APPLICATION FOR LEASE/PURCHASE AT BAYCREST AT PELICAN LANDING, HOMEOWNERS ASSOCIATION, INC.

To: The Board of Directors at Baycrest at Pelican Landing Homeowners' Association, Inc.

I hereby apply for approval to lease/purchase Unit # _____ for the period beginning _____, and ending _____. If this is a lease a complete copy of the signed lease is attached.

In order to facilitate consideration of this application, I represent that the following information is factual and correct and agree that any falsification or misrepresentation in this application will justify its disapproval. I consent to the further inquiry of the Board of Directors of Baycrest at Pelican Landing Homeowners' Association, Inc. and/or its agent.

PLEASE TYPE OR PRINT LEGIBLY THE FOLLOWING INFORMATION

Owner Name(s): _____

Applicant Name(s): _____
Address: _____
City: _____ **State:** _____ **Zip:** _____
Telephone: _____ **Cell:** _____ **Work:** _____

Current Occupation(s): _____
_____

The Documents of Baycrest of Pelican Landing Homeowners Association, Inc. provide an obligation of unit owners that all units are to be used as single family residences only. Please state the name and relationship of all other persons who will be occupying the unit regular basis.

Name	**Relationship**
_____	_____
_____	_____
_____	_____

If this is a lease, please provide name of current or most recent landlord: _____
_____
Address: _____ State: _____ Zip: _____
Telephone: _____ Cell: _____ Work: _____

Person to be notified in case of emergency: _____
Address: _____ City State: _____ Zip: _____
Telephone: _____ Cell: _____ Work: _____

Please provide the following information on any vehicles that will be parked at the site:
Make: _____ Year: _____ License: _____ State: _____

Make: _____ Year: _____ License: _____ State: _____

BAYCREST AT PELICAN LANDING HOMEOWNERS ASSOCIATION, INC.

I am aware of, and agree to abide by the Declaration of Covenants of Baycrest at Pelican Landing, the Articles of Incorporation and By Laws of the association, and any and all property promulgated rules and regulations. I acknowledge receipt of a copy of the Association rules.

I understand and agree that the Association, if it approves a lease, is authorized to act as the owner's agent, with full power and authority to take whatever action may be required, including eviction, to prevent violations by lessees and their guests, of provisions of the Declaration of Covenants for Baycrest at Pelican Landing, the Articles of Incorporation and Bylaws, and the rules and regulation of the Association.

The prospective lessee/buyer will be advised by the Association office within a 20-day period from date of receipt of application and all information and appearances requested, of whether this application has been approved. This application must be signed by the applicant and by the realtor, or other person who acted as leasing or purchase agent for the unit owner.

Please make sure to include the following information with your application.

PERSONAL REFERENCES: If this is a lease, attach two (2) written personal references from persons not related to the Applicant(s) that can attest to the Applicant(s) character as a member of a condominium association, neighbor, or potential neighbor.

APPLICATION FEE: $100.00 fee payable to Baycrest at Pelican Landing
IF THIS IS A LEASE, DEPOSIT REQUIRED: $500.00 payable to Baycrest at Pelican Landing

LEASE/PURCHASE AGREEMENT: Attach a legible copy of your executed lease/sales contract (must be signed by both owner and lessee/purchaser). Remit to the following address:

Baycrest at Pelican Landing
Gulf Breeze Management Services, LLC.
8910 Terrene Court, Suite 200
Bonita Springs, FL 34135

JUST A REMINDER THAT PETS ARE NOT ALLOWED AT ANY TIME BY LEESEE

_____ _____
Applicant's Signature Date

_____ _____
Applicant's Signature Date

Application Approved _____ Application Disapproved _____

Date: _____

By: _____ _____
Name Title

AMENDED AND RESTATED

DECLARATION

OF

BAYCREST HOMEOWNERS ASSOCIATION, INC.

LAW OFFICES
BECKER & POLIAKOFF, P.A. • 4501 TAMIAMI TRAIL NORTH • SUITE 214 • NAPLES, FL 34103
TELEPHONE (239) 261-9555

AMENDED AND RESTATED
DECLARATION
OF
BAYCREST HOMEOWNERS ASSOCIATION, INC.

KNOWN ALL MEN BY THESE PRESENTS:

That heretofore on the 27th day of June, 1994, the original Declaration for Baycrest (hereinafter the "Declaration") was recorded in Official Record Book 2513, at Page 3255, *et seq.*, of the Public Records of Lee County, Florida, by Lennar Homes, Inc. ("the Developer"), and was subsequently amended by Amendment to Declaration recorded on May 2, 1996, in the Official Record Book 2701, at Page 2748, *et seq.*, of the Public Records of Lee County, Florida, and by Amendment to Declaration recorded on March 2, 1999, in the Official Records Book 3083, at Page 1664, of the Public Records of Lee County, Florida. That Declaration is hereby amended in part and restated in its entirety, as amended. The Project which is subject to this Declaration is commonly referred to as Baycrest, described in the original Declaration as Exhibit "A" ("the Project"), and shall be held, sold, conveyed and occupied only subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the Project, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. The acquisition of fee simple title to any Lot, ownership interest in any of the Project, or the lease, occupancy, or use of any portion thereof, shall constitute an acceptance and ratification of all provisions of this Declaration and an agreement to be bound by its terms. The Project is subject to that certain Amended and Restated Declaration and General Protective Covenants for Pelican Landing recorded on January 18, 1991, in O.R. Book 2198, Page 1873, et seq., Public Records of Lee County, Florida, as amended.

SUBMISSION STATEMENT

The submission of the Project to such Declaration is and will remain effective. It is the desire of the Owners, however, to operate with modernized documents free of internal conflicts and obsolete references to the Developer. By adoption of this Amended and Restated Declaration for Baycrest, the Owners hereby restate the Declaration and its Exhibits in its entirety, as amended. This Amended and Restated Declaration shall run with the Project and shall be binding upon all parties having and/or acquiring any right, title or interest in the Project or any part thereof, and shall inure to the benefit of each and every person or entity, from time to time, owning or holding an interest in the Project. By adoption of this Amended and Restated Declaration, the Owners ratify governance of the Project described in the original Declaration as Exhibit "A", and as subsequently amended. No additional land is being included in the Project by this Amended and Restated Declaration.

DESCRIPTION OF PROJECT

The real property submitted to the Declaration was legally described in Exhibit "A" to the Declaration and is incorporated herein by reference.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Baycrest Homeowners' Association, Inc., a Florida corporation not-for-profit, its successors and assigns. Attached hereto and made a part hereof by this reference as Exhibits "B" and "C" is a copy of the Amended and Restated Articles of Incorporation and Amended and Restated By-Laws, respectively, for the Association.

Section 2. "Owner" or "Member" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "The Project" shall mean and refer to that certain real property that is described in Exhibit "A", otherwise referred to as Baycrest, and such additional lands that may be subjected to this Declaration by annexation.

Section 4. "Common Open Space" shall mean all real property within the Project which is dedicated to, owned, or leased by the Association for the common use and enjoyment of the Owners.

Section 5. "Common Expenses" means all expenses of any kind or nature whatsoever incurred by the Association, including, but not limited to, the following:

A. Expenses incurred in connection with the ownership, maintenance, repair, improvement or operation of the Common Open Space, or any other property to be maintained by the Association as provided in this Declaration, including, but not limited to, utilities, taxes, assessments, insurance, operation, maintenance, repairs, improvements and alterations.

B. Expenses of obtaining, repairing or replacing personal property in connection with any Common Open Space or the performance of the Association's duties.

C. Expenses incurred in connection with the administration and management of the Association.

D. Common water, sewer, trash removal, and other common utility, governmental, or similar services for the Homes which are not separately metered or charged to the Owners, or which the Association determines to pay in common in the best interest of the Owners.

E. Expenses declared to be Common Expenses by the provisions of this Declaration, or by the Articles or By-Laws.

Section 6. "Common Surplus" means the excess of all receipts of the Association over the amount of the Common Expenses.

Section 7. "Private Drive" (Galashields Circle) shall mean and refer to that portion of the Common Open Space owned, or to be owned by the Association and used for pedestrian and vehicular access.

Section 8. "Lot" shall mean and refer to those Lots shown upon the recorded subdivision Plat or Plats of the Project with the exception of the Common Open Space, and on which shall be built Homes.

Section 9. "Home" shall mean and refer to an individual housing unit built upon a Lot.

Section 10. "Developer" shall mean and refer to Lennar Homes, Inc.

Section 11. "Institutional Lender" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, or any other lender generally recognized as an institutional type lender holding a first mortgage on a Home or Homes.

Section 12. "Annexation" shall mean and refer to the subjecting of any additional property to this Declaration.

Section 13. "Public Areas" shall mean all lands owned by the State of Florida, Lee County, Florida, any city, district or municipality which, to the extent permitted by governmental authority, are to be maintained by the Association.

Section 14. "County" shall mean Lee County, Florida.

Section 15. "Voting Interest" or "Voting Interests" shall mean the right or rights, as the context requires, of each Lot Owner to cast one (1) vote for each Lot owned by such Lot Owner. The total number of "Voting Interests" is equal to the total number of Lots, which is ninety (90).

Section 16. "Governing Documents" shall mean the Amended and Restated Declaration for Baycrest, the Amended and Restated Articles of Incorporation for Baycrest Homeowners Association, Inc., the Amended and Restated By-Laws of Baycrest Homeowners Association, Inc. and the rules and regulations.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Open Space which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

A. All provisions of this Declaration, the plat or plats of the Project, and the Articles of Incorporation and By-Laws of the Association;

B. Rules and regulations adopted by the Association governing the use and enjoyment of the Common Open Space;

C. The right of the Association to suspend the voting rights of any Owner for the non-payment of regular annual assessments that are delinquent in excess of 90 days, or for any other reasons and upon such conditions as may be sanctioned by statute in the future.

D. The right of the Association to suspend, for a reasonable period of time, the rights of a Member or a Member's tenants, guests, or invitees, or both, to use Common Areas and facilities, except that such suspension of rights shall not impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including but not limited to the right to park.

E. The right of the Association to dedicate, sell or transfer all or any part of the Common Open Space to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed upon in an instrument signed by Members of the Association holding two-thirds (2/3) of the Voting Interests of the Association and said instrument has been recorded.

F. The right of the Association to make additions, alterations or improvements to the Common Open Space, and to purchase any personal property, as it deems necessary or desirable from time to time, provided, however that the approval of two-thirds (2/3) of the Voting Interests of the Association shall be required for any addition, alteration, or improvement or any purchase of personal property, exceeding a sum equal to one (1) month's total assessments for Common Expenses payable by all of the Members. The foregoing approval shall in no event be required with respect to expenses incurred in connection with the maintenance, repair or replacement of existing Common Open Space, or any existing improvements or personal property associated therewith. The cost and expense of any such additions, alterations or improvements to the Common Open Space, or the purchase of any personal property, shall be a Common Expense.

G. Easements are hereby reserved for pedestrian traffic over, through and across sidewalks, paths, lanes and walks, as the same may from time to time exist upon the Common Open Space and be intended for such purpose; and for pedestrian and vehicular traffic and parking over, through, across and upon such portion of the Common Open Space as may from time to time be paved and intended for such purposes, the same being for the use and benefit of the Owners, and their tenants, guests and invitees.

H. The Common Open Space shall be, and the same is hereby declared to be, subject to a perpetual non-exclusive easement in favor of all Owners from time to time, and their tenants, guests and invitees, for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended.

I. Easements in favor of governmental and quasi-governmental authorities, utility companies, cable television companies, ambulance or emergency vehicle companies, and

mail courier companies, are hereby reserved over and across all roads existing from time to time within the Project, and over, under, on and across the Common Open Space, as may be reasonably required to permit the foregoing, and their agents and employees, to provide their respective authorized services to and for the Project. Also, easements are hereby reserved as may be required for the installation, maintenance, repair and providing of utility services, equipment, gas, telephones, sewer, water, lighting, irrigation, drainage, cable television facilities, and electronic security. However, easements affecting any Lot which serve any other portion of the Project shall only be for utility services including cable, fire extinguisher access and irrigation systems actually constructed, or reconstructed, and for the maintenance thereof, or any other governmental mandate, unless otherwise approved in writing by the Owner of the Lot. An Owner shall do nothing on his Lot which interferes with or impairs the utility services, fire extinguisher access, or irrigation systems using these easements. The Board or its designee shall have a right of access to each Lot and home to inspect, maintain, repair or replace the utility service facilities contained under the Lot and to remove any improvements interfering with impairing the utility services or easement herein reserved; provided such right of access shall not unreasonably interfere with the Owner's permitted use of the Lot and, except in the event of an emergency, entry into any Home shall be made with reasonable notice to the Owner. Fines, legal expenses and any other incidental costs incurred by the Association due to failure of any Lot Owner to comply with any governmental regulation and current codes will be the full responsibility of the Lot Owner.

J. The Association, on their behalf and on behalf of all Owners, shall have the right to (i) grant and declare additional easements over, upon, under and/or across the Common Open Space in favor of the Owners in the Project and their tenants, guests and invitees, or in favor of any other person, entity, public or quasi-public authority or utility company, or (ii) modify, relocate, abandon or terminate existing easements within or outside of the Project in favor of the Association and/or the Owners in the Project and their tenants, guests and invitees or in favor of any person, entity, public or quasi-public authority, or utility company, as the Association may deem desirable for the proper operation and maintenance of the Project, or any portion thereof, or for the health, safety or welfare of the Owners, or for any other reason or purpose. So long as such additional easements will not unreasonably and adversely interfere with the use of Lots for dwelling purposes, no joinder of any Owner or any mortgagee of any Lot shall be required or, if same would unreasonably and adversely interfere with the use of any Lot for dwelling purposes, only the joinder of the Owners and Institutional Lenders of Lots so affected shall be required. To the extent required, all Owners hereby irrevocably appoint the Association as their attorney-in-fact for the foregoing purposes.

K. In the event any portion of any roadway, walkway, parking area, roof drainage system, roof, trellis, water lines, sewer lines, utility lines, sprinkler system, Home or any other improvement as originally constructed by Developer or its designee, successor or assign encroaches on any Lot or Common Open Space, it shall be deemed that the Owner of such Lot or Common Open Space encroached upon has granted a perpetual easement to the Owner of the encroaching property, for continuing maintenance and use of such encroaching roadway, walkway, parking area, roof drainage system, roof, trellis, water line, sewer line, utility line, sprinkler system or other structure originally constructed by the Developer. The foregoing shall

also apply to any replacements of any such roadway, walkway, parking area, roof drainage system, roof, trellis, water lines, sewer lines, utility lines, sprinkler system or other structure, if same are constructed in substantial conformance to the original. Other encroachments may hereafter be maintained as provided in a Supplemental Declaration. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the appropriate By-Laws, his right of enjoyment to the Common Open Space, to the members of his family, or his approved tenants or contract purchasers who reside on the property.

Section 3. Permitted Uses. The Common Open Space shall be restricted to the following uses:

A. The Common Open Space, now and forever, shall be restricted hereby such that it shall be maintained as open space for the recreation, use and benefit of the Owners, including as and for easements and right-of-way for the construction, operation and maintenance of utility services, and irrigation system and drainage facilities and shall not be used for any commercial or industrial use except as herein described.

B. The Private Drive (Galashields Circle), now and forever, shall be restricted such that they shall be used for the benefit of the Owners, their tenants, invitees and guests as and for the common access, ingress and egress and as an easement and right-of-way for the construction, operation and maintenance of utility services irrigation systems and drainage facilities. The Private Drive shall be kept free and clear of obstructions, except as is reasonable for construction, operation and maintenance of traffic and speed controls.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Home or Lot which is subject to assessment.

Section 2. Members shall be entitled to one vote for each Home owned. When more than one person holds an interest in any Home, all such persons shall be Members. The vote for such Home shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Home.

ARTICLE IV
COVENANT FOR MAINTENANCE

Section 1. The Association shall at all times maintain the Common Open Space and any grassed area, hedges, woody plants, shrubs, bushes or similar such plants on each Lot. The maintenance of the grassed area and each Lot includes mowing and edging the grass and trimming of hedges, irrigation, fertilization and pest control. To preserve the beauty, quality and

value of the Project, the Association is also responsible for painting the exterior surfaces of the individual residences on each Lot and coordinating the periodic cleaning of the roofs. See Article V, Section 3. Lot owners are responsible for maintaining, repairing and replacing all components of the Home structures. In addition, the Association shall be responsible for maintenance of the recreational facilities.

(a) The Association shall at all times maintain the irrigation system for broken and or clogged heads, broken pipes, batteries for irrigation timer boxes, timer boxes, and valves. However, the Association shall not be responsible for damage to any landscaping to a Lot whether caused by an act of God, war, weather, or a Lot owner's negligence or intentional act.

(b) Lot owners shall be responsible for the replacement and or removal of dead and/or dying trees, sod, plants, and bushes. Lot owners are required to submit a written alteration application for removal or replacement of all trees, sod, plants, and bushes to the Board of Directors for approval prior to any such replacement or removal on their Lots; however, the replacement of trees, sod, plants and bushes with identical items does not require submission of an application to, or approval by, the Board.

Section 2. Access – For the purpose of performing the maintenance authorized by this Article and Article VIII hereof, the Association, through its duly authorized agents or employees, shall have the right to enter upon any Lot(s) or the exterior of any improvements thereon, at reasonable hours on any day except Sunday. In the case of emergency repairs, access will be permitted at any time with only such notice as, under the circumstances, is practically affordable.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with costs and reasonable attorneys' fees, shall also be the personal obligation of the person who as the Owner of such Lot at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation and enjoyment of the residents in the Project and for the improvement and maintenance of the Common Open Space, the Lots, and as elsewhere set forth herein. The Treasurer shall prepare and the Board of Directors shall adopt an annual budget of Association estimated revenues and expenses for each fiscal year at least twenty (20) days prior to the Annual Meeting. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and revenue and expense classifications, and include the surplus or deficit from the prior year. The Board shall establish one or more restrictive reserve accounts

for capital expenditures and deferred maintenance. Contingency reserves for unanticipated operating expenses shall be included, if at all, in the operating portion of the budget. The purpose of reserves is to provide financial stability and avoid the need for special assessments. The amounts proposed to be so reserved shall be shown in the annual budget. These funds may be spent for any reserve purpose approved by the Board.

Section 3. Special Assessment for Capital Improvement. In addition to the annual assessments authorized above, the Association, by a majority vote of its Board of Directors, may levy in any assessment year a special assessment against all Owners or an Owner(s) to exclusion of the other Owners for the purpose of (i) defraying, in whole or in part, the cost of any construction, reconstruction, repaving, repair or replacement of a capital improvement upon the Common Open Space, including fixtures and personal property related thereto, if any, (ii) the cost of work performed by the Association for the periodic cleaning of the roofs in accordance with Article IV, Section 1 hereof, or (iii) the cost of work performed by the Association in accordance with Article IV, Section 1 and Article IX hereof. Any such special assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure proceedings and interest. Any special assessment levied hereunder shall be due and payable within the time specified by the Board of Directors in the action imposing such assessment. The maintenance, repair and replacement of all Common Open Space and recreational facilities are the responsibility of the Association. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the Common Open Space and recreational facilities costing more than one month of total assessments in any calendar year without prior written approval of at least a majority of the Voting Interests who are present and voting, in person or by proxy, at an annual or special meeting called for the purpose. Alterations or additions costing less than this amount in the aggregate in any calendar year may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace or insure the Common Open Space or recreation facilities also constitutes a material alteration or substantial addition to the common areas, no prior Lot owner approval is required.

Section 4. Annual Assessments. The Board of Directors shall fix the amounts of the annual assessment against each Lot as follows: (1) assessment for the first quarter shall be estimated based on preliminary data, (2) assessment for remaining three quarters will be adjusted, if necessary, based on the final budget. Failure to fix the amounts of the annual assessments within the time period set forth above would not preclude the Board of Directors from fixing the assessment at a later date. Written notice of the annual assessment shall be sent to every Owner subject thereto at least thirty (30) days in advance of the due date. The due dates shall be established by the Board of Directors. The assessments, at the election of the Association, may be collected on a quarterly or monthly basis. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance. The Association may delegate to a management company or financial institution responsibility for collection of assessments.

Section 5. Capital Assessment. In addition to assessments for Common Expenses, any Owner taking title to a home shall pay to the Association a working capital assessment for the purposes of sustaining the working capital fund of the Association, in an amount equal to one quarterly assessment for Common Expenses, which shall be in addition to the Owner's responsibility for assessments for Common Expenses. The working capital fund shall be used by the Association as the Board of Directors of the Association shall determine from time to time and need not be restricted or accumulated.

Section 6 Exempt Property. All properties dedicated to, and accepted by a local public authority shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 7. Notice For Any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all Members not less than fourteen (14) days, nor more than sixty (60) days in advance of the meeting.

Section 8. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, except as provided for in Article V, Section 3,(ii).

Section 9. Financial Reporting.

A. The Association shall prepare an annual financial report within 60 days after the close of the fiscal year.

B. The Association shall, within the time limits set forth in Section 720.303(7) Florida Statutes., effect an audit or review based on the following:

1. If the Association has total annual revenues of $ 100,000 or more, but less than $ 200,000, then it shall prepare compiled financial statements.
2. If the Association has total annual revenues of at least $ 200,000, but less than $ 400,000, it shall prepare reviewed financial statements.
3. If the Association has total annual revenues of $ 400,000 or more, it shall prepare audited financial statements.
4. If the Association has total annual revenues of less than $ 100,000, it shall prepare a report of cash receipts and expenditures.

C. A report of cash receipts and disbursement must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications in accordance with generally accepted accounting principles.

D. If twenty (20%) percent of the Owners petition the Board for a level of financial reporting higher than that required by this section, the Association shall duly notice and hold a meeting of Members within thirty (30) days of receipt of the petition for the purpose of voting on raising the level of reporting for that fiscal year. Upon

approval of a majority of the total Voting Interests of the Members, the Association shall prepare or cause to be prepared, shall amend the budget or adopt a special assessment to pay for the financial report regardless of any provision to the contrary in the Governing Documents, and shall provide within ninety (90) days of the meeting or the end of the fiscal year, whichever occurs later:

1. Compiled, reviewed, or audited financial statements, if the Association is otherwise required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the Association is otherwise required to prepare compiled financial statements; or

3. Audited financial statements if the Association is otherwise required to prepare reviewed financial statements.

E. If approved by a majority of the Voting Interests present at a properly called meeting of the Association, the Association may prepare or cause to be prepared:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

ARTICLE VI
DEFAULT

Section 1. Late Fees and Interest. If any assessment is not paid within thirty (30) days after the due date, the Association shall charge the defaulting Owner a late fee of ten (10%) percent of the amount of the assessment, plus interest at the then highest rate of interest allowable by law from the due date until paid. If there is no due date applicable to any particular assessment, then the assessment shall be due ten (10) days after written demand by the Association. The Board of Directors has the right to elect not to apply this Section 1 in its discretion.

Section 2. Acceleration of Assessments. If any Owner is in default in the payment of any assessment owed to the Association for more than thirty (30) days after written demand by the Association, the Association upon written notice to the defaulting Owner shall have the right to accelerate and require such defaulting Owner to pay to the Association assessments for Common Expenses for the next twelve (12) month period, based upon the then existing amount and frequency of assessments for Common Expenses. In the event of such acceleration, the defaulting Owner shall continue to be liable for any increases in the regular assessments for

Common Expenses, for all special assessments for Common Expenses, and/or for all other assessments payable to the Association.

Section 3. Lien for Assessments. The Association has a lien right on each Lot for unpaid assessments owed to the Association by the Owner of such Lot, and for late fees and interest, and for reasonable attorneys' fees incurred by the Association incident to the collection of the assessment or enforcement of the lien, and all sums advanced and paid by the association for taxes and payment on account of superior mortgages, liens or encumbrances in order to preserve and protect the Association's lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the Lot is located, stating the description of the Lot, the name of the record Owner, and the amount due as of the recording of the claim of lien. A recorded claim of lien shall secure all sums set forth in the claim of lien, together with all assessments or other moneys owed to the Association by the Owner until the lien is satisfied. The lien is in effect until all sums secured by it have been fully paid or until the lien is barred by law. The claim of lien must be signed and acknowledged by an officer or agent of the Association. Upon payment in full of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the lien.

Section 4. Collection and Foreclosure. The Association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is being foreclosed and may also bring an action to recover a money judgement for the unpaid assessments without waiving any claim of lien, and the applicable Owner shall be liable to the Association for all costs and expenses incurred by the Association in connection with the collection of any unpaid assessments, and the filing, enforcement and/or foreclosure of the Association's lien, including reasonable attorneys' fees, and all sums paid by the Association for taxes and on account of any other mortgage, lien, or encumbrance in order to preserve and protect the Association's lien. The Board is authorized to settle and compromise the Association's lien if the Board deems a settlement or compromise to be in the best interest of the Association.

Section 5. Rental and Receiver. If an Owner remains in possession of his Home and the claim of lien of the Association against his Home is foreclosed, the court, in its discretion, may require the Owner to pay a reasonable rental for the Home, and the Association is entitled to the appointment of a receiver to collect the rent.

Section 6. Subordination of Lien. The lien of the Association shall be superior to all other liens, save and except tax liens and any first mortgage recorded prior to the recording of a claim of lien by the Association, provided such mortgage secures an indebtedness which is initially amortized in monthly, quarterly or annual payments over a period of not less than 10 years (provided, however, that any such mortgage may provide for changes in the interest rate and changes in the payments resulting therefrom, negative amortization, or for payment in full prior to such 10 year period). Where any person obtains title to a Lot pursuant to the foreclosure of such a mortgage, such acquirer of title, its successors and assigns, shall not be liable for any assessments or for other monies owed to the Association which are chargeable to the former owner of the Lot and which became due prior to acquisition of title as a result of the foreclosure

or deed in lieu thereof, unless the payment of such funds is secured by a claim of lien recorded prior to the recording of the foreclosed or underlying mortgage. The unpaid assessments or other monies are Common Expenses collectible from all of the owners, including such acquirer and his successors and assigns. The new Owner, from and after the time of acquiring such title, shall be liable for payment of all future assessments for Common Expenses and such other expenses as may be assessed to the Owner's Lot. Any person who acquires a Lot, except through foreclosure of a first mortgage as described above, or deed in lieu thereof, including, without limitation, persons acquiring title by sale, gift, devise, operation of law, or by purchase at a judicial or tax sale, shall be liable for all unpaid assessments and other monies due and owing by the former owner to the Association, and shall not be entitled to occupancy of the Home or enjoyment of the Common Areas, or of the recreational facilities as same may exist from time to time, until such time as all unpaid assessments and other monies have been paid in full.

Section 7. Assignment of Claim of Lien Rights. The Association, acting through its Board, shall have the right to assign its claim and lien rights for the recovery of any unpaid Assessments and any other moneys owed to the Association, to any third party.

Section 8. Unpaid Assessments Certificate. Within 15 days after written request by any Owner or any Institutional Lender holding or making a mortgage encumbering any Lot, the Association shall provide the Owner or Institutional Lender a written certificate as to whether or not the Owner of the Lot is in default with respect to the payment of Assessments or with respect to compliance with the terms and provisions of this Declaration, and any person or entity who relies on such certificate in purchasing or in making a mortgage loan encumbering any Lot shall be protected thereby.

Section 9. Non-Monetary Defaults. In the event of a violation by any Owner or any tenant of an Owner, or any person residing with them, or their guests or invitees, (other than the non-payment of any assessment or other monies) of any of the provisions of this Declaration, the Articles, the By-Laws or the rules and regulations of the Association, the Association shall notify the Owner and any tenant of the Owner of the violation, by written notice. If such a violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the Owner or tenant fails to commence and diligently proceed to completely cure such violation as soon as practicable within seven (7) days after written notice by the Association, or if any similar violation is thereafter repeated, the Association may, at its option:

A. Impose a fine against the Owner or tenant as provided in Section 10 hereof; and/or

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

C. Commence an action to recover damages; and/or

D. Take any and all actions reasonable necessary to correct such failure, which action may include, where applicable, but is not 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.

All expenses incurred by the Association in connection with the correction of any failure, plus a service charge of ten (10%) percent of such expenses, and all expenses incurred by the Association in connection with any legal proceedings to enforce this Declaration, including reasonable attorneys' fees, shall be assessed against the applicable Owner, 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 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 the County in which the Project is located.

Section 10. Fines. The Association may levy fines for violations of the Declaration, the Articles of Incorporation, the By-Laws and the rules and regulations, as provided in the By-Laws.

Section 11. Responsibility of an Owner for Occupants, Tenants, Guests and Invitees. Each Owner shall be responsible for the acts and omissions, whether negligent or willful, of any person residing in his Home, and for all guests and invitees of the Owner or any such resident, and in the event the acts or omissions of any of the foregoing or the Owner shall result in any damage to the Common Open Space, or any liability to the Association, the Owner shall be assessed for same as in the case of any other assessment. Furthermore, any violation of any of the provisions of this Declaration, of the Articles or the By-Laws, by any resident of any Home, or any guest or invitee of any Owner or any resident of a Home, 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.

ARTICLE VII
ANNEXATION AND WITHDRAWAL OF PROPERTY

Residential property and Common Open Space may be annexed to the property with the consent of two-thirds (2/3) of the Members of the Association. Such annexation shall become effective upon the recording of an amendment to this Declaration in the Public Records of Lee County, Florida.

ARTICLE VIII
ARCHITECTURAL CONTROL

Section 1. Establishment of Committee and Acceptance by Owners. Each Owner, by virtue of his acceptance of a warranty deed, acknowledges the necessity of maintaining the physical appearance and image of the entire Project as a quality residential community.

Accordingly, there is established a Committee known as the "Architectural Control and Maintenance Standards Committee" hereinafter referred to as "Committee". The Committee shall be empowered to act in an advisory capacity only and shall advise the Board of Directors, as requested by the Board of Directors, as to the adoption and promulgation of minimum standards and architectural control and maintenance of the physical appearance of all of the improvements in the Project.

Section 2. Members of Committee. The Committee shall consist of three (3) members designated by the Board of Directors of the Association (the "Board"). Each member of the Committee shall be appointed by the Board and shall hold office until such time as he has resigned or has been removed and his successor has been appointed by the Board. Members of the Committee may be removed at any time without cause by the Board. All committee members shall be Members of the Association.

Section 3. Review of Proposed Construction. With respect to the Lots of this Project, no building, exterior wall, fence, sidewalks, driveways or other exterior structure shall be commenced, or erected, nor shall any exterior painted surfaces be repainted a color different than that approved in writing by Pelican Landing Community Association or the Board of Directors of the Association, nor shall any exterior addition or change or alteration be made to the exterior of any building, nor shall there be any material modification of the landscaping until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing, as to harmony of external design and color and location in relation to surrounding structures and topography, by the Board. The Board shall approve proposals or plans and specifications only if submitted for its approval by the Committee or Owner of a Lot and only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the entire Project, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The Board may condition its approval of proposals or plans and specifications on such changes therein as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Board may also issue rules or guidelines setting forth procedures for the submissions of plans for approval. The Board may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitations, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the Board of any required plans and specifications the Board may postpone review of any plans submitted for approval. In the event an Owner proceeds with improvements without submitting plans to the Board or submits plans to the Board and proceeds without the

approval of the Board, the Board shall have the right but not the duty to take such action as is set forth in Subsection 6 of this Article VIII and any other remedies as may be prescribed by law.

Section 4. Maintenance and Repair Obligations. In the event any improvements to the Project, including the exterior of all Homes, fall into disrepair or are not maintained so as to create a dangerous, unsightly or unattractive condition, or to otherwise violate this Declaration, the Board has the duty to take such action as is set forth in Section 6 of this Article VIII and any other remedies prescribed by law. The obligations to maintain shall include but not be limited to exterior paint on any building, roof repair and maintenance, landscaping, paving, trash removal, and repair of exterior building surfaces, including utility enclosures.

Section 5. Inspection. The Board and Committee shall have the right to inspect from time to time the Common Open Spaces and Lots of the Project in order to determine whether the maintenance of same meet the minimum standards and any improvements constructed thereon meet the architectural standards.

Section 6. Remedies in the Event of Non-Compliance. If the Board or Committee shall find that any Lot is not being maintained in accordance with the minimum maintenance standards, or improvements to any Lot is not in compliance with the architectural standards of the Board, the Board shall issue a report to the Owner of the Lot. Within thirty (30) days of receipt of the report, the Owner shall commence with the repair, maintenance or restoration specified in the report and diligently pursue completion of same in an expeditious manner. The cost of all work shall be the responsibility of the Owner. The failure by any Owner to comply with this provision shall entitle the Association to take any or all actions set forth in Article VI, Section 9, (A)(B)(C), and (D) of this Declaration and to collect all expenses and service charges provided for in said Article VI, Section 9.

ARTICLE IX
PARTY WALLS AND PARTY FENCES
ROOF REPAIR AND REPLACEMENT

Section 1. Each wall which is built as part of the original construction of the Homes within a grouping of attached Homes and placed on the dividing line between two or more Homes shall constitute a party wall and each fence which is built as a part of the original construction of the Homes and placed on the dividing line between two Lots shall constitute a party fence. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the party walls and party fences.

Section 2. The cost of reasonable repair and maintenance of a party wall and/or party fence shall be shared by the Owners of the wall or fence equally.

Section 3. If a party wall and/or party fence is destroyed or damaged by fire or other casualty such as mold or mildew, any Owner who has used the wall and/or fence may restore it, and if the other Owners thereafter make use of the wall and/or fence, they shall contribute to the

cost of the restoration thereof pro rata without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Notwithstanding any other provisions of this Article, an Owner who, by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. The right of any Owner to remuneration from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. In the event of any dispute arising concerning a party wall and/or party fence under the provisions of this Article, each party shall choose an arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all of the arbitrators and shall be binding.

Section 7.

A. Roof Repair

Each roof which is built as part of the original construction of a Home also serves an adjacent Home and is a common roof. In the event that a portion of a roof requires repair or replacement, then the cost thereof shall be shared prorata by the Owners of the Homes over which the roof to be repaired or replaced is situated; provided, however, that in the event that damage or destruction is confined to the roof area wholly within the dimensions of one (1) Home, cost of repair and replacement thereof shall be paid by the Owner of said Home. If the damage or destruction of adjacent roofs or Homes is caused by the negligence or willful misconduct of any one Owner, such negligent Owner shall bear the entire cost of repair or replacement. In the event the owners cannot agree as to the extent of the damage, the timeliness of repair, or which owner or owners should bear the cost, owner or owners may petition the Association for resolution with documentation and certification of damage. The Association has the right but not the duty to effect the roof repair and resulting damage and assess the owner or owners accordingly.

(1) Arbitration. In the event the Association chooses not to resolve a dispute, then each party shall choose an arbitrator and such arbitrators shall choose one additional arbitrator and the decision shall be a majority of all the arbitrators and shall be binding.

B. Roof Replacement. In the event of a roof repair that requires replacement tile, the color, style, and type shall be approved by the Board.

ARTICLE X
USE RESTRICTIONS

Section 1. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown or designated on the recorded plat(s). Within these easements, no structure (excluding drives and walks), planting or other material shall be placed or permitted to remain which would damage or interfere with the installation or maintenance of the utilities or which may change the direction of flow or drainage channels in the easements. No obstructions such as gates, fences, etc., which will prevent emergency access shall be constructed in any easement strip for fire fighting access purposes. The Association is hereby granted an easement over each Lot for ingress and egress to any portions of the Lot or the improvements thereon requiring maintenance by the Association.

Section 2. Wells and Septic Tanks. No individual wells will be permitted on any Lot within this Project, and no individual septic tanks will be permitted on any Lot within this Project. This restriction will be enforceable as long as the water services and sewage disposal are in operation, satisfactorily servicing each Lot on which a completed building is located in said Project in accordance with the standard requirements as provided for by the State Board of Health Regulations and the charge for said services, as set forth in the rate schedule in the Third Party Beneficiary Agreement placed of record, covering said utilities, is not in excess of the amounts provided for therein or as modified and changed in accordance with legal procedure in the future.

Section 3. Nuisances, Residential Use, Guest Occupancy. No noxious or offensive activity shall be carried on upon any Lot, in any Home, or the Common Open Space, nor shall anything be done thereon which may become an unreasonable source of annoyance or nuisance to other residents. The Lots in the neighborhood shall be used for single family residences and for no other purposes. No business buildings may be erected on a Lot and no business or commercial activity may be conducted on any part thereof. This restriction shall not be construed to prohibit any owner from maintaining a personal or professional library, from keeping his personal business or professional records in his residence, or handling his personal, business or professional telephone calls or written correspondence in and from his Home. Such uses are expressly declared customarily incident to residential use. When guests are in occupancy, the total number of overnight occupants, including the Owner and his family who reside with him, is limited to two (2) persons per bedroom plus two (2). Tenants will only be allowed two persons per bedroom.

Section 4. No canvas, pipe or other type of carport shall be placed between the sidewalk and the front building line on any Lot. Except during the delivery to Homes, no commercial vehicles shall be parked in areas zoned for residential uses, including the streets adjacent to the residential Lots. No business, service repair, or maintenance for the general public shall be allowed on any Lot at any time. With the exception of propane gas grills, no gas tank cylinder shall be placed on the outside of Homes without Board approval.

Section 5. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

Section 6. Pets. No animals, livestock, or poultry of any kind, other than common, traditional house pets (i.e., dogs or cats, fish and caged birds), shall be kept by an Owner or his family members, guests, invitees or lessees, provided, however, that (a) each Home is limited to two (2) dogs or two (2) cats, (b) no animals whatsoever may be kept or maintained for commercial purposes, (c) no animals shall be permitted to remain on any portion of the Project which become an unreasonable nuisance or annoyance to other Owners, and (d) any animal kept by an Owner shall be kept subject to any rules and regulations which may be promulgated from time to time by the Board. In no event shall dogs be permitted upon the Common Open Space or other Owners' lots unless under leash. All animal excrements deposited on any Lot or on the Common Open Space must be picked up and discarded by the Owner. The Association may impose fines on pet owners who do not comply with these restrictions, or other rules and regulations concerning pets that the Association may adopt from time to time. Any Owner who keeps a pet thereby agrees to indemnify the Association and hold it harmless against any loss or liabilities of any kind or character whatsoever arising from or growing out of the keeping of any such pet.

Section 7. Visibility in Corner Lots. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the Department of Public Works.

Section 8. Clotheslines. No clotheslines shall be placed and no clothes drying shall be undertaken or permitted upon the Project.

Section 9. Barbecues. Barbecues may be located or permitted upon the back patio or yard of a Home and upon such portions of the Common Open Space as are, from time to time, designated by the Association; provided, however, that barbecuing shall be subject to such rules and regulations as may be promulgated from time to time by the Board.

Section 10. Parking. No truck or van with more than a three-quarter ton capacity, no commercial vehicles, no house or travel trailer, motor home, camper, boat or boat trailer shall be parked in the Project except that any of the above may be parked in a garage so long as the garage door is kept in a fully closed position while the vehicle is in said garage. The term "commercial vehicle" shall include but not be limited to all automobiles, trucks and vehicular equipment including station wagons, which bear signs and shall have printed on the sides of same reference to any commercial undertaking of enterprise. Commercial vehicles in the process of loading or unloading shall not be considered parked as long as they are not kept in the Project overnight. Except as set forth above, no vehicle of any kind shall be parked in the Common Open Space or on any part of any Lot except in the driveway or garage. The pool parking lot is

for residents and residents' guests only. No extended overnight parking is allowed in the pool parking lot.

Section 11. Standing Cycles or Other Items. No bicycles, scooters, wagons, carriages, shopping carts, chairs, benches, tables, toys or other such items shall be parked or be permitted to stand for an extended period of time on any part of the Common Open Space and Lots except in the garages of each Home and except in accordance with the rules and regulations promulgated from time to time by the Board.

Section 12. Communication Devices. No antenna, aerial, or satellite dish shall be placed on the exterior of a Home or on a Lot, except as may be mandated by Federal or State statute or rules of the Federal Communications Commission, and approved by the Board of Directors.

Section 13. Litter and Garbage Collection. No articles or personal property shall be hung or shaken from the doors or windows of any Home. No Owner shall sweep or throw from his Home any dirt or other materials or litter in any way upon the Project. No garbage, trash, refuse or rubbish shall be deposited, dumped, or kept on any part of the Project except in closed containers, dumpsters or other sanitary garbage collection facilities, and proper sized, closed plastic bags shall be placed for pickup in accordance with any rules and regulations promulgated by the Board. Garbage that is placed for pickup shall be located near the roadways contiguous to the Home but shall not be left outside for a period in excess of 24 hours and shall be subject to such additional rules and regulations as the Board may from time to time promulgate.

Section 14. Personal Property. No articles of personal property of Owners shall be placed on the Lot or the Common Open Space unless such articles are being used by Owners in accordance with the terms and conditions of this Declaration and any rules and regulations promulgated from time to time by the Board.

Section 15. Removal of Sod and Shrubbery: Additional Planting. No sod, topsoil, trees or shrubbery shall be removed from the Project, no change in the elevation of such areas shall be made and no change in the condition of the soil or the level of the land of such areas shall be made which results in any permanent change in the flow and drainage of surface water which the Board, in its sole discretion, considers detrimental; provided, however, that Owners may place additional plants, shrubs or trees upon their respective Lots subject to approval by the Board of Directors, in accordance with Article IV, Sec. 1(b).

Section 16. Increases in Insurance Rates. No Owner may take any action which will result in an increase in the rate of any insurance policy or policies covering any portion of the Project.

Section 17. Windows, Awnings and Shutters. No awnings, canopies or shutters, including hurricane or storm shutters, shall be attached or affixed to the exterior of a building and no foil, window tinting materials or shielding materials or devices shall be placed upon any windows or sliding glass doors which are part of his Home, unless such awnings, canopies,

shutters, foil, window tinting materials or shielding materials have been approved by the Board and the Architectural Control and Maintenance Standards Committee, and Pelican Landing Community Association Design Review Committee which approval may be based on the aesthetic appearance of the properties.

Section 18. Utility Additions. No additional utility system, including without limitation, water, sewage, electrical, air conditioning and heating systems lines, ducts, conduits, pipes, wires or fixtures, shall be added to service any Home without the prior written consent of the Board.

Section 19. Casualties. In the event that a Home or any part thereof is destroyed by casualty or otherwise, or in the event any improvements upon the Common Open Space are damaged or destroyed by casualty or otherwise, the Owner thereof or the Association, as the case may be, shall promptly clear all debris resulting therefrom and (subject to the duties and obligations of the Association) commence either to rebuild or repair the damaged improvements in accordance with the terms and provisions of this Declaration. If the Owner fails to comply with the requirements of this provision, the Association may, in addition to all other remedies it may have available by other provisions of the Governing Documents or as provided by law, exercise the rights and authority provided in Article VI, Section 9 of this Declaration.

Section 20. Reconstruction. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Common Open Space or any part or parts thereof, shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed or with new plans and specifications approved by the Committee. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Home or any part or parts thereof shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed or the new plans and specifications approved by the Board and the Committee, and the Owner of such Home.

Section 21. Leasing of Homes. In order to foster a stable residential community and prevent a motel-like atmosphere, the leasing of Homes by Owners shall be restricted as provided in this Section. All leases of Homes must be in writing. An Owner may lease only his entire Home, and then only in accordance with this Section, after receiving the approval of the Association. The prospective lessee must be a natural person.

A. Procedures.

(1) Notice by the Owner. An Owner intending to lease his Home shall give to the Board of Directors or its designee written notice of such intention at least one (1) month prior to the first day of occupancy under the lease together with the name and address of the proposed lessee, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require. The Board may require a personal interview with any lessee and his spouse, if any, as a pre-condition to approval.

(2) Board Action. After the required notice and all information or interviews requested have been provided, the Board shall have twenty (20) days in which to approve or disapprove the proposed lease. If the Board neither approves nor disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the lessee.

(3) Disapproval. A proposed lease shall be disapproved only if a majority of the entire Board so votes, and in such case the lease shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, the following:

(a) The Owner is delinquent in the payment of assessments at the time the application is considered;

(b) The Owner has a history of leasing his Home without obtaining approval, or leasing to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his home;

(c) The real estate company or rental agent handling the leasing transaction on behalf of the Owner has a history of screening lessee applicants inadequately, recommending undesirable lessees, or entering into leases without prior Association approval;

(d) The application on its face indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Project;

(e) The prospective lessee has been convicted of a felony;

(f) The prospective lessee has a history of conduct which evidences disregard for the rights and property of others; and/or

(g) The prospective lessee, during previous occupancy in this Project or another, has evidenced an attitude of disregard for the Association rules;

(h) The prospective lessee gives false or incomplete information to the Board as part of the application procedure, or the required transfer fees and/or security deposit is not paid; or

(i) The Owner fails to give proper notice of his intention to lease his Home to the Board of Directors.

(4) Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board may elect to approve or disapprove the lease. Any lease entered into without approval may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee with five (5) days notice, without securing consent to such eviction from the Owner.

(5) Applications; Assessments. Applications for authority to lease shall be made to the Board of Directors on such forms and include such terms that the Board may provide from time to time. The legal responsibility for paying Association assessments may not be delegated to the lessee.

B. Term of Lease and Frequency of Leasing. No Home may be leased more than two (2) times in any calendar year, with minimum lease term being one (1) month. The first day of occupancy under the lease shall determine in which year the lease occurs. No lease may be for a period of more than one (1) year, and no option for the lessee to extend or renew the lease for any additional period shall be permitted. However, the Board may, in its discretion, approve the same lease from year to year. No subleasing or assignment of lease rights by the lessee is allowed. Which calendar year a lease occurs in shall be determined by the first date of occupancy permitted under the lease.

C. Exceptions. Upon written request of an Owner, the Board of Directors may approve one (1) additional lease of the Home within the same calendar year, but only under unusual circumstances to avoid undue hardship and inequity.

D. Occupancy During Lease Term. No one but the lessee, his family members within the first degree of relationship by blood, adoption or marriage, and their spouses and guests may occupy the Home. The total number of occupants of a leased Home is limited to two (2) persons per bedroom plus two. Tenants may not bring pets.

E. Use of Common Elements and Association Property. To prevent overtaxing the facilities, an Owner whose home is leased may not use the recreation or parking facilities during the lease term, except as the guest of another Owner.

F. Regulation by Association. All of the provisions of the Project documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a Home as a lease or guest to the same extend as against the Owner. A covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the Project documents, designating the Association as the Owner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

G. Fees and Deposits Related to the Lease of Homes. Whenever herein the Board's approval is required to allow the lease of a Home, the Association may charge the owner an approval fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a lease with the same lessee. The Association may also require a security deposit.

In addition to such approval fee, in the event of a lease of a Home, the Owner or prospective lessee shall place a security deposit, in the highest amount permitted by law, or such lesser amount as the Board may, from time to time, determine by duly adopted rule, into a non-interest

bearing escrow account maintained by the Association. The security deposit shall protect against damages to the Common Open Space or Association property, and shall serve as security for the full and faithful performance by the Owner and prospective lessee of the terms, provisions, obligations and duties set forth in the Homeowners' Association Act and the Governing Documents, including the timely payment of assessments and fines and the payment of attorney's fees incurred by the Association in connection with any default or breach of the Governing Documents by the Owner or prospective lessee. In the event the security deposit, or any portion thereof, shall be applied as provided herein, the Owner or lessee shall deposit with the Association, upon written demand therefor, an amount sufficient to restore such security deposit to its original amount, and the failure to do so shall constitute a material violation of the Governing Documents. Any lessee who vacates or abandons the Home at or prior to the expiration of the term specified in the written lease shall give at least seven (7) days written notice by certified mail or personal delivery to the Association prior to vacating or abandoning the Home, which notice shall include the address where the lessee may be reached. The remedies provided for herein are cumulative and in addition to any other remedy available to the Association, and nothing herein shall be deemed to limit or exclude any of the Association's rights or remedies or method of enforcement.

Section 22. Pools. Only those pools which were pre-approved by Watermark Communities, Inc., its successors and assigns, the Master Developer of Pelican Landing, and the Developer of Baycrest, may be installed on a Lot. Such pre-approved pools are located on the Lot numbers listed below and their legal descriptions are as follows:

Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 2
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 3
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 56
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 70
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 72
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 73
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 74
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 75
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 76
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 78
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 79
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 80
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 81
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 82
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 83
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 84
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 85
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 86
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 87
Baycrest Villas at Pelican Landings PB 54 PGS 38-41, Lot 88

ARTICLE XI
GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Court costs and reasonable attorneys' fees for a proceeding at law to enforce this Declaration, including any appeal thereof, shall be borne by the Owner(s) against whom the suit has been filed. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Duration and Amendment. The covenants and restrictions of this Amended and Restated Declaration shall run with and bind the land for a term of twenty (20) years from the date this Amended and Restated Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by not less than two-thirds (2/3) of the Voting Interests of the Association and voting 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. Any Amendment must be recorded in the Public Records of Lee County, Florida, to be effective.

ARTICLE XII
INSURANCE

Each Owner shall be required to obtain and maintain adequate insurance on his Home which shall insure the property for its full replacement value, with no deductions for depreciation, against loss by fire, flood, if in a flood zone, or other hazards. Each Owner shall be required to supply the Board of Directors with evidence of Insurance coverage on his Home which complies with the provisions of this Section.

In the event of damage or destruction by fire or other casualty to any Home, then such Owner shall proceed without undue delay to contract for or otherwise substantially proceed with the repair or rebuilding of the damaged or destroyed portions of the structure and/or exterior of the Home in a good and workmanlike manner in conformance with the original plans and specifications. The repair or rebuilding must be commenced within ninety (90) days from the date that such damage or destruction occurred, and the repair or rebuilding must be completed within nine (9) months thereafter unless otherwise approved by the Board of Directors. If such Owner refuses or fails, for any reason, to so repair or rebuild as provided, then the Association by and through its Board of Directors is hereby irrevocably authorized by such Owner, but is not obligated, to repair and rebuild such damage or destroyed portions of the Home in a good and workmanlike manner in conformance with the original plans and specifications thereof. The Board of Directors shall levy a special assessment against the Owner in whatever amount sufficient to adequately pay for such repair or rebuilding of this type.

AMENDED AND RESTATED

ARTICLES OF INCORPORATION

OF

BAYCREST HOMEOWNERS ASSOCIATION, INC.

LAW OFFICES
BECKER & POLIAKOFF, P.A. • 4501 TAMIAMI TRAIL NORTH • SUITE 214 • NAPLES, FL 34103
TELEPHONE (239) 261-9555

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
BAYCREST HOMEOWNERS ASSOCIATION, INC.

These are the Amended and Restated Articles of Incorporation for Baycrest Homeowners Association, Inc., originally filed with the Florida Department of State the 25th day of February, 1994. 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 Baycrest Homeowners Association, Inc. For convenience, the corporation shall be referred to in this instrument as the "Corporation", the Amended and Restated Declaration for Baycrest as "Declaration", these Articles of Incorporation as the "Articles", and the By-Laws of the Corporation as the "By-Laws".

2. **PURPOSE.** The purpose for which the Corporation is organized is to serve as a "Homeowners' Association" as described in Section 720.301, Florida Statutes, including but not limited to the power to operate, administer, and manage the "Common Open Space" in Baycrest in accordance with the Declaration and other Governing Documents, and to provide for the architectural control and the administration and enforcement of covenants and restrictions applicable to the Project.

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

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

4.1 General. The Corporation 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 By-Laws or prohibited by law.

4.2 Enumeration. The Corporation 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 By-Laws 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 Homes or Lots within Baycrest, and to use the proceeds thereof in the exercise of its powers and duties.

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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 Corporation.

4.2.3 To maintain, repair, replace, reconstruct, add to, and operate the Corporation property and other property acquired or leased by the Corporation for use by Owners.

4.2.4 To purchase insurance upon the Corporation's property and insurance for the protection of the Corporation, its officers, directors, and Members.

4.2.5 To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Corporation property 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 By-Laws, and the rules and regulations.

4.2.7 To contract for the management of the Corporation and any facilities used by the Owners, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Corporation except those which require specific approval of the Board of Directors or the membership of the Corporation.

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

4.3 Corporation property. All funds and the titles of all properties acquired by the Corporation 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 By-Laws.

4.4 Distribution of income. The Corporation shall make no distribution of income to its Members, directors or officers.

4.5 Limitation. The powers of the Corporation shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the By-Laws.

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 Corporation shall be comprised of the Owners of a Lot which is subject to assessment. Membership shall be established as follows:

5.1.1 Owner Members.

The Owner of every Lot shall become a Member upon recordation in the Public Records of Lee County, Florida, of an instrument establishing the ownership by said Owner of the Lot. Each such Owner shall notify this Corporation of said

recordation within thirty (30) days thereof and shall transmit to the Corporation 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 be entitled to one vote for each Lot owned by such Member. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for a Lot owned by more than one (1) person shall be exercised as the Owners of such lot among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

6. TERM OF EXISTENCE. The Corporation shall have perpetual existence.

7. OFFICERS. The affairs of the Corporation shall be administered by the officers designated in the By-Laws. The officers shall be elected by the Board of Directors of the Corporation at its first meeting immediately following the annual meeting of the members of the Corporation and shall serve at the pleasure of the Board of Directors. The By-Laws 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 Corporation shall be managed by a board consisting of the number of directors determined by the By-Laws, but which shall consist of not less than five (5) nor more than seven (7) directors.

8.2 Duties and powers. All of the duties and powers of the Corporation existing under the Declaration, these Articles and the By-Laws 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 Corporation shall be elected at the annual meeting of the Members in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

9. INDEMNIFICATION.

9.1. Indemnity. The Association shall indemnify any officer, Director, or committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, officer, or committee member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction finally determines, after all appeals

have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he 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 that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, directors, and committee members as permitted by Florida law.

9.2. Defense. To the extent that a director, officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 9.1 above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

9.3 Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, Officer, or committee member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article 9.

9.4. Miscellaneous. The indemnification provided by this Article 9 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of members, or otherwise, and shall continue as to a person who has ceased to be a Director, officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person.

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

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

9.7. Delegation. To the extent permitted by law, the powers and duties of the directors and officers may be delegated for the purpose of management.

10. BY-LAWS. The By-Laws of this Corporation may be altered, amended or replaced in the manner provided in the By-Laws.

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

11.1 Method of proposal. A resolution for the adoption of a proposed amendment may be proposed either by the President of the Association, a majority of the directors, or by not less than twenty-five percent (25%) of the Voting Interests of the Corporation.

11.2 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.

11.3 Adoption. An amendment so proposed may be approved by two-thirds (2/3) of the Voting Interests of the Corporation, 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 Corporation, upon Board approval, without need for Corporation membership vote.

11.4 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.

12. The Association may be dissolved with the assent given in writing and signed by the holders of not less than ninety (90%) percent of the total number of the members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for the purpose similar to those for which this Association was created. In the event dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes. Any action under this Article is subject to the procedures and requirements of Florida Statute 617.1402, et seq.

13. 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.

NAP_DB: 33025_1

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AMENDED AND RESTATED

BY-LAWS

OF

BAYCREST HOMEOWNERS ASSOCIATION, INC.

LAW OFFICES
BECKER & POLIAKOFF, P.A. • 4501 TAMIAMI TRAIL NORTH • SUITE 214 • NAPLES, FL 34103
TELEPHONE (239) 261-9555

AMENDED AND RESTATED
BY-LAWS
OF
BAYCREST HOMEOWNERS ASSOCIATION, INC.

1. Identity. These are the By-Laws of Baycrest Homeowners Association, Inc. (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, organized for the purpose of administering Baycrest, a residential Project located in Lee County, Florida.

1.1 Mailing Address. The mailing address of the Association shall be 886 110th Avenue North, Suite 7, Naples, Florida 34108, or such other address as shall be designated by the Board of Directors from time to time.

1.2 Seal. The seal of the Association shall bear the words Baycrest Homeowners Association, Inc., "Florida", "Corporation Not for Profit", and the year 1994.

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 Lots. In the case of a Lot subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the Lot 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 Lot.

3.2 Voting Rights: Voting Interests. The Members of the Association are entitled to one (1) vote for each Lot owned by them. The total number of votes ("Voting Interests") is equal to the total number of Lots, which is ninety (90). The vote of a Lot 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 Lot depending on the specified ownership interests:

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

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

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

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

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

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

(g) Designation of Parties to Vote.

1. If a Lot is owned by one person, the right to vote shall be established by the roster of Members. If a Lot is owned by more than one person, those persons (including husbands and wives) shall decide among themselves as to who shall cast the vote of the Lot. In the event that those persons cannot so decide, no vote shall be cast. A person casting a vote for a Lot, Home or other property shall be presumed to have the authority to do so unless the Board of Directors of the Association is otherwise notified at the meeting by one of the joint owners or in writing in advance of the meeting at which the vote shall be cast.

If a Lot is owned by a corporation or other entity, the person entitled to cast the vote for the Lot, shall be designated by a certificate signed by an appropriate officer of the corporation, partner of a partnership or member of a limited liability corporation and filed with the Secretary of the Association. Such person need not be an Owner of the Lot. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Lot concerned. If a certificate designating the person entitled to cast the vote for a Lot, for which such certificate is required is not on file or has been revoked, the vote attributable to such Lot shall not be considered in determining whether a quorum is present, nor for any other purpose. If a Lot is owned by a trustee(s), the vote for the Lot 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 Lot, and provides proof to the Association that he or she is a beneficiary.

3.3 Approval or Disapproval of Matters. Whenever the decision of an 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 Lot 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 Project 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 in the month of February on the date, at the place and at the time determined by the Board of Directors from time

to time. 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-five percent (25%) 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 for any meeting other than the Annual Meeting shall be affected not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. The mailing and posting of the first notice of the annual Member's meeting shall be affected not less than sixty (60) days, nor more than ninety (90) days prior to the date of the annual Member's meeting. The mailing and posting of a second notice of the annual Member's meeting shall be affected not less than thirty (30) days, nor more than sixty (60) days prior to the date of the annual Member's meeting.

Notice must also be posted conspicuously and continuously at the Project 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 Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles or these By-Laws.

4.6 Proxies. If a vote is not cast in person, only limited proxies may be used in voting for members of the Board of Directors in general elections. Votes for all other matters in which

Members are entitled to vote may be cast in person or by limited proxy. Such limited proxies shall entitle the proxy holder to vote on matters specifically identified in the proxy and only in the manner specifically indicated by the proxy. In the case of a general election, if there are more candidates than vacancies, voting shall be by secret ballot.

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 must be a director of the Association.

(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) Nomination from the floor for directors.

(i) Call for final balloting on election of directors and close of balloting.

(j) Appointment of inspectors of election;

(k) Election of directors;

(l) Unfinished business;

(m) New business;

(n) 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 Owners shall be kept available for inspection by Owners or their authorized representatives at any reasonable time. The Association shall retain these minutes for a period of not less than seven years. Minutes for each meeting must be reduced to written form within thirty (30) days after the meeting date.

4.10 Action Without a Meeting. In an emergency, 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.

5. Directors.

5.1 Number, Tenure and Qualifications. The number of directors which shall constitute the whole Board of Directors shall be established by the Board of Directors and shall be not less than five (5) nor more than seven (7), or as determined by the Board of Directors. The number of directors shall be an odd number. In order to provide for a continuity of experience by maintaining the system of staggered terms of office, at the first election after the adoption of these By-Laws, the number of directors to be elected shall be equal to the number whose terms were to expire pursuant to the By-Laws in existence immediately prior to the adoption of these Amended and Restated By-Laws. All directors shall be elected for three (3) year terms. Lesser terms may, at times, be approved by the Board to maintain stability or keep terms staggered. 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. The term of any director who is a member of the Board at the time of adoption of these Amended and Restated By-Laws shall expire as determined by the By-Laws in existence immediately prior to the adoption of the Amended and Restated By-Laws. 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 Lot as set forth in Section 3.2 of these By-Laws, or a spouse of an eligible voter. Only one member of a household may serve on the Board of Directors at the same time.

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

(a) 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.

(b) 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.

(c) Nominations shall also be accepted from the floor at the meeting at which the election is to be held.

(d) The election shall be by plurality vote in writing (the nominees receiving the highest number of votes are elected). In the event of a tie, the tie shall be broken by agreement among the candidates who are tied, or if there is no agreement, by lot, such as the flipping of a coin by a neutral party.

(e) 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, then within forty-five (45) days of the vacancy, 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 is 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 ten percent (10%) 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.

In addition, the Board of Directors may declare an officer or director to have vacated their office in the event such officer or director is absent from three (3) consecutive regular meetings of the Board without an excuse acceptable by a majority of the Board.

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.

5.7 Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly 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 Owners. Conspicuous notice of such meetings shall be posted at a designated location in the Project 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 any assessment, or at which rules regarding Lot use, will be considered, shall be provided to the Owners via one of the methods set forth in Section 4.3 of these By-Laws and posted at a designated location in the Project not less than 14 continuous days prior to the meeting and, in the event assessments will be considered, shall contain a statement that assessments will be considered and the nature of the assessments. 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. Owners may petition for an item of business to be discussed at a board meeting to the extent and so long as permitted by current Florida Statutes.

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 4.3 of these By-Laws 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. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting, which they could take at a meeting, by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the shareholders.

5.11. 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 shall 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.

5.12. 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.

5.13. 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 Board 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.

5.14. Presiding Officer. The presiding officer at the directors' meetings shall be the President. In the absence of the President or Vice President, the directors present may designate another director to preside.

5.15. 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.

5.16. Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Owners, or their authorized representatives, at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.

The Board of Directors may by resolution create 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. The Board of Directors shall not delegate or assign any authority to make final decisions or determinations to a committee.

All committees may meet and conduct their affairs without prior notice, except that minutes of all such meetings shall be kept and included in the Association's official records. Notwithstanding any other law or documentary provision, the requirement that committee meeting minutes be open to inspection as part of the Association's official records 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 or its designee shall have the powers and duties necessary for the administration of the affairs of the Project 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 By-Laws may not be delegated to the Board of Directors by the Owners. Such powers and duties of the Board of Directors shall include the following:

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

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

(c) The Association has the right to suspend, for a reasonable period of time, the use and enjoyment rights of any Member, or any of the Member's family, tenants, guests, occupants, or invitees, in and to the Common Areas and recreation facilities of the Association, if any, during any period that any assessment or other charge imposed by the Association remains unpaid, or for an infraction of Chapter 720, Florida Statutes, the Governing Documents, or the Association's published rules and regulations, all as may be amended or renumbered from time to time. A suspension, other than a suspension for failure to pay assessments or other charges when due, may not be imposed without notice of at least 14 days to the person sought to be suspended and an

opportunity for a hearing before a committee of at least three members appointed by the Board of Directors who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed suspension, it may not be imposed.

(d) The Association may suspend the voting rights of a member for the nonpayment of regular annual assessments that are delinquent in excess of 90 days.

(e) Collecting the assessments for Common Expenses from Owners.

(f) Employing and dismissing the personnel necessary for the maintenance and operation of the Project and the Association.

(g) Adopting and amending rules and regulations concerning the operation and use of the Common Open Space and to establish criteria for architectural approval, as provided in the Declaration.

(h) Maintaining accounts at depositories on behalf of the Association and designating the signatories.

(i) Purchasing Lots at foreclosure or other judicial sales, in the name of the Association, or its designee.

(j) Enforcing obligations of the Owners.

(k) Levying fines against Owners for violations of the Governing Documents or the Rules and regulations. The Board of Directors may levy a fine against an Owner, not to exceed one hundred dollars ($100.00) per violation, up to the aggregate maximum provided by law. A fine may be levied for each day of a continuing offense, for each violation, by the Owner, or his or her family members, tenants, guests, visitors, or invitees. A separate fine for each repeat or continued violations, 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 By-Laws, 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) 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.

(l) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of the Project. The Association may pledge personal property (including reserve funds and assessment rights) as security for a loan, but may not mortgage the Common Open Space unless approved by at least two-thirds (2/3rds) of the entire Voting Interests.

(m) Contracting for the maintenance of the Project, and management services. All contracts 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.

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

(o) Convey a portion of the Common Open Space 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. Notices shall be given to Owners, if possible.

(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 By-Laws shall incur no liability for doing so, except in the case of willful misconduct.

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

(h) For purposes of this Section only, an "emergency" exists only during a period of time that the home, or the immediate geographic area in which the home 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 Project, 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 Owners, the Project, 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 Open Space 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. All officers shall be directors. All officers shall be elected by the Board of Directors, by secret ballots, at the first meeting of the Board of Directors following each annual meeting of Members, or following any vacancy of office at any other time for any reason. An officer shall hold office for one (1) year, unless he shall sooner resign. Any vacancy in any office shall be filled within forty-five (45) days of the vacancy. 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. The President shall preside at all meetings of the Board of Directors; see that resolutions and orders of the Board are carried out; shall sign all leases, mortgages, deeds contracts and other written instruments and shall co-sign all promissory notes and may co-sign all checks, but shall co-sign any one check in excess of $10,000.

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 or his Board approved designee 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 or his Board approved designee 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. The Treasurer shall sign all promissory notes and may co-sign all checks of the Association. The Treasurer shall prepare or cause to be prepared the required financial reporting documents as required by the Declaration and by statute, as may be amended from time to time.

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 Lots 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 for Common Expenses for the Project. The assessment is payable quarterly, unless the Board resolves to permit 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 By-Laws, and after adoption of the budget, shall provide a copy of the budget to each 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. 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 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.

11.6 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 Owners. Each Owner shall, within sixty (60) 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 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. Books and Records. The official records of the Association shall be maintained and available for inspection and photocopying at a reasonable cost by Members and their authorized agents at reasonable times and places as required by statute.

14. 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 By-Laws 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.

15. Amendments. These By-Laws may be amended in the following manner:

15.1 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.

15.2 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.

15.3 Approval. Except as otherwise required by law, a proposed amendment to these By-Laws shall be adopted if it is approved by not less than two-thirds (2/3) 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.

15.4 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 are recorded in the Public Records of Lee County. A copy of each amendment shall be sent to each Owner.

16. **Assessments**. As more fully described in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made, and which are the personal obligation of the Member.

17. **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 Open Space the operation of the Association, and architectural standards to the extent permitted by the Declaration.

18. **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.

19. **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 By-Laws or the intent of any provision hereof.

20. **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 By-Laws, which shall prevail over the rules and regulations.

NAP_DB: 32906_2

Deputy Clerk VBADKE

CERTIFICATE OF RECORDATION

AMENDED AND RESTATED DECLARATION OF

BAYCREST

AMENDED AND RESTATED ARTICLES OF INCORPORATION

AMENDED AND RESTATED BYLAWS OF

BAYCREST HOMEOWNERS ASSOCIATION, INC.

I HEREBY CERTIFY that the attached Amended and Restated Governing Documents were duly adopted by the Association membership at the duly noticed special members' meeting of the Association on the 27th day of July, 2006. The attached fifty-nine (59) ballots and proxies constitute the signed instrument(s) establishing the approval of a majority of the Voting Interests of the Association. The original Declaration of Baycrest is recorded at O.R. Book 2513, at Pages 3255 et. seq. of the Lee County Public Records.

The Amended and Restated Declaration of Baycrest is attached hereto. The Amended and Restated Articles of Incorporation of Baycrest Homeowners Association, Inc. are also attached. The Amended and Restated Bylaws of Baycrest Homeowners Association, Inc. are also attached. All previously recorded legal descriptions and site plans of record are incorporated by reference. The Rules and Regulations of the Association are not herewith recorded. The current version of the Rules and Regulations are available from the Association for interested parties.

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WITNESSES:

(TWO)

Stacy D. Moore
Signature

Stacy D. Moore
Printed Name

Nancy K. Weidner
Signature

Nancy K. Weidner
Printed Name

BAYCREST HOMEOWNERS ASSOCIATION, INC.

BY: K. Keith Huffman
Keith Huffman, President

Date: 8/9/06

(CORPORATE SEAL)

STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 9th day of August, 2006 by Keith Huffman as President of Baycrest Homeowners Association, Inc., a Florida Corporation, on behalf of the corporation. He is personally known to me or has produced (type of identification) _____ as identification and did take an oath.

Vicki W. Barrett
Notary Public

Vicki W. Barrett
Printed Name

My commission expires: 2/10/08

217350_1.DOC

Vicki W. Barrett
My Commission DD289530
Expires February 10, 2008