

## 9.2 Common Elements

9.2.1 By the Association. The maintenance and operation of the limited common elements and common elements, including the repair, maintenance and replacement of landscaping and other improvements and facilities shall be the responsibility of the Association as a common expense.

9.2.2 Alteration and Improvement. After the completion of the improvements included in the common elements contemplated by this Declaration, there shall be no alteration or further improvement of the real property constituting the common elements without prior approval in writing by not less than two-thirds (2/3) of the members of the Association, if the cost of the same shall be a common expense which exceed in cumulative expenditure for the calendar year, the sum of \$5,000.00. Any such alteration or improvement shall not interfere with the rights of any unit owner without their consent. The cost of such work shall not be assessed against an institutional mortgagee, as defined in paragraph 2.31 herein that acquires its title as the result of owning a mortgage upon a unit owned, unless such owner shall approve the alteration or improvement and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. The share of any cost not so approved by an institutional mortgagee shall be assessed to the other unit owners in the proportion that their shares for the common expenses bear to each other.

There shall be no change in the shares and rights of a unit owner in the common elements, or in his share of the common expenses whether or not the unit owner contributes to the costs of such alteration or improvements.

9.2.3 Land Acquisition. Land acquired by the Association may be added to the land submitted to condominium ownership hereby. This may be done by an amendment to this Declaration that includes the description of the acquired land and submits the said land to condominium ownership under the terms of this Declaration. The amendment shall be executed by the Association and adopted by the unit owners in the manner elsewhere required. Such amendment, when recorded in the public records of Volusia County, Florida, shall divest the Association of title to the land and shall state that it conveys all interest of the Association to and vests the title in the unit owners, without naming them and without further conveyance, in the same undivided shares as the undivided shares in the common elements appurtenant to the units owned by them.

9.2.4 Land Not Incorporated. Any land acquired by the Association that is not incorporated into the land by amendment of this Declaration, may be sold or mortgaged or otherwise disposed of by the Association after approval in writing

by the record unit owners of not less than seventy-five percent (75%) of the common elements. This approval shall be evidenced by a certificate stating that the approval was duly given, which certificate shall be executed by the officers of the Association with the formalities of a deed and delivered to a purchaser or mortgagee of such land.

9.2.5 Personal Property. Any personal property acquired by the Association may be sold or mortgaged or otherwise disposed of by the Association.

### 9.3 Enforcement of Maintenance

In the event the owner of a unit fails to maintain a unit as required above, the Association, Developer or any other unit owner shall have the right to proceed to any appropriate court to seek compliance with the foregoing provisions.

Further, in the event a unit owner violates any of the provisions of this section, the Developer and/or the Association shall have the right to take any and all such steps as may be necessary to remedy such violation, including, but not limited to, entry of the subject unit with or without the consent of the unit owner, and the repair and maintenance of any item requiring same, all at the expense of the unit owner.

## 10. USE RESTRICTIONS

The use of the property of the condominium shall be in accordance with the following provisions:

### 10.1 Units

10.1.1 Each of the units shall be occupied by an owner, members of his family, his servants, guests, and tenants as a residence and for no other purpose. No unit shall be permanently occupied by more than five (5) persons, and the maximum permanent occupants and overnight guests shall be no more than six (6) persons per unit.

10.1.2 Except as reserved to the Developer, no unit may be divided or subdivided into a smaller unit nor any portion thereof sold or otherwise transferred without first amending this Declaration to show the changes in the units to be affected thereby.

10.1.3 Nothing shall be hung, displayed or placed on the exterior walls, doors or windows of the unit or the apartment building without the prior written consent of the Board of Directors of the Association.

10.1.4 No clotheslines or similar devices shall be allowed on any patios, sun decks or balconies of the condominium units, or any other part of the condominium property, without the written consent of the Board of Directors of the Association.

10.1.5 No owner shall make, allow or cause to be made, any structural addition or alteration of his unit or the common elements without the prior written consent of the Association.

10.1.6 A unit may be occupied by relatives, tenants or guests while the unit owner is not in residence.

10.1.7 Each unit owned by a corporation may be occupied only by persons for the use of the unit for residential purposes, and temporary or transient tenancy. Corporately owned units may be used as residences, and vacation or hotel accommodations.

#### 10.2 Common Elements and Limited Common Elements

The common elements and limited common elements shall be used only for the purpose for which they are intended.

#### 10.3 Nuisances

No nuisances shall be allowed on the condominium property nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper residential use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist. No unit owner shall permit any use of his unit or of the common elements which will increase the rate of insurance upon the condominium property.

#### 10.4 Lawful Use

No immoral, improper, offensive or unlawful use shall be made of the condominium property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

#### 10.5 Signs

No signs shall be displayed from a unit or on common elements except such signs as shall have advance written approval by the Association.

#### 10.6 Rules and Regulations

Reasonable rules and regulations concerning the use of the condominium property may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and By-Laws. Copies of such regulations and amendments thereto shall be furnished by the Association to all unit owners and residents of the condominium upon request. A copy of the initial Rules and Regulations is attached hereto as Exhibit "F".

#### 10.7 Proviso

Provided, however, that until the Developer has completed all of the contemplated improvements and closed the sales of all of the units of this condominium, neither the unit owners nor the Association nor the use of the condominium property shall interfere with the completion of all contemplated improvements and the sale of all units, and the Developer may make such use of the unsold units and common areas as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, showing of the property and the display of signs.

### 11. MAINTENANCE OF COMMUNITY INTERESTS

In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the units, the transfer of units by any owner other than the Developer shall be subject to the following provisions so long as the condominium exists and the condominium building in useful condition exists upon the land, which provisions each unit owner covenants to observe:

#### 11.1 Transfer Subject to Approval

11.1.1 Sale. No unit owner may dispose of a unit or any interest therein by sale without approval of the Association, except to a unit owner. In no event shall the Buyer, directly or indirectly, advertise the resale of the unit until such time as all units in the condominium have been sold by the Seller or until the lapse of one year from the date that the Buyer shall have closed upon the purchase of the unit, whichever of said events shall be the first to occur. This paragraph shall survive the unit closing and the delivery of the Warranty Deed to the Buyer.

11.1.2 Lease. The unit owner may personally or through third parties dispose of a unit or any interest by lease or rental. Units may be rented on a daily basis. The rental and/or lease of a unit may also be performed by a management company retained by the Association in accordance with the Association's unit rental program.

11.1.3 Gift. If any unit owner shall acquire his title by gift, the continuance of his ownership of his unit shall be subject to the approval of the Association.

11.1.4 Devise or Inheritance. If any unit owner shall acquire his title by devise or inheritance, the continuance of his ownership of his unit shall be subject to the approval of the Association.

11.1.5 Other Transfers. If any unit owner shall acquire his title by any manner not heretofore considered in the foregoing subsections, the continuance of his ownership of his unit shall be subject to the approval of the Association.

## 11.2 Approval by Association

### 11.2.1 Notice to Association

11.2.1.1 Sale. A unit owner intending to accept a bona fide offer of sale of his unit, or any interest therein, shall give the Association notice of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonable require. (A bona fide offer being defined as an offer in writing binding upon the offeror and containing all the pertinent terms of such sale or lease, and accompanied by an earnest money deposit in an amount equal to ten percent (10%) of the purchase price if such offer is an offer to purchase a unit.) Such notice at the unit owner's option may include a demand by the unit owner that the Association furnish a purchaser, if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

11.2.1.2 Lease. A unit owner intending to accept a bona fide offer to lease his unit or any interest therein, shall give to the Association notice of such intention, together with the name and address of the intended lessee and other such information as the Association may reasonably require, and an executed copy of the proposed lease.

11.2.1.3 Gift; Devise; Inheritance; Other Transfers. A unit owner who has obtained his title by gift, devise or inheritance, or by other manner not heretofore considered, shall

give to the Association notice of the acquiring of his title, together with such information concerning the unit owner as the Association may reasonably require, and a certified copy of the instrument evidencing the owner's title.

11.2.1.4 Failure to Give Notice. If the notice to the Association herein required is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a unit, the Association, at its election and without notice, may approve or disapprove the transfer of ownership. If the Association disapproves the transfer of ownership, the Association shall proceed as if it had received the required notice of the date of such disapproval.

#### 11.2.2 Certificate of Approval

11.2.2.1 Sale. If the proposed transaction is a sale, then within thirty (30) days after receipt of such notice and the information, the Association must either approve or disapprove the transaction. If approved, the approval shall be stated in a certificate executed by the President (or a Vice President), and having the corporate seal affixed in recordable form and shall be delivered to the purchaser and shall be recorded in the public records of Volusia County, Florida, at the expense of the purchaser.

11.2.2.2 Lease. If the proposed transaction is a lease, then within ten (10) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President (or a Vice President), in recordable form, which shall be delivered to the lessee.

11.2.2.3 Gift; Devise; Inheritance; Other Transfer. If the unit owner giving notice has acquired his title by gift, devise, inheritance or in any other manner, then within thirty (30) days after receipt of such notice and information, the Association must either approve or disapprove the continuance of the unit owner's ownership of his unit. If approved, the approval shall be stated in a certificate executed by the President, in recordable form, and shall be delivered to the unit owner and shall be recorded in the public records of Volusia County, Florida, at the expense of the unit owner.

11.2.3 Approval of Corporate Owner or Purchaser. Inasmuch as the condominium may be used only for residential purposes and a corporation cannot occupy a unit for such use, if the unit owner or purchaser is a corporation, the approval of the unit owner or purchaser is a corporation, the approval of ownership

by the corporation shall be conditioned upon requiring that all persons occupying the unit be also approved by the Association.

### 11.3 Disapproval by the Association

If the Association shall disapprove a transfer of ownership of a unit, the matter shall be disposed of in the following manner:

11.3.1 Sale. If the proposed transaction is a sale and if the notice of sale given by the unit owner shall so demand, then within ten (10) days after receipt of such notice and information, the Association shall deliver or mail by certified mail to the unit owner, an agreement to purchase by a purchaser approved by the Association who will purchase, and to whom the unit owner must sell the unit upon the following terms:

11.3.1.1 At the option of the purchaser to be stated in the agreement, the price to be paid shall be that market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

11.3.1.2 The purchase price shall be paid in cash.

11.3.1.3 The sale shall be closed within ten (10) days after the delivery or mailing of said agreement to purchase, or within ten (10) days after the determination of the sale price, if such is by arbitration, whichever is the later.

11.3.1.4 A certificate of the Association executed by its President (or a Vice President), having the corporate seal affixed, and approving the purchaser, shall be recorded in the public records of Volusia County, Florida, at the expense of the purchaser.

11.3.1.5 If the Association shall fail to provide a purchaser upon the demand of the unit owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval or default, the proposed transactions shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the public records of Volusia County, Florida, at the expense of the purchaser.

11.3.2 Lease. If the proposed transaction is a lease, the unit owner shall be advised of the disapproval in writing, and the lease shall not be made.

11.3.3 Gifts; Devise; Inheritance; Other Transfers. If the unit owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner not heretofore considered, then within ten (10) days after receipt from the unit owner of the notice and information required to be furnished, the Association shall deliver or mail by certified mail to the unit owner, an agreement to purchase by a purchaser approved by the Association who will purchase, and to whom the unit owner must sell the unit upon the following terms:

11.3.3.1 The sale price shall be the fair market value determined by agreement between the seller and purchaser within ten (10) days from the delivery or mailing of such agreement. In the absence of such agreement, by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

11.3.3.2 The purchase price shall be paid in cash.

11.3.3.3 The sale shall close within ten (10) days following the determination of the sale price.

11.3.3.4 A certificate of the Association, executed by its President (or a Vice President), having its corporate seal affixed, approving the purchaser shall be recorded in the public records of Volusia County, Florida, at the expense of the purchaser.

11.3.3.5 If the Association shall fail to provide a purchaser as herein required, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval or default, such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the public records of Volusia County, Florida, at the expense of the unit owner.

#### 11.4 Mortgage

A unit owner may not mortgage his unit, nor any interest therein, without the approval of the Association, except to an institutional mortgagee, as hereinbefore defined. The approval of any other mortgagee may be obtained upon conditions determined by the Board of Directors of the Association, and said approval shall be, if granted, prepared in recordable form, executed by the President and Secretary of the Association. Where a unit owner sells his unit and takes back a purchase money mortgage, the approval of the Association shall not be required.

#### 11.5 Exceptions

The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to, or purchase by an institutional mortgagee which acquires title as a result of owning a mortgage upon the unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by an institutional mortgagee. Neither shall such provisions require the approval of a purchaser who acquires title to a unit at a duly advertised public sale with open bidding which is provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale or tax sale. Neither shall any of the provisions of this section apply to the sale or lease of a unit by the Developer.

#### 11.6 Unauthorized Transactions

Any sale, mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

#### 11.7 Notice of Lien or Suit

11.7.1 Notice of Lien. A unit owner shall give notice to the Association of every lien upon his unit other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of the lien.

11.7.2 Notice of Suit. A unit owner shall give notice to the Association of every suit or other proceeding which may affect title to his unit, such notice to be given within five (5) days after the unit owner receives knowledge thereof.

Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

#### 11.8 Purchase of Units by the Association

The Association shall have the power to purchase units subject to the following provisions:

11.8.1 Decision. The decision of the Association to purchase a unit shall be made by its Directors, without approval of its members, except as hereinafter provided.

11.8.2 Limitation. If at any one time the Association be the owner or agreed purchaser of four (4) units, it may not purchase any additional unit without the prior written approval of seventy-five percent (75%) of the members eligible to vote thereon, excluding the Association. A member whose unit is the subject matter of the proposed purchase shall be ineligible to vote thereon; provided, however, that the foregoing limitation shall not apply to units to be purchased at public sale resulting from a foreclosure of the Association's lien for delinquent assessments where the bid of the Association does not exceed the amount found due the Association, or to be acquired by the Association in lieu of foreclosure of such lien if the consideration therefor does not exceed the cancellation of such lien.

11.8.3 Exceptions. The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or purchase by the Association.

## 12. PARKING SPACES

The following provisions will be applicable to the transfer and assignment of parking spaces.

### 12.1 Assignment of Parking Spaces

The developer or the Association may for each unit assign a parking space. Upon the assignment of such parking space, the owners of such unit shall have the exclusive right to the use thereof without separate charge by the Association, although nothing herein contained shall be construed as relieving such owner from any portion of any assessment for common expenses made against a unit, as herein provided, it being the intent that the cost of maintenance and administration of the parking space shall be included as part of the common expense applicable to all units for purposes of assessments. The assignment of parking spaces shall be at the sole discretion of the Developer or the Association. Each unit shall be assigned a minimum of one (1) parking space. The Developer or Association reserves the right to assign more than one (1) parking space to a unit. Upon such assignment, an owner of a unit to whom such assignment is made shall have the exclusive right of use of such parking space.