to terminate any existing leases with respect to Parcels in default and prohibit the Parcel from being rented in the future until the default is cured.

3.9.7 The Association may choose any of these courses of action, as the Board deems appropriate, without same constituting a waiver or election of remedies. Tenants who rent Parcels in this Association are deemed to assent to terms of this provision.

3.9.8 Payments received after the due date established by the Board shall be applied first to interest, late fees, costs and attorney fees and then to the principal owed regardless of any restrictive endorsement included with the payment.

4. EASEMENTS, PROPERTY RIGHTS

4.1 There shall be at all times a minimum 35 foot setback from the front (street) and side (street) property lines. There shall be a fifteen (15) foot utility easement on front of all Lots and/or a utility easement as required by Lee County.

4.2 Each Parcel Owner shall have an easement for use of the streets described on the Plat. However, every Owner shall be responsible for the cost of repair of all damage caused to the streets by such Owner, or their contractors or agents, including construction vehicle damage. The easement rights herein are subject to the right of the Association to install traffic control devices (such as stop signs), speed control devices (such as speed bumps), and access control devices (such as gates), as determined by the Board.

5. USE RESTRICTIONS

All Owners agree to abide by this Declaration, the Bylaws and Rules and Regulations of the Association as they may be amended from time to time.

5.1 Garages. No garage shall be enclosed or converted into a living or habitable area. Garage doors shall be required to remain in place at all times, and no construction or conversion shall change the interior or exterior of any garage to interfere with the use of it as a storage place for automobiles. Garage doors or ARC approved screens, shall be kept closed except to permit ingress and egress of vehicles, or when the owner is physically present.

5.2 Animals. No livestock or poultry shall be raised, bred, or kept on any Parcel in any Dwelling Unit or on the Common Area. Potentially dangerous animals such as, but not limited to, dog breeds of Doberman, Staffordshire Terrier, Chow, Presa Canarios, Akita, Wolf Hybrid, Huskie, Rottweiler, and Pit Bull are prohibited.

In the sole opinion of the Board should any pet become a nuisance or source of annoyance to any other Owners or Residents such animals shall be permanently removed from the Parcel, Lot and Community upon three-day written notice. Pet owners shall not allow any pet to use the Common Areas except when on a hand held leash accompanied by its owner and then only so long as the pet does not make a mess or otherwise disturb the Common Areas.

Pet owners shall not allow any pet to enter upon any other Parcel, leave any droppings or otherwise disturb the Common Areas. Pet owners must have with them when they are walking their pet when not on their own Parcel, a means to remove droppings and dispose of them in a sanitary manner, and must in fact do so.

5.3 Vehicles. No trucks (except pick up trucks of ¾ ton or less weight rated capacity which are not used for commercial purposes), commercial vehicles, boats, boat trailers, recreation vehicles, motor homes, motorcycles, or any other transportable personal property, except passenger

automobiles, shall be permitted in the driveways, and must be kept in garages at all times, except when entering or leaving the Community. Automobiles and any other vehicles must be operational and licensed. No vehicle repairs (except minor emergencies) shall be made in any portion of the Community. Travel trailers, motor homes, and other recreational vehicles may be placed upon a Parcel for loading or unloading but shall not remain on said Parcel longer than 24 hours during any one month period, except if kept in the garage. Commercial vehicles means vehicles of every kind whatsoever, which from viewing the exterior of the vehicles or any portion thereof, shows or tends to show any commercial markings, signs, displays, advertising equipment, tools, or otherwise indicates a commercial use. Golf carts or motorized vehicles of any kind may not be operated by anyone without a valid driver's license. The Board shall have the final authority in determining acceptability of any vehicle or allowing for temporary parking of service vehicles. No parking on streets or on the Lot (other than in driveways) is permitted, except with prior permission of the Association for special events.

5.4 Signs. Signs, window displays, or other advertising or postings, are not permitted on any part of the Common Areas or in any Dwelling Unit or on any Parcel such that they are visible from the Common Areas, including signs in or on vehicles parked on a Lot. The Association shall adopt a standard sign type and permit the posting of one "Real Estate For Sale" sign on the Lot. Security signs are permissible, as provided in the Act.

5.5 Antennas. No wires, masts, towers, antennae, aerial, weathervanes, anemometers, or exposed wiring for any purpose or other equipment or structures may be erected, constructed or maintained on the exterior of any home nor in any of the Common Areas except with the prior written consent of the Board, and except as follows.

FOR CONDOMINIUMS

Television and Other Outdoor Antennas. No television, radio, satellite, or other antenna or satellite system may be installed on the Common Elements by any person other than the Neighborhood Association, except as provided herein. Certain television, satellite, or other antenna systems may be erected or installed on condominium property subject to compliance with the following requirements:

Permitted antennas include (collectively hereinafter referred to as "antennas"):

- Direct broadcast satellite dishes (DBS) that are less than one meter in diameter.
- Multi-channel, multi-point distribution service devices (MMDS) that are less than one meter in diameter or diagonal measurement.

Location of Antennas. Antennas are only permitted to be installed in exclusive use areas, such as limited common element balconies. To the extent feasible, all antennas must be placed in locations that are not visible from any street and in a location to minimize annoyance or inconvenience to other residents of the community if this placement would still permit reception of an

Amended and Restated Declaration of Restrictions and Covenants

acceptable quality signal. Antennas may not extend beyond the plane of the imaginary line running from the edge of the balcony ceiling to the balcony floor, bounded on the sides by the vertical balcony walls.

Color and Screening of Antennas. All antennas and wiring shall be painted at the time of installation to blend into the background against which they are mounted, so long as the paint will not interfere with an acceptable quality signal.

Safety Requirements. To safeguard the safety of the unit owners, occupants of the residence in which the antenna is located, neighboring unit owners, and other owners and members in the condominium, it shall be the obligation of the owner to comply with all applicable local, state and federal safety requirements, including but not limited to obtaining a permit for the installation of the antenna if so required, hiring licensed contractors with sufficient expertise and adequate insurance to protect their work, installing the antennas away from power lines and other potentially dangerous areas, installing and using the antenna in accordance with safety recommendations and requirements of the antenna manufacturer, and in accordance with the customs and standards for the antenna industry, including compliance with electrical code requirements to properly ground the antenna, and installation requirements to properly secure the antenna. Antennas shall be properly secured and installed so as to cause no damage to the building, such as compromise of its waterproof integrity. Unit owners shall indemnify the Association for any loss or damage (including attorney's fees) occasioned by non-compliance with these obligations. A unit owner shall indemnify and hold harmless the Association, and all other unit owners, for any damage that an antenna causes to the condominium property or to persons or other property.

These restrictions are supplemental to any requirement of the Neighborhood Association.

FOR DUPLEXES AND SINGLE-FAMILY HOMES

Television and Other Outdoor Antennas. No television, radio, satellite, or other antenna or satellite system may be installed on the Common Areas by any person other than the Association, except as provided herein. Certain television, satellite, or other antenna systems may be erected or installed within the Community subject to compliance with the following requirements:

Permitted antennas include (collectively hereinafter referred to as "antennas"):

- Direct broadcast satellite dishes (DBS) that are less than one meter in diameter.
- Multi-channel, multi-point distribution service devices (MMDS) that are less than one meter in diameter or diagonal measurement. Such devices may be mounted on "masts" to reach the height needed to establish line of sight contact with the transmitter provided no mast

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may be higher than twelve feet above the roof line of a residence without prior written approval of the Association.

- Television broadcast antennas for local stations, which may be any reasonable size, which may be secured to a mast located no higher than twelve feet above the roof line. Any mast located higher than twelve feet above the roof line must be approved in writing by the Association.

Location of Antennas. To the extent feasible, all antennas must be placed in locations that are not visible from any street and in a location to minimize annoyance or inconvenience to other residents of the community if this placement would still permit reception of an acceptable quality signal.

Color and Screening of Antennas. All antennas shall be painted at the time of installation to blend into the background against which they are mounted so long as the paint will not interfere with an acceptable quality signal. If the antenna is not mounted on a building, it must be made the color of the exterior walls of the residence on that lot. All antennas shall be screened from view from neighboring properties, and pedestrian and vehicular access areas, with landscaping plants commonly used in or about the community at a height of at least 48 inches. Taller antennas shall be screened to their full height if reasonably practicable and if the screening would not impair the reception of an acceptable quality signal.

Safety Requirements. To safeguard the safety of the unit owners, occupants of the residence in which the antenna is located, neighboring property owners, and other owners and members in the community, it shall be the obligation of the owner to comply with all applicable local, state and federal safety requirements, including but not limited to obtaining a permit for the installation of the antenna hiring licensed contractors with sufficient expertise and adequate insurance to protect their work, installing the antennas away from power lines and other potentially dangerous areas, installing and using the antenna in accordance with safety recommendations and requirements of the antenna manufacturer, and in accordance with the customs and standards for the antenna industry, including compliance with electrical code requirements to properly ground the antenna, and installation requirements to properly secure the antenna. Antennas shall be properly secured and installed so as to cause no damage to the building, such as compromise of its water-proof integrity. A unit owner shall indemnify and hold harmless the Association, and all other unit owners, for any damage that an antenna causes to persons or other property.

These restrictions are supplemental to any requirement of the Neighborhood Association.

An approved flagpole shall not be used to mount an antenna. It is the intent of this provision to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances, which is sometimes caused by the operation of ham radios, CB base stations or other high-powered broadcasting equipment, for which antenna are not permitted in the Community.

5.6 Personal Property. No bicycles, toys, or other personal property may be kept or stored outside of an ARC approved enclosure.

5.7 Wells. No individual water well, water supply system or sewer system shall be permitted on any Parcel unless approved by the ARC and according to all applicable laws.

5.8 Dangerous Materials. No Owner shall store, keep or dispose of any flammable, combustible, explosive, hazardous or toxic fluids, chemicals or substances except those sold and required for normal household use.

5.9 Window Treatments. No Owner shall install or maintain aluminum foil or other reflective material on any window or glass door except as approved by the Board for energy conservation purposes.

5.10 Single Family Use. Each Parcel may be used for single-family residential purposes only. Single family shall mean one person, or not more than two unrelated persons who regularly and customarily reside together as a single housekeeping unit or three or more persons who regularly and customarily reside together as a single housekeeping unit wherein no more than one such person is not related to all other such persons by blood, marriage or legal adoption. Under no circumstances may more than one family reside in a Dwelling Unit at one time. When used in this Article "reside" shall mean occupancy for more than thirty-days during any calendar year. Nothing herein shall prevent an Owner from leasing a Parcel subject to the conditions and covenants contained in this Declaration.

5.11 Commercial Activity. No business or commercial activity of any kind shall be conducted on or from any Parcel nor in or from any residence except as provided herein. Nor may the address or location of the residence or Association's name be publicly advertised as the location of any business or commercial activity. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library, from keeping personal business or professional records in his residence, or from handling personal, business or professional communication and written correspondence in and from his residence. Parcels may not be used for commercial or business purposes, including, without limitation, caring for children or adults or any use that requires an occupational license. Occupants may use Parcels for "home office" or "telecommuting" purposes, if such uses do not involve customers or clients coming onto the property, the posting of any signage in the Community, the storage of equipment, products, or materials in the Community. Such uses are expressly declared customarily incident to residential use.

5.12 Structural Changes. No structural additions or alterations may be made to any Dwelling Unit Improvements on a Lot without the approval of the ARC or Board, other than erection or removal of non-support carrying interior partitions wholly within the Dwelling Unit and other than the interior work done in a Dwelling Unit, which is not visible from the exterior.

5.13 Nuisance. Neither Owners nor Occupants shall permit any nuisance to exist upon or within the Living Unit or Parcels or any conduct that creates an annoyance or disturbance to be detrimental or bothersome to any other Parcels, Occupants or Owners or interferes with the peaceful possession and proper use of the Community by its Residents.

5.14 Subdivision. No Owner shall divide nor subdivide a Parcel for purposes of sale or lease and no portion less than all of any Parcel, nor any easement or other interest granted herein, shall be conveyed or transferred by an Owner without the approval of the Board. This provision shall not prohibit corrective deeds, deeds to resolve boundary line disputes and other similar corrective documents. Combining of adjoining Parcels is permissible but the Owners of the divided parcel shall remain responsible for the full assessment applicable to each Lot.

5.15 Sheds. No outbuilding, tent, shack, detached garage, mobile home, trailer, shed or temporary building of any kind may be located on a Lot.

5.16 Fences. No fences are permitted in the Community. "Invisible pet fences" are permitted.

5.17 Enclosures. No Owner or Occupant may erect any enclosure or enclose an entranceway, patio, porch, or lanai except with the prior written consent of the ARC.

5.18 Compliance with Law. No use may be made of any Parcel that violates any federal, state or local laws, zoning, ordinances or regulations.

5.19 Obstruction. No Owners or Occupant may cause or allow any obstruction of a road or other common ways of ingress or egress within the Common Areas, nor shall anything be allowed to remain in Common Areas or on the Parcels which would be unsightly or hazardous.

5.20 Unsightly Conditions. No Owner or Occupant may allow any rubbish, refuse, garbage or trash to accumulate in places other than the receptacles (garbage cans) provided therefore. Each Parcel and the Common Areas shall be kept in a clean and sanitary condition.

5.21 Lakes. No lakes or canals may be dug on any Lot.

5.22 Nuisance. Members and other Residents shall not engage in any abusive, pejorative or harassing behavior, either verbal or physical, or any form of intimidation or aggression directed at other members, residents, guests, occupants, invitees, or directed at management, its agents, its employees, or vendors.

5.23 Compliance with Rules. Owners, their Family, Invitees, Guests and Tenants shall abide by Rules and Regulations promulgated from time to time by the Board or committee established by the Board provided, however, that copies of such regulations are available to each Member prior to the time said regulations become effective.

5.24 Air Conditioners. No Owner shall install nor allow to be installed any window mounted or through the wall mounted air conditioning unit.

5.25 Docks. No dock, boathouse or improvement shall be constructed on any portion of a Parcel where a Parcel abuts a lake, pond, or water retention area. No swimming or boating is allowed in lakes, ponds, or other water retention areas.

5.26 Trash. Garbage or trash containers, oil tanks or bottle gas tanks must be placed so they shall not be visible from the streets or from other Parcels. Garbage or trash containers may be placed out for collection no more than twelve (12) hours before pickup and must be retrieved and put inside the garage within twelve (12) hours of pickup.

5.27 Attorney's Fees. In the event the Association is required to seek enforcement of any provision of the Declaration, Articles, Bylaws or the Rules and Regulations, then and in that event the offending Owner (for himself or his family, guests, invitees or lessees) shall be liable to the Association for costs incurred in the enforcement action, including reasonable attorney's fees and costs, whether incurred before the filing of suit, after filing, and in connection with trial or appellate proceeding or otherwise.

6. MAINTENANCE, REPAIR AND REPLACEMENT

6.1 Maintenance of Common Area by the Association

Maintenance of the Common Area shall be the responsibility of the Association. The Association shall be responsible for the repair and maintenance of Common Area streets, lighting and the responsibility to operate and maintain the surface water management system in accordance with the requirements of the South Florida Water Management District.

6.2 Permits, Licenses and Easements

Subject to the provisions of Article 4.8, the Association shall have the right to grant permits, licenses and easements over, upon, across, under and through the Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Community, as so determined by the Board.

6.3 Maintenance of Parcels and Parcels by Owners

Subject to the duties and obligations of the Association described herein, every Owner must keep and maintain his Parcel, including, but not limited to, the Dwelling Unit and other improvements thereon, its improvements and appurtenances, at his expense, in good order, condition and repair, and must perform promptly maintenance and repair work on his Lot and Dwelling Unit. In this regard, each Owner shall be responsible for the maintenance, repair and repainting and shall

keep same in a neat and orderly fashion. Any Owner who desires to have additional services to those provided by the Association may contract directly for such additional services.

6.4 Prohibition

Each Owner is prohibited from improving, modifying or maintaining any Common Area or from performing any maintenance duties of the Association without the prior written consent of the Board.

6.5 Owner Liability

Should any Owner do any of the following:

6.5.1 Fail to perform the responsibilities as set forth in this Article or,

6.5.2 Cause any damage to any improvement which the Association has the responsibility to maintain, repair and/or replace; or

6.5.3 Undertake unauthorized improvements or modifications to his Parcel, Dwelling Unit or to the Common Area; then

Except in an emergency, when no notice is required, the Association upon reasonable prior written notice to the Owner, shall have the right, through its agents and employees, to enter upon said Parcel or Dwelling Unit and cause the required repairs or maintenance to be performed, or as the case may be, remove unauthorized improvements or modifications. The cost thereof shall be added to and become a part of the assessment to which the Owner is subject, and shall be due and payable within ten days after rendition of a bill therefore by the Association. The costs incident to said repair, maintenance or removal shall be the personal obligation of the Owner to the Association and become a lien against the subject Parcel, Parcel or Dwelling Unit with the same force and effect of the lien that would be created by the said Owner's failure to pay the regular or special assessments hereunder when due.

6.6 Each Owner shall be responsible for and pay the cost of maintaining, repairing and replacing everything within the confines of the Dwelling Unit and on the Parcel that is not to be maintained by the Association.

6.7 In the event an Owner fails to maintain the Parcel and the improvements situated thereon, in a manner reasonably satisfactory to the Board or any committee established by the Board, upon direction of the Board the Association shall have the right through its agents and employees, to enter upon said Parcel to maintain and restore the improvements erected thereon. The cost of any maintenance supplied by the Association pursuant to this Article shall be added to and become part of the assessment to which such Parcel is subject.

7. ADDITIONS AND ALTERATIONS

There shall be no material alterations or substantial additions to the Common Areas except as authorized by the Board of Directors. Provided, however, that if any such alterations or additions require or obligate the expenditure of Association funds of more than five percent of the Association's budget for the fiscal year in which the work is authorized, including reserves, the Board shall obtain approval of a two-thirds (2/3) of voting interests present (in person or by proxy) and voting at an Association meeting, or by written agreement of two-thirds (2/3) of the entire voting interests. Necessary maintenance of the Common Areas regardless of the level of expenditure, is the responsibility of the Board of Directors.

8. ASSOCIATION INSURANCE

The following provisions shall govern insurance covering the Association:

8.1 Insurance policies covering the Common Areas shall be purchased by the Association and be issued by an insurance company authorized to do business in Florida.

8.2 The named insured shall be the Association itself and as agent for Owners without naming them and as agent for their mortgagees without naming them.

8.3 One copy of each insurance policy, or a certificate evidencing such policy, and endorsements thereto, shall be furnished by the Association to each first mortgagee if requested in writing.

8.4 The above paragraph notwithstanding, each member releases and indemnifies the Association, its members, employees and agents and shall hold them harmless for injuries or damages to persons or property because of the member's neglect, recklessness or intentional acts.

8.5 The Association shall maintain insurance covering the following:

8.5.1 Loss or damage by fire and other hazards covered by a standard extended coverage endorsement including wind; and

8.5.2 Such other risks as from time to time are customarily covered with respect to property similar in construction, location and use, including but not limited to vandalism and malicious mischief.

8.5.3 Comprehensive general public liability including host liquor liability and hired, owned and non-owned automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Association property, adjoining driveways and walkways, or any work, matters or things related to the Common Areas or this Declaration and its exhibits, with such coverage as shall be required by the Board, but with

combined single limit liability of not less than \$1,000,000 for each accident or occurrence, combined single limit and with a cross liability endorsement to cover liabilities of the Owners as a group to any Owner, and vice versa.

8.5.4 The association shall obtain and maintain adequate insurance or fidelity bonding of persons who control or disburse funds of the association. The fidelity bond or insurance policy shall cover the maximum funds that will be in the custody of the association or its managing agent at any one time. As used in this Article, the term "persons who control or disburse funds of the association" includes, but is not limited to, individuals authorized to sign checks, the president, secretary, and treasurer of the association.

8.5.6 Workers Compensation coverage if required by law.

8.5.6 Umbrella liability, if determined advisable by the Board.

8.5.7 Directors and Officers liability coverage as deemed appropriate by the Board.

8.5.8 Flood insurance if deemed appropriate by the Board.

8.5.9 Other insurance as the Board shall determine from time to time to be desirable.

8.6 When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to:

8.6.1 subrogation against the Association and against the Owners individually and as a group,

8.6.2 pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk,

8.6.3 avoid liability for a loss that is caused by an act of the Board, or by a member of the Board or by one or more Owners.

8.7 Premiums upon insurance policies purchased by the Association shall be paid by the Association as an *Common Expense*, except that the amount of increase in the premium occasioned by misuse, occupancy or abandonment of any one or more Parcels or their appurtenances or of the common areas by particular Owners shall be assessed against and paid by such Owners.

8.8 Insurance policies obtained by the Association shall be for the benefit of the Association, the Owners and their mortgagees, as their interests may appear. Proceeds because of damage to the Common Areas shall be held in undivided shares for each Owner, such shares being the same as the undivided shares in the common areas appurtenant to each Parcel.

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8.9 The Association is irrevocably appointed agent for each Owner and for each Owner of a mortgage or other lien upon a Parcel and for each Owner of any other interest in the Association property to adjust claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

8.10 The insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within or upon their Lot or Dwelling Unit nor casualty or theft loss to an Owner's property. It shall be the obligation of the individual Owner if such Owner so desires to purchase and pay for insurance as to such and other risks.

9. OWNER INSURANCE

The following provisions shall govern insurance covering the Owners:

9.1 Liability Insurance

Each Parcel Owner shall be responsible for purchasing and maintaining such policies of liability for accident or injury occurring on or about his Parcel, as he may deem appropriate.

9.2 Casualty Insurance

Each Owner shall be responsible for purchasing and maintaining policies of fire and other hazard coverage insurance on his Dwelling Unit and all other insurable improvements situated upon his Parcel in an amount equal to the full replacement cost thereof. The Association may periodically require proof of such insurance.

10. RECONSTRUCTION AND REPAIR OF COMMON AREA AFTER FIRE OR OTHER CASUALTY

In the event of damage to or destruction of improvements on the Common Area because of fire or other casualty, the Board shall arrange for the prompt repair and restoration of the improvements.

10.1 Any reconstruction or repair must be approved by the Board, substantially in accordance with the plans and specifications for the original improvements; or if not feasible or advising in the opinion of the Board, then in accordance with plans and specifications approved by the Board.

10.2 If the proceeds from insurance, including the deductible, are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, assessments shall be made against the Parcels in sufficient amounts to provide funds for the payment of such costs.

11. ENFORCEMENT

11.1 In the event of a violation of the Governing Documents or Rules and Regulations by an Owner, Resident, Tenant, Guests or Invitees, (other than the non-payment of any Assessment or other charges), the Association shall notify the Owner of the violation, by written notice. If such violation is not cured as soon as practicable after receipt of such written notice, or if any similar violation is thereafter repeated, the Association may, at its option:

11.1.1 Impose a fine against the Parcel as provided in Florida Statutes and in the Bylaws; and/or

11.1.2 Commence an action to enforce the performance on the part of the Owner or other party, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

11.1.3 Commence an action to recover damages; and/or

11.1.4 Take any actions reasonably necessary to correct such failure which action may include, when applicable, but shall not be limited to, removing any addition, alteration, improvement or change which has not been approved by the Association or performing any maintenance required to be performed by this Declaration; and/or

11.1.5 Elect any or all other remedies, restrictions or penalties available under law.

All expenses incurred by the Association in connection with enforcing these Governing Documents and Rules and Regulations, including reasonable attorneys' fees and costs, shall be assessed against the applicable Owner as a separate assessment, and shall be due upon written demand by the Association. The Association shall have a lien for any such Assessment and any interest, costs or expenses associated therewith, including attorneys' fees and costs incurred in connection with such Assessment, and may take such action to collect such Assessment or foreclose said lien as in the case and in the manner of any other Assessment as provided above. Any such lien shall only be effective from and after the recording of a claim of lien in the public records of Lee County.

11.2 Enforcement of this Declaration may be by proceeding at law for damages or in equity to compel compliance with its terms or to prevent violation or breach of any of the covenants or terms herein. The Association or any individual may seek enforcement, and should the party seeking enforcement be the prevailing party, then the person against whom enforcement has been sought shall pay costs and reasonable attorney's fees at trial and appellate levels to the prevailing party.

11.3 Each Owner shall be responsible for the acts and omissions, whether negligent or willful, of any person residing in his Dwelling Unit or occupying his Parcel, including family

members, Tenants, Guests and Invitees if any act or omission shall result in any damage to the Common Areas, or any liability to the Association, the Owner shall be assessed for same as in the case of any other assessment, limited where applicable to the extent that the expense or liability is not met by the proceeds of insurance carried by the Association, but without rights of subrogation as to the Association's carrier. Furthermore, any violation of any of the provisions of these Governing Documents, by a Resident of any Parcel, or a Guest or Invitee, shall also be deemed a violation by the Owner, and shall subject the Owner to the same liability as if such violation was that of the Owner.

12. AMENDMENTS

Except as elsewhere provided herein, this Declaration may be amended in the following manner:

12.1 A proposed amendment may be proposed by the President of the Association, a majority of the Board, or by petition of twenty percent (20%) of the Voting Interests.

12.2 The subject matter of a proposed amendment must be included in the notice of any meeting at which a proposed amendment is to be considered.

12.3 An amendment so proposed may be approved by a majority of the entire Voting Interests at a duly convened meeting of the Association or by written agreement of a majority of the entire Voting Interests.

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

13. LEASE, OWNERSHIP OR OCCUPANCY OF PARCEL

In order to assure a Community of congenial residents and thus protect the value of the Parcels, the conveyance and leasing of the Parcels by an Owner shall be subject to the following provisions:

13.1 Leasing of Parcels

13.1.1 Single Family Use Only. Only entire Parcels may be rented or leased. A lease is any use of a Parcel by a person other than the Owner for consideration. All leases must be in writing. There shall be no subdivision or subletting of Parcels. "Rent Sharing" or the renting of rooms is prohibited. Tenants may only occupy Parcels as a single-family residence as defined in Section 5.10.

13.1.2 Term, Maximum Occupancy. All leases shall be limited to two permanent occupants per bedroom, plus two. A permanent occupant shall include any person who resides in a

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Parcel for any period exceeding fourteen days during any calendar year. No Owner may lease less than the entire Parcel or lease or rent their Parcel for a term or period of less than one month, nor more than six months so that the high quality of the Community shall be maintained and not become a lodging facility for transients. If any lease is terminated before the end of the six-month period a new lease may not be entered into until the original six-month period expires except when the termination of a lease is for good cause as determined at the sole discretion of the Board. No sub-leases are allowed.

13.1.3 Board Right of Approval. The Board shall have the authority to approve or disapprove all leases and renewals thereof, which authority may be delegated to a committee or managing agent. The Board shall have the authority to promulgate or use a uniform lease application and require such other information from the proposed tenant as it deems appropriate. The Board shall have the right to delegate the screening of proposed tenants to a committee, a managing agent, or a tenant-screening entity. The Association may charge a fee for consideration of lease applications that does not exceed two hundred dollars (\$200.00) per transaction. The Board may require an interview of any proposed Tenant, spouse and all proposed occupants of a Parcel as a condition for approval. Grounds for disapproval may include those set forth for review of title transfers, as provided in Article 13.3.3 herein.

13.1.4 Forms of Ownership:

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

13.1.4.2 Two or More Persons. Co-ownership of a Parcel by two or more natural persons who are not husband and wife is not prohibited. The intent, however, is to allow the Parcel Owner some degree of flexibility in estate, tax or financial planning; and such ownership will not be approved if the apparent effect is to allow an Owner to create circumstances where the Parcel may be used as short-term transient accommodations for multiple families. If the co-Owners are other than husband and wife, the Board shall condition its approval upon the designation of one approved natural person as "primary occupant." The use of the Parcel by other persons shall be as if the primary occupant were the only actual Owner. Any change in the designated primary occupant shall be treated as a transfer of ownership of the affected Parcel by sale or gift, subject to the provisions of this Article 13. No more than one such change will be approved in any twelve (12) month period, unless caused by the death of a primary occupant.

13.1.4.3 Ownership by Corporations, Partnerships or Trusts. A Parcel may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Parcel may be used as short-term transient accommodations for several individuals or families. The approval of a trustee, or a corporation, partnership or other business entity as a Parcel Owner shall be conditioned upon designation by the Owner of one natural person to be the "primary occupant". The use of the

Parcel by other persons shall be as if the primary occupant were the only actual Owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Article 13. No more than one such change will be approved in any twelve (12) month period, unless caused by the death of the primary occupant.

13.1.5 Designation of Primary Occupant. Within thirty (30) days after the effective date of this provision, each Owner of a Parcel which is owned in the forms of ownership stated in preceding subsections 13.1.4.2 and 13.1.4.3 shall designate a primary occupant in writing to the Association. If any Parcel Owner fails to do so, the Board of Directors may make the initial designation for the Owner, and shall notify the Owner in writing of its action. If the ownership of a Parcel is such that the designation of a primary occupant is not required, the Parcel Owner may, nevertheless, choose to designate one, subject to Board approval.

13.1.6 Life Estate. A Parcel may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Article 13.2 below. In that event, the life tenant shall be the only Association member from the Parcel, and occupancy shall be as if the life tenant was the only Owner. The life tenant shall be liable for all assessments and charges against the Parcel. Any consent or approval required of Association members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners under Section 13.1.2, above, for purposes of determining voting and occupancy rights. Upon termination of the life estate, the holders of the remainder interest shall designate a primary occupant in writing to the Association.

13.2 Types of Transfers of Ownership.

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

13.2.2 By devise or inheritance. If any Owner acquires title by devise or inheritance, his right to occupy or use the Parcel shall be subject to the approval of the Board of Directors under Section 13.3.1.2 below. The approval shall not be denied to any devisee or heir who was the prior Owner's lawful spouse at the time of death, or who was related to the Owner by blood or adoption in the first degree.

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

13.3 Procedures.

13.3.1 Notice to Association.

13.3.1.1 Sale or Gift. An Owner intending to make a sale or gift of his Parcel or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least thirty (30) days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, if any, and all other information the Board may reasonably require. The Board may require a personal interview with any purchaser or donee and his spouse, if any, as a pre-condition to approval.

13.3.1.2 Devise, Inheritance or Other Transfers. The transferee must notify the Board of Directors of his ownership and submit a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy or use rights until and unless approved by the Board, but may sell or lease the Parcel following the procedures in this Section or Section 10.

13.3.1.3 Demand. With the notice required in Subsection (A)(1) above, the Parcel Owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Association shall furnish an approved alternate purchaser who shall purchase the Parcel at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the Parcel determined as provided below.

13.3.1.4 Failure to Give Notice. If no notice is given, the Board of Directors, at its election, may approve or disapprove occupancy by the transferee at the time it learns of the transfer. If any Owner fails to obtain the Association's approval prior to selling an interest in a Parcel, such failure shall create a rebuttable presumption that the seller and the purchaser intended to violate the covenants of this Declaration, and shall constitute good cause for Association disapproval.

13.3.2 Board Action. Within thirty (30) days after receipt of the required notice and all information or interviews requested, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or a Vice-President of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of Approval to the transferee.

13.3.3 Disapproval.

13.3.3.1 With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the whole Board so votes, after receiving a written opinion

of counsel that good cause exists. Only the following may be deemed to constitute good cause for disapproval:

13.3.3.1.1 The person seeking approval has been convicted of a felony involving violence to persons or property, a felony involving possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;

13.3.3.1.2 The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;

13.3.3.1.3 The person seeking approval gives the Board reasonable cause to believe that person intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Neighborhood;

13.3.3.1.4 The person seeking approval has a history of disruptive behavior;

13.3.3.1.5 The person seeking approval has evidenced an attitude of disregard for association rules or the rights or property of others, by his past conduct;

13.3.3.1.6 The person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or has provided false information during the application process; or

13.3.3.1.7 The transaction, if a sale or gift, was concluded by the parties without having both sought and obtained the prior approval required herein.

13.3.3.2 Without Good Cause. Approval shall not be denied unless a majority of the whole Board so votes. If the Board disapproves without good cause, and if the Owner or transferee has made the demand set forth in Subsection 13.3.1.3, then within thirty (30) days after the Board meeting at which the transaction was disapproved, the Board shall deliver in writing to the Owner (hereafter "the seller") the name of an approved purchaser who will purchase the Parcel at the same price, and upon the same terms, as in the disapproved sales contract. If no sales contract was involved, or if the Association challenges the contract price as not being a good faith purchase price, the purchase price shall be paid in cash, and the price to be paid shall be determined by agreement, or in the absence of agreement, shall be the fair market value determined by the arithmetic average of appraisals by two state-certified property appraisers, one selected by the seller and the other by the Association. The cost of the appraisals, and all other closing costs in cases where no sales contract is involved, shall be shared equally by the buyer and seller, except that the buyer shall pay for his own title insurance, and all costs of mortgage financing. Real property taxes and assessments for common expenses shall be prorated to the day of closing and the parties shall bear their own attorney's fees, if any. The closing shall take place not more than sixty (60) days after the date of Board disapproval, or thirty (30) days after determination of fair market value by appraisal, whichever occurred last. Failure or refusal to

close by either party shall constitute a breach of contract, and shall entitle the other party to seek specific performance or damages.

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

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

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

14. TERM OF DECLARATION AND TERMINATION

14.1 The Declaration has an initial term of twenty (20) years and shall automatically renew for successive 10-year periods unless terminated upon the affirmative consent of a majority of the entire voting interests.

14.2 If this Declaration is terminated in accordance herewith, every Owner by acquiring title covenants and agrees that the termination documents shall require:

14.2.1 That Parcels shall continue to be used solely as single-family residences.

14.2.2 Common Areas shall be owned and held in equal shares by the Owners as tenants in common.

15. INDEMNIFICATION

15.1 The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that they are or were a Director, Officer, or Committee Member of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence, misfeasance or malfeasance in the performance

of their duty to the Association unless and only to the extent the court in which such action or suit was brought shall determine upon application, that despite the adjudication of liability, but in view of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption the person did not act in good faith and in a manner they reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe their conduct was unlawful.

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

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

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

15.5 The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any law, agreement, vote of members or otherwise, both as to action in their official capacity while holding such office or otherwise, and shall continue as to a person who has ceased to be a Director, Officer or Committee Member and shall inure to the benefit of the heirs, executors and administrators of such person.

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

16. ASSOCIATION LIABILITY

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

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

16.1.1 It is the express intent of the association documents that the various provisions thereof which are enforceable by the association and which govern or regulate the uses of the Community have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the association property and the value thereof;

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

16.1.3 Any provisions of the Governing Documents or Rules and Regulations setting forth the uses of assessments that relate to health, safety and/or welfare shall be interpreted and applied only as limitations on or enabling authority for the uses of assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person, even if assessment funds are chosen to be used for any such reason.

Each Owner (by virtue of his acceptance of title) and each other person having an interest in or lien upon, or making any use of, any portion of the association property (by virtue of accepting such interest or making such uses) shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the association arising from or connected with any matter for which the liability of the association has been disclaimed in this provision.

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

17. ARCHITECTURAL CONTROL

The Architectural Review Committee (ARC) shall consist of at least three Members of the Association appointed by the Board of Directors. The Board may act as the ARC and in the absence of the Board's appointment of an ARC, the Board shall be the ARC. The Board of Directors in its sole and absolute discretion may remove members of the ARC at any time, with or without cause.

17.1 Approval Necessary

No dwelling, building, outbuilding, garage, pool, decking, paving, fence, wall, retaining wall, patio, screened enclosure, pier, dock, walkway or other structure or improvement of any kind shall be erected, constructed, placed or maintained on or adjacent to any Parcel, nor shall the exterior of any Dwelling Unit or other Improvement (including any roofing or other building materials) be altered or modified, nor shall any other Improvements on any Parcel be altered, changed, repaired or modified, nor shall any landscaping or vegetation be materially altered, changed or modified or additional landscaping be installed by an Owner, nor shall any exterior changes (including the installation of storm shutters, screen doors, security bars and the like) be made, unless prior to the commencement of any work thereof, two complete sets of plans and specifications therefore, including, as applicable, front, side and rear elevations, time line for completion and floor plans, two Parcel plans indicating and fixing the exact location of such improvements, structures or such altered structure on the Parcel with reference to the street and side lines thereof, shall have been first submitted in writing for approval and approved in writing by the ARC. The foregoing prior approval is also intended to specifically apply to painting or any other maintenance or repair which changes the color or exterior appearance of an Improvement (including the Dwelling Unit), and it is specifically intended that the ARC shall be empowered to approve or disapprove the colors of the exteriors of dwellings (including roofs) and other improvements constructed on the property at the time of any repainting or other resurfacing thereof. The ARC may adopt a schedule or range of permissible colors.

17.2 Architectural Review Committee

All required approvals or disapprovals of the ARC must be in writing to be valid for purposes of this Declaration. Decisions of the ARC shall be based on aesthetics, harmony, balance and compatibility of the proposed improvements with the then existing structures within the Community. Improvements or changes shall be performed by licensed contractors or Owner contractor in accordance with plans and specifications prepared by licensed architects, where applicable. The ARC shall either grant such approval or deny the same based upon its sole discretion as to whether the improvements will be aesthetically pleasing, consistent with the architecture of the buildings in the Association, and similar to other such improvements previously allowed.

17.3 Endorsement of Plans

Approvals of plans, specifications and location of improvements by the ARC shall be endorsed on both sets of said plans and specifications, and one set shall be returned to the person submitting the same. The approval of the ARC of plans or specifications submitted for approval, as

herein specified, shall not be deemed to be a waiver by the ARC of the right to object to any of the features or elements embodied in such plans or specifications if and when the same features and elements are embodied in any subsequent plans and specifications submitted for approval for use by others. The work to be performed shall be commenced within a reasonable time (not to exceed six months) and once work has started, the project shall continue with adequate manpower, uninterrupted to conclusion within eighteen months with the exception of materials shortage, inclement weather or acts of God.

17.4 Construction to be in Conformance with Plans

After such plans and specifications and other data submitted have been approved by the ARC, no building, outbuilding, garage, fence, wall, retaining wall, or other Improvement or Structure of any kind shall be erected, constructed, placed, altered or maintained upon any Parcel unless the same shall be erected, constructed or altered in conformity with the plans and specifications and Parcel plans approved by the ARC.

17.5 Right of Entry

Any member of the ARC may at any reasonable time enter upon a Lot and inspect any exterior of a building or property subject to the jurisdiction of the ARC and any exterior of a building or structure reasonably believed by such member to be a violation of the covenants and restrictions set forth herein.

17.6 Local Building Code

This Article shall not be deemed to excuse any Owner from compliance with local building and construction codes, ordinances and/or regulations and improvements constructed shall conform to the requirements of such laws, codes, ordinances and regulations, nor shall the ARC's approval create any presumption that Owner's plans comply with applicable laws, codes, ordinances and regulations, nor that the work will serve its purpose as intended by Owner.

17.7 Restoration in Event of Damage or Destruction.

In the event any Improvement on a Parcel is damaged or destroyed, in whole or in part, the Parcel Owner shall take action deemed necessary by the ARC to correct any unsightly or dangerous condition resulting from such damage or destruction. The Parcel Owner shall take corrective action to either restore or remove the condition. The work shall be completed within six-months after the date of the damage or destruction, which may be extended by the ARC for good cause shown. The Owner shall undertake such corrective action as soon, as is practicable in order to avoid an unsightly or dangerous conditions. In the event the Owner fails or refuses to take the required corrective action, as deemed appropriate by the ARC, or in the aftermath of a catastrophic event, such as hurricane, the Association shall have the right, but not the obligation, to go upon the Parcel and remove or correct the damaged or destroyed property, which shall be accomplished at the sole cost

Amended and Restated Declaration of Restrictions and Covenants

and expense of the Owner of the property, in which event, the Association shall have the right to place a lien on the Parcel for the full amount of the corrective work, together with attorneys' fees and costs, if any, which lien shall be enforceable in the same manner as other liens created this Declaration.

17.8 Non-Waiver of Future Approvals

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

17.9 Fill and Grade.

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

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

18. GENERAL PROVISIONS

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

18.2 The invalidity in whole or in part of any covenant or restriction, or any Article, subsection, sentence, clause, phrase, word, or other provisions of the Governing Documents or Rules and Regulations shall not affect the validity of the remaining portions.

18.3 Additional residential property and Common Area may be annexed to the Community only by amendment of this Declaration.

18.4 Notices. Except as provided specifically by law, notices to the Association required or desired hereunder or in the Bylaws may be sent by first class mail or hand delivery to the address as may be designated from time to time, in writing to the Owners. Except as provided specifically by law, notices to any Owner may be sent by electronic transmission, first class mail or hand delivery to the address as may be designated by him from time to time, in writing to the Association.

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

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

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

18.8 Severability. The invalidity in whole or in part of any covenant or restriction, or any Article, sub-section, sentence, clause, phrase or word, or other provision of the Governing Documents or the Rules and Regulations adopted as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof.

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

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

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

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

Prepared by and return to:
Steve Adamczyk, Esq.
Goede, Adamczyk, DeBoest & Cross, PLLC
6609 Willow Park Drive, Second Floor
Naples, Florida 34109
239-331-5100

CERTIFICATE OF AMENDMENT
TO THE AMENDED AND RESTATED ARTICLES OF INCORPORATION, AMENDED
AND RESTATED BYLAWS, AND AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
CYPRESS PINES

I HEREBY CERTIFY that the following amendments to the Amended and Restated Articles of Incorporation of Cypress Pines Property Owners Association, Inc., the Amended and Restated Bylaws of Cypress Pines Property Owners Association, Inc., and the Amended and Restated Declaration of Restrictions and Covenants for Cypress Pines Property Owners Association, Inc. were duly approved and adopted by the membership of Cypress Pines Property Owners Association, Inc., at the duly noticed Annual Meeting of the Members called for that purpose, at which a quorum was present, held on the ____ day of May, 2021.

The original Declaration of Restrictions and Covenants for Cypress Pines including the legal description of the Lee County, Florida real property subject to these amendments is recorded on October 26, 1982, in Official Record Book 1642, Page 2165 *et seq.*, of the Public Records, and was amended and restated as instrument number 2006000101750 of the Public Records of Lee County, Florida.

Additions are underlined
Deletions are ~~stricken~~

1. Section 4.2.5 of the Amended and Restated Articles of Incorporation is hereby amended as follows:

4.2.5 To make and amend reasonable rules and regulations for the transfer, appearance, occupancy, maintenance, conservation and use of the Common Areas and the Parcels and for the health, comfort, safety and welfare of the Owners, and to enact rules, policies, and resolutions pertaining to the operation of the Association, subject to any limitations contained in the Declaration.

2. Section 15 of the Amended and Restated Bylaws is hereby amended as follows:

15. Rules and Regulations. The Board of Directors may, from time to time, adopt, amend, waive, or add to the rules and regulations governing the transfer, appearance, occupancy, maintenance, and use of Common Areas and parcels, subject to any limitations contained in the Declaration, and to enact rules,

policies, and resolutions pertaining to the operation of the Association, and architectural standards to the extent permitted by the Declaration.

3. **Section 13.1.2 of the Amended and Restated Declaration is hereby amended as follows:**

13.1.2 Term, Maximum Occupancy. All leases shall be limited to two permanent occupants per bedroom, plus two. A permanent occupant shall include any person who resides in a Parcel for any period exceeding fourteen days during any calendar year. No Owner may lease less than the entire Parcel or lease or rent their Parcel for a term of period of less than one month, nor more than ~~six months~~ one year so that the high quality of the Community shall be maintained and not become a lodging facility for transients.

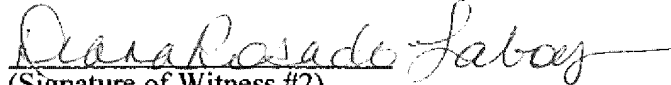
[...]

**CYPRESS PINES PROPERTY
OWNERS ASSOCIATION, INC.**
A Florida not for profit corporation

Witnesses:


(Signature of Witness #1)

Maria ANAIZ ESPINOSA
(Print Name of Witness #1)


(Signature of Witness #2)

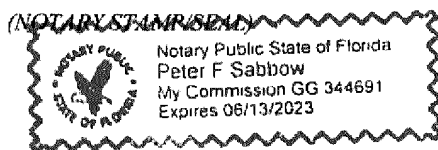
Diana Rosado-Laboy
(Print Name of Witness #2)

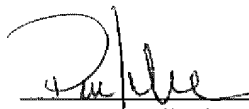

By: John Thistle, President

**STATE OF FLORIDA
COUNTY OF LEE**

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, by means of [☒] physical presence or [☐] online notarization, appeared John Thistle, as President of Cypress Pines Property Owners Association, Inc. who is personally known to me or has produced his Driver's License as identification and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 5th day of May 2021.



 (SEAL)
Notary Public for the State of Florida
Print Name: Peter Sabbow
My Commission Expires: 06-13-2023

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
CYPRESS PINES PROPERTY OWNERS ASSOCIATION, INC.**

These are the Amended and Restated Articles of Incorporation for Cypress Pines Property Owners Association, Inc., originally filed with the Florida Department of State the 3rd day of August, 1995, under Charter Number N95000003704. Matters of only historical interest have been omitted. Amendments included have been added pursuant to Chapters 617 and 720, Florida Statutes.

1. **NAME.** The name of the corporation shall be Cypress Pines Property Owners Association, Inc. For convenience, the corporation shall be referred to in this instrument as the "Association", the Declaration of Restrictions and Covenants as "Declaration", these Articles of Incorporation as the "Articles", and the Bylaws of the Association as the "Bylaws".

2. **PURPOSE.** The purpose for which the Association is organized is to serve as a "Homeowners' Association" as described in Section 720.301, Florida Statutes, to operate, maintain and administer the Common Areas in Cypress Pines, to operate the surface water management system for Cypress Pines, to take such actions as are authorized by the Governing Documents, and to promote the health, safety, welfare and recreational opportunity of its Members and their property within Cypress Pines.

3. **DEFINITIONS.** The terms used in these Articles shall have the same definitions and meaning as those set forth in the original Declaration of Restrictions and Covenants for Cypress Pines, recorded in Official Records Book 1642, at Page 2161, *et seq.*, of the Public Records of Lee County, Florida, and as subsequently amended, unless herein provided to the contrary, or unless the context otherwise requires.

4. **POWERS** The powers of the Association shall include and be governed by the following:

4.1 **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, the Bylaws or prohibited by law.

4.2 **Enumeration.** The Association shall have all the powers and duties set

forth in Chapters 617 and 720, Florida Statutes, as amended from time to time, except as they may be limited by the Declaration and as it may be amended from time to time, these Articles and as they may be amended from time to time, and the Bylaws and as they may be amended from time to time, including but not limited to the following:

4.2.1 To make and collect assessments and other charges against Members, as Owners of Parcels within Cypress Pines, and to use the proceeds thereof in the exercise of its powers and duties.

4.2.2 To buy, own, operate, lease, sell and trade both real and personal property as may be necessary or convenient in the administration of the Association.

4.2.3 To maintain, repair, replace, reconstruct, add to, and operate the Common Area property and other property acquired or subject to the jurisdictions of the Association.

4.2.4 To purchase insurance upon the Common Areas and insurance for the protection of the Association, its officers, Directors, and Members.

4.2.5 To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Common Areas and Parcels and for the health, comfort, safety and welfare of the Owners.

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

4.2.7 To contract for the management of the Association and any facilities used by the Members, 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 of Directors or the membership of the Association.

4.2.8 To employ personnel to perform the services required for proper operation of the Association.

4.3 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 Declaration, these Articles and the Bylaws.

4.4 Distribution of income. The Association shall make no distribution of income to its Members, Directors or Officers.

4.5 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration, these Articles and the Bylaws.

5. MEMBERS AND VOTING. The qualification of Members, the manner of their admission to membership and voting by Members shall be as follows:

5.1 Members. The membership of the Association shall be comprised of the Owner Members. Membership shall be established as follows:

5.1.1 Owner Members.

The Owner of every Parcel subject to Assessment shall be an Owner Member upon recordation in the Public Records of an instrument establishing the ownership by said Owner of such Parcel. Each such Owner shall notify this Association of said recordation within thirty (30) days thereof and shall transmit to the Association true copies of such instrument.

5.2 Voting Rights. The voting rights of the Members shall be as follows:

5.2.1 Number of Votes. Each Member shall possess one vote for any Parcel owned by such Member.

5.3 Each and every Member shall be entitled to the benefits of membership, and shall be bound to abide by the provisions of the Governing Documents.

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, but which shall consist of not less than three (3) Directors.

8.2 Duties and powers. All of the duties and powers of the Association existing under the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to members 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

Amended and Restated Articles of Incorporation

by the Bylaws.

9. BYLAWS. The Bylaws of this Association may be altered, amended or replaced in the manner provided in the Bylaws.

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

10.1 Method of proposal. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than twenty-five percent (25%) of the voting interests of the Association.

10.2 Notice. The subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

10.3 Adoption. An amendment so proposed may be approved by a majority of the voting interests of the Association, present, in person or by proxy, and voting at a duly noticed meeting of the Association at which a quorum is present. 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.

10.4 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of the applicable Florida Statutes, and a copy certified by the Secretary of State shall be recorded in the Public Records of Lee County, Florida.

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.

**AMENDED AND RESTATED BYLAWS
OF
CYPRESS PINES PROPERTY OWNERS ASSOCIATION, INC.**

1. Identity. These are the Bylaws of Cypress Pines Property Owners Association, Inc. (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, organized for the purpose of administering Cypress Pines, a residential Community located in Lehigh Acres, Lee County, Florida.

1.1 Mailing Address. The mailing address of the Association shall be designated by the Board of Directors from time to time.

1.2 Seal. The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation.

2. Definitions. The terms used herein shall have the same definitions as stated in the Declaration unless the context requires otherwise.

3. Members. The Members of the Association shall be the record owners of fee title to the Parcels (Lots or Dwelling Units). In the case of a Parcel subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the Parcel for purposes of determining voting, assessment and use rights.

3.1 Qualifications. Membership shall become effective upon the recording in the Public Records of a deed or other instrument evidencing the Member's legal title to the Parcel.

3.2 Voting Rights: Voting Interests. The Members of the Association are entitled to one (1) vote for each Assessable Parcel owned by them. The vote of a Parcel is not divisible. The right of a Member to vote may be suspended by the Association for the nonpayment of regular annual assessments that are delinquent in excess of 90 days. The following persons shall be authorized to cast a vote on behalf of a Parcel depending on the specified ownership interests:

(a) If a Parcel is owned by one natural person, that person has the right to cast a vote on behalf of the Parcel.

(b) If a Parcel is owned jointly by two or more persons, any of the record owners may cast a vote on behalf of the Parcel.

(c) If a Parcel is subject to a life estate, any of the life tenants may cast a vote on behalf of the Parcel, or the holder(s) of the remainder interest may cast the vote.

(d) If the owner of a Parcel is a corporation, any officer of the corporation may cast the vote on behalf of the Parcel.

(e) If a Parcel is owned by a partnership, any general partner may cast the vote on behalf of the Parcel.

(f) If a limited liability company owns a Parcel, any authorized agent may cast the vote on behalf of the Parcel.

(g) If a Parcel is owned by a trustee(s), the vote for the Parcel may be cast by any trustee of the trust, or by any grantor or beneficiary of the trust provided the grantor or beneficiary occupies the Parcel, and provide proof to the Association that he or she is a beneficiary.

In a situation where there are two or more persons authorized to cast a vote on behalf of a Parcel, it shall be presumed that the person casting the vote has the consent of all such persons. In the event the persons who are authorized to vote on behalf of a unit do not agree among themselves how their one vote shall be cast, which disagreement must be provided to the Association in writing, that vote shall not be counted.

3.3 Approval or Disapproval of Matters. Whenever the decision of a Parcel Owner is required upon any matter, whether or not the subject of an Association meeting, such decision may be expressed by any person authorized to cast the vote of such Parcel at an Association meeting as stated in Section 3.2 above, unless the joinder of all owners is specifically required.

3.4 Termination of Membership. The termination of membership in the Association does not relieve or release any former Member from liability or obligation incurred under or in any way connected with the Community during the period of membership, nor does it impair any rights or remedies which the Association may have against any former Member arising out of or in any way connected with such membership and the covenants and obligations incident thereto.

4. Members' Meetings: Voting.

4.1 Annual Meeting. The annual Members' meeting shall be held on the date, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than thirteen (13) months after the last preceding annual meeting. However, the failure to hold an annual meeting within the required time frame shall not serve to invalidate actions of the Association, or the Board. The purpose of the meeting shall be to elect directors and to transact any other business authorized to be transacted by the Members.

4.2 Special Meetings. Special Members' meetings may be called by the President, Vice President, or by a majority of the Board of Directors of the Association, and must be called by

the Association upon receipt of a written request from twenty percent (20%) of the voting interests. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

4.3 Notice of Meeting: Waiver of Notice. Notice of a meeting of Members shall state the time, place, date, and the purpose(s) for which the meeting is called. The notice shall include an agenda. The notice of any Members' meeting shall be provided to every Member by one of the following methods: (1) mailed postpaid and correctly addressed to the Member's address shown in the current records of the Association, or (2) be hand delivered to the Member who must in that event sign a receipt, or (3) be electronically transmitted to a correct facsimile number or electronic mail address at which the Member has consented in writing to receive notice. Each Member bears the responsibility of notifying the Association of any change of address. Consent by a Member to receive notice by electronic transmission shall be revocable by the Member by written notice to the Association. The mailing of the notice shall be affected not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. Notice must also be posted conspicuously and continuously at the Community property for not less than 14 days before the meeting. Proof of notice shall be given by affidavit of the person giving notice.

Notice of specific meetings may be waived before or after the meeting and the attendance of any Member shall constitute such Member's waiver of notice of such meeting, except when 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.

4.4 Quorum. A quorum at Members' meetings shall be obtained by the presence, either in person or by proxy, of persons entitled to cast thirty (30%) percent of the Voting Interests.

4.5 Majority Vote. The acts approved by a majority of the Voting Interests present and voting, in person or by proxy, at a meeting at which a quorum shall have been attained shall be binding upon all Parcel Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles or these Bylaws.

4.6 Proxies. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote (including persons authorized by Power of Attorney), but shall only be valid for the specific meeting for which originally given and any lawful adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be filed in writing, signed by the person authorized to cast the vote for the Parcel and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Holders of proxies must be persons eligible to cast a vote on behalf of a unit as set forth in Section 3.2 of these Bylaws, or a spouse of an eligible voter.

An executed facsimile appearing to have been transmitted by the proxy giver, or a photographic, photostatic, facsimile or equivalent reproduction of a 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 and ratifying the vote cast by his or her proxy.

4.7 Adjourned Meetings. If any proposed meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting.

4.8 Order of Business. If a quorum has been attained, the order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be:

- (a) Call to order by President;
- (b) At the discretion of the President, appointment by the President of a chairperson of the meeting (who need not be a Member or a director);
- (c) Calling of the roll, certifying of proxies, and determination of a quorum, or in lieu thereof, certification and acceptance of the preregistration and registration procedures establishing the owners represented in person, by proxy;
- (d) Proof of notice of the meeting or waiver of notice;
- (e) Reading and disposal of any unapproved minutes;
- (f) Reports of officers;
- (g) Reports of committees;
- (h) Call for final balloting on election of directors and close of balloting.
- (i) Appointment of inspectors of election;
- (j) Election of directors;
- (k) Unfinished business;
- (l) New business;
- (m) Adjournment.

Such order may be waived in whole or in part by direction of the President or the chairperson.

4.9 Minutes of Meeting. The minutes of all meetings of Parcel Owners shall be kept available for inspection by Parcel Owners or their authorized representatives at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.

4.10 Action Without a Meeting. Anything to the contrary herein notwithstanding, to the extent lawful, any action required or permitted to be taken at any annual or special meeting of Members may be taken without a meeting, provided the Association mails or delivers a letter or similar communication to each owner that explains the proposed action. The communication shall include a form of consent to permit each owner to consent to the proposed action, and instructions on consent procedures. The Association may proceed with the proposed action without further notice and without a vote at a membership meeting provided consents in writing, setting forth the action so taken, shall be signed by the Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of Members at which a quorum of Members entitled to vote thereon were present and voted. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved by vote of the Members at a meeting of the Members held on the sixtieth (60th) day. Within ten (10) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. Members may also consent in writing to actions taken at a meeting by providing a written statement to that effect and their vote shall be fully counted as though they had attended the meeting.

5. Directors.

5.1 Number, Tenure and Qualifications. The number of Directors which shall constitute the whole Board of Directors shall be nine (9). All Directors shall be elected for three (3) year terms. A Director's term ends at the annual election at which his successor is to be duly elected, or at such other time as may be provided by law. Directors shall be elected by the Members as described in Section 5.3 below, or in the case of a vacancy, as provided in 5.4 below.

5.2 Qualifications. Every director must be at least 18 years of age and a person that is eligible to cast a vote on behalf of a unit as set forth in Section 3.2 of these Bylaws, or a spouse of an eligible voter.

5.3 Election of Directors. The following procedures shall apply to the election of directors:

(a) The Board of Directors may appoint a nominating committee to nominate or recommend specific persons for election to the Board, and shall generally recruit and encourage eligible persons to run as candidates for election to the Board.

(b) Any eligible person desiring to be a candidate may submit a self nomination, in writing, not less than forty (40) days prior to the scheduled election and shall automatically be entitled to be listed on the ballot.

(c) The ballot prepared for the annual meeting shall list all Director candidates in alphabetical order. Ballots shall be mailed to all voting interests with notice of the annual meeting and may be returned to the Association prior to the meeting, or cast at the meeting.

(d) Nominations shall also be accepted from the floor on the date of the election, so long as required by law.

(e) The election shall be by plurality vote (the nominees receiving the highest number of votes are elected). Tie votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by Parcel, such as the flipping of a coin by a neutral party.

(f) No election shall be necessary if the number of candidates is less than or equal to the number of vacancies.

5.4 Vacancies on the Board.

If the office of any director becomes vacant for any reason, a successor or successors to fill the remaining unexpired term or terms shall be appointed or elected as follows:

(a) If a vacancy is caused by the death, disqualification or resignation of a director, a majority of the remaining directors, even though less than a quorum, shall appoint a successor, who shall hold office for the remaining unexpired term.

(b) If a vacancy occurs as a result of a recall and less than a majority of the directors are removed, the vacancy may be filled by appointment by a majority of the remaining directors, though less than a quorum. If vacancies occur as a result of a recall in which a majority or more of the directors are removed, the vacancies shall be filled by the Members in the agreements used to recall the Board Members, or by vote at the recall meeting, as applicable.

For purposes of the foregoing provisions, in order to establish a quorum at the Board of Director's meeting held to appoint a replacement Member to the Board, it shall be necessary only for a majority of the remaining directors to attend the meeting, either in person or by telephone conference participation.

5.5 Removal of Directors. Any or all directors, may be removed with or without cause by a majority vote of the entire voting interests, either by a written petition or at any meeting called for that purpose. The question shall be determined separately as to each director sought to be removed. If a special meeting is called by twenty percent (20%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. All recall proceedings shall be in accordance with the provisions of Section 720.303(10), Florida Statutes (2004), as amended from time to time.

5.6 Organizational Meeting. The organizational meeting of newly-elected directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the directors. Notice of the organizational meeting shall be posted at the designated location on the Community property at least 48 continuous hours in advance of the meeting.

5.7 Regular Meetings. Regular meetings of the Board of Directors shall be held at such times as shall be determined by a majority of the Directors. Except for meetings with the Association's attorney which are subject to the attorney-client privilege, as provided by law, meetings of the Board of Directors shall be open to all Parcel Owners. Conspicuous notice of such meetings shall be posted at a designated location in the Community at least forty-eight (48) continuous hours in advance for the attention of the Members of the Association, except in the event of an emergency. Conspicuous written notice of any meeting at which a special assessment, or at which rules regarding Parcel use, will be considered, shall be provided to the Parcel Owners via one of the methods set forth in Section 4.3 of these Bylaws and posted at a designated location in the Community not less than 14 continuous days prior to the meeting. Evidence of compliance with this 14-day notice shall be by affidavit by the person providing the notice, and filed among the official records of the Association.

5.8 Special Meetings. Special meetings of the Directors may be called by the President, or Vice President, and must be called by the President or Secretary at the written request of two (2) Directors. Special meetings of the Board of Directors shall be noticed and conducted in the same manner as provided herein for regular meetings. Parcel Owners may petition for an item of business to be discussed at a board meeting to the extent and so long as permitted by Section 720.303(2)(d), Florida Statutes, as amended from time to time.

5.9 Notice to Board Members/Waiver of Notice. Notice of Board meetings shall be given to Board Members in person, by telephone or one of the methods set forth in Section 4.2 of these Bylaws which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than forty-eight (48) hours prior to the meeting. Any director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said director of notice. Attendance by any director at a meeting shall constitute a waiver of notice of such meeting, except when attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

5.10 Quorum. Except as provided in Section 5.4 hereof, a quorum at directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of directors is specifically required by the Declaration, the Articles or these By-Laws. Directors may not vote by proxy. Directors may vote by secret ballot for the election of officers. At all other times, a vote or abstention for each director present shall be recorded in the minutes.

5.11 Adjourned Meetings. If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

5.12 Joinder in Meeting by Approval of Minutes. A Member of the Board may submit in writing his or her agreement or disagreement with any action taken at a meeting that the Member did not attend, but such action may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

5.13 Presiding Officer. The presiding officer at the directors' meetings shall be the President (who may, however, designate any other person to preside). In the absence of the presiding officer, the directors present may designate any person to preside.

5.14 Order of Business. If a quorum has been attained, the order of business at directors' meetings shall be:

- (a) Proof of due notice of meeting;
- (b) Reading and disposal of any unapproved minutes;
- (c) Report of officers and committees;
- (d) Unfinished business;
- (e) New business;
- (f) Adjournment.

Such order may be waived in whole or in part by direction of the President, or the presiding officer.

5.15 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Parcel Owners, or their authorized representatives, at any reasonable time after a written request is received, and a scheduled time is arranged. The Association shall retain these minutes for a period of not less than seven (7) years.

5.16 Executive Committee: Other Committees. The Board of Directors may, by resolution duly adopted, appoint an Executive Committee to consist of three (3) or more Members of the Board of Directors. Such Executive Committee shall have and may exercise all of the powers of the Board of Directors in management of the business and affairs of the Community during the period between the meetings of the Board of Directors insofar as may be permitted by law, except that the Executive Committee shall not have power (a) to determine the Common Expenses required for the affairs of the Community, (b) to determine the assessments payable by the Parcel Owners to meet the Common Expenses, (c) to adopt or amend any rules and regulations governing the details of the operation and use of the Parcels or Common Areas, (d) to fill vacancies on the Board of Directors or (e) to borrow money.

The Board of Directors may by resolution create other committees and may invest in such committees such powers and responsibilities as the Board shall deem advisable. The Board may authorize the President to appoint committee Members, and designate the chairpersons of each committee.

Any committee authorized to take final action on behalf of the Board regarding (1) the approval or disapproval of architectural decisions or (2) the authorization of expenditures of Association funds, 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. Notwithstanding any other law or documentary provision, the requirement that committee meetings be open to the Parcel Owners is inapplicable to meetings between a committee and the Association's attorney which is subject to the attorney-client privilege, as provided by law.

6. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Community and the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these Bylaws may not be delegated to the Board of Directors by the Parcel Owners. Such powers and duties of the Board of Directors shall include the following:

(a) Operating and maintaining the Common Areas, including surface water and drainage facilities and systems.

(b) Determining the Common Expenses required for the operation of the Community and the Association.

- (c) Collecting the assessments for Common Expenses from Parcel Owners.
- (d) Employing and dismissing the personnel necessary for the maintenance and operation of the Community and the Association.
- (e) Adopting and amending rules and regulations concerning the operation and use of the Common Areas and to establish criteria for architectural approval, as provided in the Declaration.
- (f) Maintaining accounts at depositories on behalf of the Association and designating the signatories.
- (g) Purchasing Parcels at foreclosure or other judicial sales, in the name of the Association, or its designee.
- (h) Enforcing obligations of the Parcel Owners.
- (i) Levying fines against Parcel Owners for violations of the Governing Documents or the Rules and Regulations. The Board of Directors may levy a fine against a Parcel Owner, not to exceed one hundred dollars (\$100.00) per violation and two thousand five hundred dollars (\$2,500.00) for each day of a continuing offense, for each violation, by the Parcel Owner, or his or her family members, tenants, guests, visitors, or invitees. A separate fine for each repeat or continued violation, may be levied, however, written notice of the nature of the violation and an opportunity to attend a hearing shall be given prior to the levy of the initial fine. No written notice or hearing shall be necessary for the levy of a separate fine for repeat or continued violations if substantially similar to the initial violation for which notice and a hearing was provided. The Board of Directors shall have the authority to adopt rules, regulations and policies to fully implement its fining authority.

The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days and said notice shall include:

1. A statement of the date, time and place of the hearing;
2. A statement of the provisions of the Declaration, Association Bylaws, or Association Rules which have allegedly been violated; and
3. A short and plain statement of the matters asserted by the Association.

The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an

opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The hearing shall be conducted before a panel of three (3) Parcel Owners appointed by the Board, none of whom may then be serving as a director, officer or employee of the Association, or be a spouse, parent, child, brother, or sister of an officer, director, or employee. If the panel, by majority vote, which may be taken by secret ballot, does not agree with the fine, it may not be levied.

(j) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of the Community. The Association may pledge personal property (including reserve funds and assessment rights) as security for a loan, but may not mortgage the Common Area.

(k) Contracting for the maintenance of the Community, and management services. All contracts for the purchase, lease or renting of materials or equipment, all contracts for services, and any contract that is not to be fully performed within one year, shall be in writing. For so long as required by law, the Association shall obtain competitive bids for any contract which requires payment exceeding ten (10%) percent of the total annual budget of the Association (except for contracts with employees of the Association, management firms, attorneys, accountants, architects, engineers, or landscape architects), unless the products and services are needed as the result of any emergency or unless the desired supplier is the only source of supply within the county serving the Association. The Board need not accept the lowest bid.

(l) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these Bylaws (ii) all powers incidental thereto, and (iii) all other powers granted by statute or other law to a Florida corporation not for profit.

(m) Convey a portion of the Common Areas or personal property of the Association to a condemning authority or a utility for the purpose of providing utility easements, right-of-way expansion, or other public utility purposes, whether negotiated or as a result of eminent domain proceedings.

7. Emergency Board 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 (2004), and Section 617.0303, Florida Statutes (2004), as amended from time to time.

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

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

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

(d) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

(e) The Board may use reserve funds to meet Association needs.

(f) 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.

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

(h) 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:

- (1) a state of emergency declared by local civil or law enforcement authorities;
- (2) a hurricane warning;
- (3) a partial or complete evacuation order;
- (4) federal or state "disaster area" status;

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

(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 Unit Owners, the Community, or Association Property.

(i) **Additional Board Authority.** In addition to Board authority granted by law and the Governing Documents, the Board shall have the following power and authority to declare any portion of the Common Area unavailable for occupation by owners, tenants, or guests after a casualty, including during the rebuilding process. Such decision by the Board shall be made only if necessary to protect the health, safety, or welfare of the Association, owners, tenants, or guests.

8. Officers.

8.1 Executive Officers. The executive officers of the Association shall be a President, Vice-President, a Treasurer and a Secretary (the president and vice-president must be directors). All officers shall be elected by the Board of Directors and may be peremptorily removed at any meeting by concurrence of a majority of the directors. A person may hold more than one (1) office, except that the President may not also be the Secretary or Treasurer. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association.

8.2 President. The President shall be the chief executive officer of the Association, and shall have all of the powers and duties that are usually vested in the office of president of an association.

8.3 Vice-President. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President, and shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice-president of an association and as may be required by the directors or the President.

8.4 Secretary. The Secretary shall keep the minutes of all proceedings of the directors and the Members, shall attend to the giving of all notices to the Members and directors and other notices required by law, shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed, and shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the directors or the President.

8.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness, shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a Treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer and as may be required by the directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.

8.6 Delegation. The Board of Directors may delegate any or all of the functions of the Secretary or Treasurer to an agent or employee, provided that the Secretary or Treasurer shall in such instance generally supervise the performance of the agent or employee in the performance of such functions.

9. Compensation. Neither directors nor officers shall receive compensation for their services as such, provided however, the Board of Directors may hire a Director or officer as an employee of the Association, and may contract with a Director or officer for management or any other compensable service, in their reasonable business discretion.

10. Resignations. Any director or officer may resign his post at any time by written resignation, including electronic transmission, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Parcels owned by any director or officer shall constitute a resignation of such director or officer without need for a written resignation.

11. Fiscal Matters. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following:

11.1 Budget. The Board of Directors shall adopt a budget of Common Expense for the Community. The assessment is payable annually, unless the Board resolves to permit quarterly or monthly payments. The Board of Directors shall post notice of the budget meeting, along with a copy of the proposed budget, at least 48 hours in advance as set forth in Article 5.7 of these Bylaws, and after adoption of the budget, shall provide a copy of the budget to each Parcel Owner or written notice advising that a copy of the budget shall be provided upon request at no cost to the Member.

11.2 Reserves. The Board may establish one or more reserve accounts in the operating budget for contingencies, operating expenses, repairs, capital improvements or special projects. These reserves may be used to offset cash flow shortages, provide financial stability, and avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be included in the proposed annual budget. These funds may be spent for any purpose approved by the Board.

11.3 Special Assessments. Special assessments may be approved by the Board of Directors. All special assessments shall be secured by a lien in the same manner as regular annual assessments per the Declaration.

11.4 Fidelity Bonds. The President, Vice-President, Secretary and Treasurer, and all other persons who are authorized to sign checks, or have access to or control of Association funds

shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premium on such bonds is a Common Expense.

11.5 Financial Reports. In accordance with Chapter 720, Florida Statutes, not later than 60 days following the close of the fiscal year or such other deadline as may be provided in the Statute, as amended from time to time, the Board shall, as a minimal requirement, distribute to the owners of each unit a report showing in reasonable detail the financial condition of the Association as of the close of the fiscal year, and an income and expense statement for the year, detailed by accounts. The Board of Directors may, in its discretion, engage a CPA and have a more comprehensive analysis accomplished, which shall be mailed or delivered to the Members. In lieu of the distribution of financial reports as provided herein, the Association may mail or deliver each unit owner not later than the required deadlines, a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner.

11.6 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each calendar year. The Board of Directors may adopt a different fiscal year in accordance with law and the regulations of the Internal Revenue Service.

11.7 Depository. The depository of the Association shall be such bank, banks or other federally insured depository, in the State, as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited not to exceed the amount of federal insurance available provided for any account. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons authorized by the directors. All funds shall be maintained separately in the Association's name.

12. Roster of Parcel Owners. Each Parcel Owner shall, within thirty (30) days of taking title, file with the Association a copy of the recorded deed or other recorded document showing his ownership. The Association shall maintain such information and may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Parcel Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other owners shall produce adequate evidence, as provided above, of their ownership interest and shall waive in writing notice of such meeting.

13. Parliamentary Rules. Robert's Rules of Order (latest edition) shall be used as a guide in the conduct of members' meetings, Board meetings, and committee meetings to ensure fairness, impartiality, and respect for minority views without unduly burdening majority rights. Meetings shall also be conducted in accordance with these Bylaws and the procedures established by the Board from time to time, including the form of voting documents to be used. The ruling of the Chair of the meetings unless he or the Board of Directors designates a third person, as Parliamentarian, shall be binding unless contrary to law.

14. Amendments. These Bylaws may be amended in the following manner:

14.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

14.2 Resolution. A proposed amendment may be proposed either by the President, the Board of Directors, or by not less than twenty percent (20%) of the Voting Interests of the Association.

14.3 Approval. Except as otherwise required by law, a proposed amendment to these Bylaws shall be adopted if it is approved by not less than a majority of the Voting Interests, present and voting in person or by proxy, at any annual or special meeting, provided that notice of any proposed amendment has been given to the Members of the Association, and that the notice contains the text of the proposed amendment.

14.4 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed with the formalities of a deed. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of Lee County.

15. Rules and Regulations. The Board of Directors may, from time to time, adopt, amend or add to rules and regulations governing the use of Common Areas, the operation of the Association, and architectural standards to the extent permitted by the Declaration.

16. Construction. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

17. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these Bylaws or the intent of any provision hereof.

18. Document Conflict. If any irreconcilable conflict should exist, or hereafter arise, the provisions of the Declaration shall take precedence over the Articles of Incorporation, which shall prevail over the provisions of these Bylaws, which shall prevail over the rules and regulations.