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THIS INSTRUMENT PREPARED BY
AND RETURN TO:
LISA A. WOLINER, ESQ.
BECKER & POLIAKOFF, P.A.
630 S. ORANGE AVENUE
SARASOTA, FL 34236

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★

BARBARA T. SCOTT, CLERK
CHARLOTTE COUNTY
OR BOOK 1885 PAGE 1206
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**CERTIFICATE OF AMENDMENT
REFLECTING THE ADOPTION
OF THE
AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS
OF
OAK HOLLOW
AND THE
AMENDED AND RESTATED ARTICLES OF INCORPORATION
AND
AMENDED AND RESTATED BYLAWS
OF
OAK HOLLOW PROPERTY OWNERS' ASSOCIATION, INC.**

The undersigned officers of Oak Hollow Property Owners' Association, Inc., a Florida not-for-profit corporation organized and existing to operate the Oak Hollow Subdivision, according to the Declaration of Covenants and Restrictions thereof as recorded in O.R. Book 677, Page 735, et seq., Public Records of Charlotte County, Florida, as amended, hereby certify that the attached Amended and Restated Declaration of Covenants and Restrictions was approved by not less than 230 of the voting interests of the Association, which exceeded two-thirds of the members present in person or by proxy at a duly noticed annual membership meeting held on January 8, 2001 and continued on February 15, 2001. The undersigned further certify that the attached Amended and Restated Articles of Incorporation and attached Amended and Restated Bylaws were approved by not less than two-thirds of the members present and participating at the meeting in person or by proxy which number also exceeds 230 of the voting interests of the Association. The undersigned further certify that the documents were proposed and adopted in accordance with the subdivision documentation, and applicable law.

In witness whereof, the Association has caused this instrument to be executed by its authorized officers this 10th day of APRIL, 2001, at Charlotte County, Florida.

OAK HOLLOW PROPERTY OWNERS'
ASSOCIATION, INC.

BY: Albert B. Sensley
Albert Sensley, President

Maureen Borchers
Witness Signature
Maureen Borchers
Printed Name

BY: Norma C. Thomas
Norma Thomas, Secretary

Marlene M. Schroer
Witness Signature
MARLENE M. SCHROER
Printed Name

STATE OF FLORIDA
COUNTY OF CHARLOTTE

The foregoing instrument was acknowledged before me this 10th day of APRIL, 2001 by Albert Sensley, as President, and Norma Thomas, as Secretary of Oak Hollow Property Owners' Association, Inc., a Florida corporation, on behalf of the corporation. They are personally known to me or have produced _____ as identification. If no type of identification is indicated, the above-named persons are personally known to me.

Marlene M. Schroer
Notary Public
Printed Name MARLENE M. SCHROER
State of Florida

My Commission Expires _____

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MARLENE M. SCHROER
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. 0000000000
MY COMMISSION EXPIRES APRIL 23, 2001

AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

On September 10, 1981, the original Declaration of Covenants and Restrictions for the community commonly referred to as Oak Hollow was recorded in Official Record Book 677, at Pages 735 *et seq.*, of the Public Records of Charlotte County, Florida. That Declaration, as it has previously been amended is hereby further amended in part, and is restated in its entirety, as amended.

WITNESSETH:

This Amended and Restated Declaration of Covenants and Restrictions is made by **Oak Hollow Property Owners' Association, Inc.**, a Florida corporation not for profit. The real property subject to this Declaration is legally described in Article II of the original Declaration, as amended. Copies of the plat maps are attached to this Declaration for ease of reference.

No additional land is being included in the Oak Hollow Community by this Declaration. The covenants and restrictions contained in this Declaration run with the land and, are binding upon, and inure to the benefit of, all present and future Owners of Lots. The acquisition of an ownership interest in the real property, or the lease, occupancy, or use of any portion of a Lot or Living Unit, constitutes an acceptance and ratification by the Owner of all provisions of this Declaration, as it may be amended from time to time, and an agreement to be bound by its terms.

ARTICLE I. DEFINITIONS

Section 1. The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

- (a) **"Association"** shall mean and refer to **OAK HOLLOW PROPERTY OWNERS' ASSOCIATION, INC.**
- (b) **"The Properties"** shall mean and refer to all such existing properties, and additions thereto, subjected to this Declaration under the provisions of Article II hereof.
- (c) **"Common Properties"** shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties and intended to be devoted to common use and enjoyment of the owners of The Properties, as more fully described in the original Declaration.
- (d) **"Lot"** means any one or more of the platted parcels of land into which the Community is subdivided, upon each of which a Residence has been or will be constructed. Wherever it appears, "Lot" is to be interpreted as though followed immediately by the words "and the Living Unit constructed thereon," unless the context clearly requires a different interpretation.
- (e) **"Living Unit"** shall mean and refer to any portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by a single family.
- (f) **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but notwithstanding any applicable theory concerning a mortgage encumbering any Lot, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(g) "Member" shall mean and refer to all those Owners of Lots subject to this Declaration.

ARTICLE II
ASSOCIATION

The administration and management of the property within this Neighborhood is by Oak Hollow Property Owners' Association, Inc., a Florida corporation not for profit:

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by these covenants of record to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member. Membership is appurtenant to, runs with, and cannot be separated from, the real property ownership interest upon which it is based. The burden of notifying the Association of a change of membership shall be borne by the new member; and the Association shall not be required to recognize a change of membership until the new member furnishes satisfactory proof of ownership.

Section 2. Voting Rights. Members who are not more than ninety (90) days delinquent in the payment of their maintenance assessments shall be entitled to one vote for each Lot in which they hold the interests required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Section 3. Quorum. The presence (either in person or by proxy at any regular or special meeting of members entitled to cast, thirty (30%) percent of the membership shall constitute a quorum for any action.

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+ 30

135.6

Section 4. Powers and duties. The powers and duties of the Association include those set forth in this Declaration, the Articles of Incorporation and the Bylaws, and those provided in Chapter 720, Florida Statutes, particularly Sections 720.301 through 720.312, Florida Statutes (2000), as they may be amended from time to time. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers. The Association has the power to enter into agreements and to acquire leaseholds, memberships and ownership, possessory or use interests in lands or facilities, regardless of whether the lands or facilities are contiguous to the Neighborhood. If the Association has the authority to maintain a class action suit as plaintiff, the Association may also be joined as a defendant in an action as the representative of that class with reference to litigation and disputes involving the matters for which the Association could bring a class action. Nothing herein limits any statutory or common law right of an individual Owner or class of Owners to bring any action which may otherwise be available.

Section 5. Board of Directors. Except as otherwise expressly provided by law or by the Governing Documents, the Association acts through its Board of Directors and its officers, and no vote of the members shall be required. The officers and Directors of the Association have a fiduciary relationship to the members.

Section 6. Delegation of management. The Association may contract with a manager or management agent to assist the Association in carrying out its powers and duties by performing such functions as submission of proposals, collection of assessments, keeping of records, and enforcement of covenants and rules, with funds made available by the Association for such purposes. The Association and its officers however, retain at all times the powers, duties, and non-delegable responsibilities imposed by Sections 720.301-720.312, Florida Statutes (2000), as amended from time to time, and by the Governing Documents.

Section 7. Termination of membership. 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 Association during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former Owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

Section 8. Association as Owner of Lots. The Association has the power to purchase Lots and to acquire and hold, lease, mortgage and convey them, by act of a majority of the Directors. The Association has the right to purchase a Lot at a foreclosure sale resulting from the Association's foreclosure of its lien for unpaid assessments, or to take title by deed in lieu of foreclosure. However, the acquisition of any Lots not resulting from the Association's foreclosure action, must have the prior approval of a majority of the voting interests of the Association present in person or by proxy and voting at a special meeting called for the purpose.

**ARTICLE III
PROPERTY RIGHTS IN THE COMMON PROPERTIES**

Section 1. Members' Easements of Enjoyment. An Owner is entitled to exclusive use and possession of his Lot and Living Unit subject to the Governing Documents. He/She is entitled to non-exclusive use of the Neighborhood Common Areas for their intended purposes, but no use of any Lot or Common Area may unreasonably interfere with the property rights of other Owners or residents and all use or enjoyment is limited by and must conform to the requirements, powers and duties of the Association as set forth in this Declaration, the Articles, Bylaws or rules and regulations promulgated by the Board of Directors.

Section 2. Use of Common Properties for Drainage. The Common Properties may be used for drainage and the temporary retention of storm water run-off from The Properties and other contiguous property, as well as for open space, recreation, rights of ingress and egress, and other related activities. No structure, planting or other material shall be placed or permitted to remain in the Common Properties which might impair or interfere with the drainage or temporary retention of storm water run-off of The Properties or other contiguous property.

- (a) As hereinbefore provided, the obligation to maintain the Common Properties for drainage purposes shall be an obligation of the Association until the area becomes subject to a governmental special assessment district for maintenance and control thereof at which time the Association shall relinquish control and each member of the Association shall be required to make payments of the assessment established by the governmental authority.
- (b) In the event this Association is dissolved or otherwise ceases to exist, then in such event the Association shall have the right to assign, transfer and deliver over to a governmental authority or to any other like organization the powers herein reserved to this Association.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage, the lenders' right hereunder shall be limited to a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the members, and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and
- (b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and
- (c) the right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment and voting rights of any member as set forth herein; and
- (d) the right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and

- (e) the right of individual Members to the exclusive use of parking spaces as provided in Section 5 of this Article; and
- (f) the drainage and temporary retention of storm water run-off uses of the Common Properties referred to in Section 2 of this Article, and elsewhere herein; and
- (g) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer or determination as to the purposes or as to the conditions hereof, shall be effective unless an instrument signed by the President and Secretary of the Association be recorded, certifying that at a special or regular meeting of members called for such purpose, of which thirty (30) days written notice was sent to each Member, a two-thirds (2/3) vote of the entire membership was obtained, agreeing to such dedication or transfer.

Section 4. Parking Rights. The Association may designate and maintain upon the Common Properties certain parking spaces for the exclusive use of the Members, their families and guests. The use of any parking space by any other person may be enjoined by the Association or the Members entitled thereto. No parking shall be permitted in other than designated parking areas.

Section 5. Party Walls. Each wall which is built as a part of the original construction of homes upon The Properties and placed on the dividing line between portions of the Lots shall constitute a party wall, and, 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 thereto.

- (a) **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
- (b) **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use 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.
- (c) **Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- (d) **Easement.** Each unit owner grants to the owners of adjoining units and to the Association an easement over, upon, and across his land for the purpose of performing such maintenance as may be required including, but not limited to, repairing party walls, painting and lawn and sprinkler maintenance.
- (e) **Right to Contribution Runs With Land.** The right of any Owner to contribute from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.
- (f) **Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one (1) arbitrator, and such arbitrators shall choose one (1) additional arbitrator, and the decision shall be by a majority of all the arbitrators.

Section 6. Special Exterior Wall and Patio Easements for Lots Having Zero Lot Lines.

- (a) **Special Exterior Walls.** Each residence shall contain one windowless exterior wall (the "Special Exterior Wall") which shall face an adjacent lot ("Adjacent Lot").
- (b) **Drainage Easement and Roof Runoff.** An easement is hereby granted to the Association, its officers, agents and employees to enter upon, across, over and under any Lot for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of a Lot so as to improve the drainage of water from the Lots or Common Area. It shall be the responsibility of each Owner to take appropriate measures, whether by landscaping or otherwise, to protect an Adjacent Owner's Lot or the Common Area from water running off of such Owner's roof onto an Adjacent Owner's Lot or onto the Common Area and no Owner shall have liability to otherwise be responsible to any other Owner or to the Association for any loss, expense or damage resulting from such roof runoff.
- (c) **Patio and Repair Easements.** Subject to the temporary easements herein-after described, a perpetual six-foot exclusive easement is hereby created, covering the ground area between: (1) a line running the length of the Special Exterior Wall and extending to the front and rear of each Lot containing the Wall; and (2) the property line of each Adjacent Lot for the benefit of the Owner of each such Adjacent Lot. All Patio Easements may be used by the Owner of each Adjacent Lot for any purposes consistent with this Declaration. In addition to the Patio Easement, each Owner of a residence shall have an easement on the property surrounding an Adjacent Owner's Residence, whether the same is located on such other Owner's Lot, the perpetual easement above described, or the Common Area, for the purpose of temporarily utilizing ladders and such other equipment as may be required to repair any Special Exterior Wall or other exterior wall or the roof of a Residence. Such easement shall be of a temporary nature and shall exist only for such reasonable period of time as is required to make such repairs or perform such maintenance. Such temporary easement shall extend onto such other Owners' Lot, perpetual easement, or the Common Area for only such distance as is reasonably required to undertake and perform such repair and maintenance work.
- (d) **Right of Owner with Respect to Maintenance of Special Exterior Wall.** The Owner of the residence containing the Special Exterior Wall shall have the right at all reasonable times to enter the Patio Easement Area and such other portion of the Adjacent Lot as is reasonably necessary for the purpose of repairing, maintaining, or restoring the Special Exterior Wall; provided, however, that such access shall be permitted only at reasonable times during the daylight hours and with the prior knowledge of the Owner of the Adjacent Lot.
- (e) **Restrictions on Owner of Adjacent Lot.** The Owner of the Adjacent Lot shall avoid any action which shall in any way restrict the use and maintenance of the Special Exterior Wall and the adjoining six-foot easement by its Owner including, but not limited to, refraining from attaching any objects to such wall, such as wires, trellises and plantings; defacing the wall in any manner; placing graphics or other design work (whether painted or otherwise) on the special exterior wall; using the wall as a playing surface for any sport; or causing any excessive planting to be installed within the limits of said six-foot easement.
- (f) **Restrictions on Owner with Residence Containing Special Exterior Wall.** The Owner of the Residence containing the Special Exterior Wall shall similarly be prohibited from attaching anything to such wall or from altering it in any way other than painting the wall in such manner as shall be approved by the Board or the Architectural Review Committee. Additionally, the Owner of such Residence shall not make any openings for windows or otherwise on such wall and shall take no other action, except as specifically contemplated herein, in connection with

such Wall which shall interfere with the privacy of the Owner of the Adjacent Lot.

Section 7. The Association has the right to grant permits, licenses and easements over the common areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the project. The Association has the right of reasonable entry upon any Lot or Living Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the project.

ARTICLE IV ASSESSMENTS

The Association has authority to levy assessments against the Lots to pay common expenses. Common expenses include the expenses of the operation, maintenance, repair, replacement, or protection of the Neighborhood Common Areas and all improvements thereon, the costs of providing insurance for the benefit of the Association, its Directors and officers, and its members; the expenses of carrying out the powers and duties of the Association, and any other expense, whether included in the foregoing or not, that is expressly designated as a common expense in this Declaration or in the Bylaws.

Section 1. Covenants. Each Owner of a Lot, and each subsequent Owner of any Lot (including a purchaser at a judicial sale), by acceptance of a deed or other instrument of conveyance, whether it is so expressed in the deed or instrument of conveyance or not, is deemed to covenant and agree to pay to the Association:

- (A) the Lot's pro rata share of annual assessments based on an annual budget of common expenses adopted by the Board of Directors;
- (B) the Lot's pro rata share of special assessments levied for capital improvements or other expenses that cannot be paid from the annual assessments adopted in the manner set forth in the Bylaws;
- (C) Service charges and other user fees, or charges (including fines) imposed against, or payable by, less than all of the Lots, as authorized elsewhere in this Declaration, in the Bylaws of the Association, or the Rules and Regulations of the Association.

Assessments are established and collected as provided herein, and in the Bylaws. The obligation to pay the assessments and other charges described above, together with late payment fees, interest, costs, and reasonable attorney's fees incurred in the collection process, shall bind each Lot in the hands of its Owner, and his heirs, devisees, personal representatives, successors and assigns. Except as otherwise provided with respect to Institutional First Mortgagees, whenever title to a Lot or Living Unit is transferred for any reason, the new Owner is jointly and severally liable with the previous Owner for all assessments and other charges that are unpaid at the time of the transfer, regardless of when the obligation was incurred, without prejudice to any right the new Owner may have to recover from the previous Owner any such amounts the new Owner is required to make. No Owner may avoid personal liability for assessments and charges, or release any Lot from the liens and charges hereof, by waiving use rights, or by abandoning the Lot.

Section 2. Shares of assessments. Except as otherwise provided below, each Lot and the Owner thereof shall be liable for an equal share of annual and special assessments, such share being a fraction of the whole, the numerator of which is the number "one" and the denominator of which is the total number of Lots included within the Neighborhood. Except as provided elsewhere in this Declaration as to Institutional Mortgagees, no Owner may be excused from the payment of assessments unless all Owners are similarly excused.

Section 3. Establishment of liens to secure payment. All assessments, charges and other sums due the Association in accordance with the foregoing, together with any late payment fees, interest at the highest rate allowed by law, and costs of collection (including, but not limited to costs and reasonable attorney's fees) create a continuing lien upon the Lot and Living Unit against which each such assessment or charge is made, and they are also the personal obligation of the Owner of each Lot and Living Unit at the time they came due. This lien relates back to the date this Declaration was originally recorded. The lien is activated by recording a Claim of Lien in the public records of

Charlotte County, setting forth the amounts then past due and the due dates, as of the date the Claim of Lien is recorded. The recorded Claim of Lien secures payment of all unpaid assessments and charges due at the time of recording (including late payment fees, interest, costs and attorney's fees as provided above), as well as all assessments and charges that subsequently come due, until the lien is satisfied or a final judgment of foreclosure obtained. Upon full payment of all sums secured by a Claim of Lien, the party making payment is entitled to a satisfaction in recordable form.

Section 4. Priority of liens. Except as otherwise provided by law, the Association's lien for unpaid assessments and other charges is subordinate and inferior to that of any recorded Institutional First Mortgage, unless the Association's Claim of Lien was recorded before the mortgage. The Association's lien is superior to, and takes priority over, any other mortgage regardless of when recorded, as well as all other recorded liens except federal tax liens and liens for unpaid property taxes. A lease of a Living Unit is subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

Section 5. Collection of assessments. If any Owner fails to pay any assessment, other charge, or installment thereof, within thirty (30) days after the due date, the Association shall have any or all of the following remedies, to the fullest extent permitted by law, which remedies are cumulative, so they are not in lieu of, but are in addition to, all other remedies available.

*assessments
30-day ←*

(A) To charge interest at the highest rate allowed by law on the amount of the assessment or other charge, from the due date until paid.

(B) To impose a late payment fee of up to Twenty-five Dollars (\$25.00).

(C) To file an action in equity to foreclose the lien. Unless another procedure is required by law, the lien may be foreclosed by an action brought by the Association in the same manner as provided in Section 718.116, Florida Statutes, as amended from time to time, for the foreclosure of liens upon condominium units for unpaid condominium assessments.

(D) To bring an action at law for a money judgment against the Owner without waiving any foreclosure rights of the Association.

(E) To the extent lawful, to suspend the voting rights of the Owner in Association matters until the Owner's account is current.

(F) To deny Association approval of any proposed lease of the Owner's Living Unit.

(G) To accelerate the due date for the entire remaining unpaid amount of the annual assessment against the Owner's lot for the remainder of the fiscal year, notwithstanding any provision of the Governing Documents calling for installment payments of annual assessments.

Section 6. Estoppel Certificate. The Association shall, within fifteen (15) days after receiving a written request for same, furnish to any Owner, purchaser or mortgage lender a certificate in writing signed by an officer of the Association, setting forth whether all assessments and charges against the Owner's Lot have been paid, and itemizing any that have not been paid. Any person, except the Owner, who relies on the certificate shall be protected thereby.

**ARTICLE V
ENVIRONMENTAL CONTROL COMMITTEE**

Section 1. Appointment of Committee. There shall be appointed by the Board of Directors of the Association, an Environmental Control Committee, which committee shall consist of three or more members.

Section 2. Review by Committee. The Committee, in its review of all proposed construction, modifications, or alterations to existing structures, shall be guided by the following standards of environmental control, to-wit: those included in Article VIII hereof, and

(a) **Architectural Control:** No building, fence, wall, or other addition or modification to existing structures shall be commenced, erected or maintained

upon The Properties, nor shall any exterior addition to or change or alteration to the lot or the improvements thereon, including but not limited to patio covers, pools, pool enclosures, porch enclosures, be made, no change in exterior color or any other work which in any way materially alters the exterior appearance of any structure, landscaping, lot or common area be performed until the plans, drawn to appropriate scale, and specifications showing the nature, kind, shape, height, material and location of the same including exterior color scheme shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures, topography and vegetation by the Environmental Control Committee. Approval or disapproval of the same shall be made by the Committee and returned to the applicant within a reasonable time, not to exceed 45 days after receipt thereof.

- (b) **Existing Trees:** Existing trees on the property will not be removed unless their removal proves to be necessary due to the emplacement of the structure or structures. Location and size of all existing trees, including those proposed to be removed, shall be indicated on landscaping plans and specifications, and subject to the approval of the Environmental Control Committee.
- (c) **Landscaping Approval.** No trees, bushes, shrubs or plants which at maturity and without clipping or pruning thereof, would exceed the height of the dwelling house on any lot or in common areas shall be planted or emplaced until the plans and specifications for the placement of any such trees, bushes, shrubs or plants have been submitted to and approved by the Environmental Control Committee as to the preservation of the natural view and aesthetic beauty which each Lot and the community is intended to enjoy. Said plans as submitted shall show in detail and to scale the proposed elevations and locations of said trees, bushes, shrubs or plants, including the locations of same in relation to all other Lots subject to these restrictions.
- (d) **Committee Approval:** Approval of said plans by the Environmental Control Committee may be withheld if in the opinion of the Committee the view of any Lot would be impeded by the location of such tree, bush, shrub or plant. Further, approval may be denied if the Committee or Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to the Neighborhood in part or in whole, or inconsistent with the architectural integrity and scheme of the Property. The Association may remedy any violation of this provision, construction, installation or erection of any improvement or landscaping without the approval of the Committee or breach of any covenant herein contained by entering upon the land where such violation or breach exists and summarily abate and remove, at the expense of the Owner of the land, any construction or other violation that may be or exist thereon. The Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement or removal. Any costs and expenses incurred by the Association in abatement of any violations including attorney's fees, shall be assessed against the Owner of said Lot, which assessment, if unpaid, shall become a lien on the Lot and foreclosed, or otherwise collected in the same manner as assessments for common expenses.

Section 3. Variances. The Board of Directors of the Association or the Environmental Control Committee appointed by the Board may, with the approval of the Charlotte County Planning and Zoning Board, approve variances to the requirements of Article VIII, Section 2.

Section 4. Attorney's Fees. In all litigation involving architectural or environmental control, the prevailing party shall be entitled to collect and shall be awarded attorneys' fees and court costs.

ARTICLE VI EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. Pursuant to agreement with Owner, or upon determination by the Association that an Owner has failed to maintain the exterior of his Living

Unit in accordance with general standards of the community, then, after reasonable notice to the Owner specifying such failure and upon Owner's neglect or refusal to correct the same, then, in such event, and in addition to maintenance upon the Common Properties, the Association may provide exterior maintenance upon each such Living Unit or Lot, which maintenance, repair or replacement may include, but is not limited to the following: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements or any portions of the Lot and improvements thereon visible from the street. *

The cost thereof shall be assessed to the Owner and shall be added to and become a part of the maintenance assessment as more particularly described in Section 2 hereof.

Section 2. Assessment of Cost. The cost of such exterior maintenance shall be assessed against the Lot or Living Unit upon which such maintenance is done and shall be added to and become part of the assessment or charge to which such Lot or Living Unit is subject under Article IV hereof and, as part of such annual assessment or charge, it shall be a lien and obligation of the Owner and shall become due and payable in all respects as provided in Article IV hereof.

Section 3. Access at Reasonable Hours. For the purpose solely of performing the exterior maintenance authorized by this Article, the Association, through its duly authorized agents or employees shall have the right, after reasonable notice to the Owner, to enter upon any Lot or the exterior of any Living Unit at reasonable hours on any day except Sunday.

Section 4. Common Area Maintenance. Common Area Maintenance may include, but is not necessarily limited to, the following items:

- (a) Grounds maintenance of the common area including mowing, fertilizing, insecticides, etc.
- (b) Irrigation system maintenance.
- (c) Pool maintenance including cleaning, chemicals, maintenance of pumps, pool heating, including gas and maintenance of heating pumps, etc.
- (d) Maintenance of recreation building and other attendant facilities, including air conditioning equipment.
- (e) Parking lot cleaning and maintenance.
- (f) Waste removal from common areas.
- (g) Maintain perimeter feature, if any, and/or signs, if any.
- (h) Utilities for common areas including water, sewer and electricity.
- (i) Taxes and insurance including real and personal property taxes for common areas and liability and fire insurance.
- (j) Other miscellaneous items which may be included such as exterminating services, security system maintenance and fire extinguisher services.
- (k) A reserve for future maintenance and repairs.

Section 5. Negligence; Damage Caused by Condition in Living Unit or Lot. The Owner of each Living Unit or Lot shall be liable for the expenses of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his guests, employees, agents or lessees; but, unless the negligence is of such character as to evidence gross recklessness or willful or wanton disregard for life or property, the Owner shall be liable only to the extent that such expense is not met by the proceeds of insurance. If any condition, defect or malfunction existing within a Living Unit, whether caused by the Owner's negligence, or otherwise, shall cause damage to the Common Areas or to other Living Units, the Owner of the offending

Living Unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not met by insurance. If one or more of the damaged Living Units is not occupied at the time the damage is discovered, the Association may enter without prior notice to the Owner and take reasonable actions to prevent the spread of damage. Any expenses so incurred by the Association shall be assessed against the owner, together with reasonable attorney's fees and other expenses of enforcement.

**ARTICLE VII
WATER AND SEWER UTILITIES**

Section 1. Mandatory Connection. Developer and its wholly owned subsidiary, General Development Utilities, Inc. required owners of Lots or Living Units to connect to and make use of the water and/or sewer services furnished by Utilities and shall pay to Utilities, in addition to the prescribed connection charges and monthly service charges then in effect under the rules, regulations and rate schedules of Utilities, a utilities extension fee (for plant capacity and main lines). The water and/or sewer services are now operated by Charlotte County and lot owners are required to comply with county regulations concerning same.

Section 2. Prohibition of Individual Wells and Septic Tanks. No individual water wells, septic tanks or other individual sewage disposal facility shall be permitted on any Lot or Living Unit from such time when central water and/or sewer service or services are made available, without the express written approval of the Environmental Control Committee and Charlotte County.

Section 3. It shall be a requirement that no water closet be installed in any home to be constructed on any of the properties having a capacity in excess of 3.5 gallons.

Section 4. General Development Corporation, as the Developer, reserves to itself and its successors and assigns all water rights below 400 feet in depth under all of the properties described in the original Declaration but with no right of surface access thereto.

**ARTICLE VIII
UNIFORM GENERAL REQUIREMENTS**

Section 1. Residential Lots; Use and Minimum Square Footage Requirements. The lots in this subdivision are divided into several categories; namely, single-family lots having an area of approximately 7,500 square feet, single-family, zero lot-line lots having an area of approximately 5,000 square feet and a multi-family tract. No single-family residence shall be otherwise subdivided. Any subletting of the residence, sharing rent with another not a lessee, or subletting by renting a room or rooms is expressly prohibited. No business buildings may be erected on a Lot and no business may be conducted on any part thereof, nor shall any building or portion thereof be used or maintained as a professional office. No person may publicly advertise the address of a Lot or Living Unit as the address of any business. The use of a Living Unit as a public lodging establishment shall be deemed a business or commercial use. This Section shall not be construed to prohibit any Living Unit occupant from maintaining a personal or professional library, from keeping his person, business or professional records in his Living Unit, or from handling his person, business or professional telephone calls, written correspondence, or other communications in and from his Living Unit. Such uses are expressly declared customarily incident to residential use. This Section is, however, intended to prohibit commercial or business activity by an Owner or occupant of a Living Unit which would noticeably change the residential ambience of the Neighborhood, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the Neighborhood by persons making deliveries, pick-ups, employees or other business associates, or customers and clients.

Section 2. This property being a Planned Development District as prescribed by Charlotte County, the design and development standards shall be in accordance with the Final Development Plan for Oak Hollow CC-96, filed with the Charlotte County Building and Zoning Department in accordance with Charlotte County's Zoning Regulations for Planned Development Districts. Accordingly, minimum square footage and building setback requirements shall be in accordance with the Final Development Plan aforesaid, being designated as Charlotte County PD 80-6, approved March 17, 1981 by the Board of County Commissioners of Charlotte County.

Section 3. Recreational Vehicles. No travel trailer, mobile home, recreational vehicle, boat, tent, storage building, garage, barn, or out building erected on any lot shall at any time be used as a residence, temporarily or permanently. The phrase "recreational vehicle" shall mean every licensed vehicle and conveyance designed, used or maintained primarily as a travel trailer, motor home, camper, boat and boat trailer or other similar use.

Section 4. Parking. No truck exceeding three-fourths (3/4) ton payload capacity or recreational vehicle or boat or boat trailer or utility or maintenance trailer and similar vehicles shall be parked overnight (unless in an enclosed garage) in areas zoned residential unless the truck or trailer is employed in the construction or reconstruction of residential units or relocation of residence. No modified pick-ups or vans that do not fit on the resident driveway shall be allowed. Overnight parking on the streets or roadways is prohibited. All vehicles must be registered with the Association and display an Oak Hollow sticker, including those vehicles of guests or tenants who intend to remain on the property for seventy-two (72) hours or more. Storage of vehicles is prohibited. If any resident suspects another of violating this provision or if anyone witnesses a vehicle parked on the property in violation of this provision, the resident shall notify the Board of Directors, in writing. If the Board learns of a violation of this provision, it shall take such further action as deemed necessary under the circumstances, including towing the vehicle. All expenses associated with enforcing compliance with this provision shall be borne by the owner of the unit which has violated this provision (whether it be by the owner, his/her guest, invitee, tenant, lessee, tenant's guests or licensee), including towing charges, storage expenses, costs and attorney's fees incurred by the Association. Such charges, if unpaid after thirty (30) days of demand, shall be assessed as an individual assessment against the unit and collectable in the same manner as any other assessments, including lien and foreclosure. The remedies provided herein are cumulative and in addition to any other remedy provided in the Declaration, Association's Bylaws, Rules and Regulations or Florida Law.

Section 5. Signs. No sign of any kind shall be displayed to the public view on any single family residence Lot, except signs permitted by Charlotte County, which must be approved in writing by the Board of Environmental Control Committee in advance of posting.

Section 6. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other domestic pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. The ability to keep such a pet is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a source of unreasonable annoyance to other residents of the Properties. All pets must be carried under the Owner's arm or leashed when outside the Living Unit. Owners are responsible for the conduct and to the clean-up after their pet(s). Pets shall not be left unattended on screened porches, lanais or in garages.

Section 7. Trash Storage. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers and placed in the trash enclosures, if provided in the project. No lot on which improvements have been constructed or erected shall be allowed to become or remain overgrown and/or unsightly.

Section 8. Planting. No hedge or shrub planting which obstructs sight lines at elevations between two (2') and six (6') feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25') feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10') feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within the above described limits of intersections unless the foliage line is maintained at or above six (6') feet above roadway intersection elevation to prevent obstruction of sight lines.

Section 9. Tree Preservation. No large trees measuring six (6") inches or more in diameter at ground level may be removed without the written approval of the Environmental Control Committee, unless located within ten (10') feet of the main dwelling or accessory building or within ten (10') feet of the approved site for such building. No trees shall be removed from any Lot without the consent of the Environmental Control Committee.

Section 10. Oil, Gas and Mineral Operations. No operations with respect to oil, gas and minerals, including, without limitation, drilling, development, refining, exploration, quarrying mining or extractions of any kind shall be permitted upon any Lot nor shall oil or gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick, drilling rig or other structure designed for use in drilling for oil or gas shall be erected, maintained, or permitted on any Lot or parcel.

Section 11. Easements. Easements for the installation and maintenance of public utilities and drainage facilities are reserved as noted on the recorded plat. Within these easements, or any easement granted by the Developer pursuant to Article IV, Section 6, no structure, planting or other material shall be placed or permitted to remain which may damage, impair or interfere with the installation and maintenance of utilities. The easement area of each Lot, tract, or parcel and all permitted improvements within said easement areas shall be maintained continuously by the Owner of the Lot, tract, or parcel, except for those improvements for which a public authority or utility company is responsible. Each Owner is granted an easement over, upon and across the land of the adjoining Owner on each side for the purpose of maintaining, painting and repairing the extension of the wall on said Owner's property.

Section 12. Encroachment on Lots. In the event that any portion of any roadway, drainageway, walkway, parking area, roof drainage system, water lines, sewer lines, utility lines, sprinkler system or any other structure as originally constructed by Developer or its designee, successor or assign encroaches on any Lot, it shall be deemed that the Owner of such Lot has granted a perpetual easement to the Owner of the adjoining Lot or the Association as the case may be, for continuing maintenance and use of such encroaching roadway, walkway, parking area, roof drainage system, water line, sewer line, utility line, sprinkler system or structure. The foregoing shall also apply to any replacements of any such roadway, walkway, parking area, roof drainage system, water lines, sewer lines, utility lines, sprinkler system or structure if same are constructed in substantial conformance to the original. Other encroachments may be maintained as herein provided. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

Section 13. Easement for Walkways. The Developer reserves to itself and its successors and assigns the right to construct walkways between the homes for the benefit of the occupants and their guests. To this extent and for this purpose the Developer reserves an easement over and across said walkways.

Section 14. It is understood and agreed that said premises may not and shall not be used for convalescing or custodial care as a home occupation.

Section 15. Additional Rules and Regulations. The Board of Directors of the Association, may establish such additional rules and regulations as may be deemed by it to be for the best interests of the Association and its members.

Section 16. Fines. In addition to all other remedies available at law or in equity, the Board of Directors may levy reasonable fines against owners, tenants, and guests who commit violations of the provisions of the documents or Association rules and regulations. The fines shall be in an amount deemed necessary by the Board to deter future violations. Each day a violation continues shall be considered a separate violation and a fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing up to an aggregate of One Thousand (\$1,000.00) Dollars or the maximum permitted by law. The procedure for imposing such fines shall be as follows:

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

- I. A statement of the date, time, and place of the hearing;

2. A statement of the provisions of the Declaration, Bylaws, or rules which have allegedly been violated; and
 3. A short and plain statement of the matters asserted by the Association.
- B.** The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. If the committee, by majority vote, does not approve a proposed fine, it may not be imposed.
- C.** Fines shall be treated as an assessment due to the Association thirty (30) days after written notice to the Owner of the imposition of the fine. Fines shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled. Outstanding fines, if unpaid after thirty (30) days from the date due, shall be assessed against the Owner of the Lot and/or Living Unit, which assessment may become a lien on the Lot and/or Living Unit and foreclosed or otherwise collected in the same manner as assessments for common expenses.

Section 17. Leasing. In order to foster a stable residential community and prevent a motel-like atmosphere, the leasing of living units by their owners shall be restricted as provided for in this section. All leases of living units must be in writing. A living unit owner may lease only his entire living unit, and then only in accordance with the provisions of this Section, after receiving the approval of the Association. For purposes hereof, occupancy of a Unit by a person or persons in the absence of the Owner, except for the spouse of the Owner, parents, grandparents, children, grandchildren or siblings, of either the Owner or spouse, in excess of twenty-one (21) days, shall be treated as a lease. Only natural persons may lease units for single family residential purposes, defined as follows: occupancy by a single housekeeping unit composed of one (1) person; two (2) people no matter how related; or three (3) or more persons all of whom are related to each other by blood, marriage, legal adoption or acting as guardian, legal custodian, or legal designee of a parent for a minor child residing within the unit, it being the intention of this provision to prohibit occupancy of a unit by three (3) or more unrelated adults while clarifying that nothing herein shall be applied or construed to permit discrimination based upon familial status, handicap, or other protected classifications under Fair Housing Laws.

17.1 Procedures:

A. Notice by the Living Unit Owner. An owner or owner's agent intending to lease their living unit for a period of six (6) months or more, or renew or extend a lease so that the tenancy exceeds six (6) months, shall give to the Board of Directors, or its designee, written notice of such intention thirty (30) days prior to the proposed transaction, the application fee, together with the name and address of the proposed lessee, an executed copy of the proposed lease, and such other information as may reasonably be required. The personal appearance of any lessee and his spouse, if any, may be required as a condition of approval.

B. Lessee Applicants. Application for permission to lease for more than six (6) months shall be made on application forms available from the Association, to include provisions authorizing credit, criminal and past tenancy investigation checks. The lessee applicant shall pay to the Association a transfer fee, up to the amount allowed by law, to cover the investigative checks. The fee is non-refundable.

C. Approval. After the required notice, payment of application fee, and all investigation checks, information or appearances requested have been provided, the Board shall approve or disapprove the proposed lessee within the thirty (30) day time period. If the Board neither approves nor disapproves within the time stated above, such failure to act shall be deemed the equivalent of approval, and on demand from the lessee the Board shall issue a written letter of approval to the lessee.

D. Disapproval. A proposed lessee may be disapproved by the Board for cause if investigative results do not meet the required minimum criteria promulgated from time to time by the Board of Directors, or are otherwise unsatisfactory. The minimum criteria shall include the following:

1. The owner is delinquent in the payment of assessments at the time the application is considered;
2. The owner has a history of leasing his unit to troublesome lessees and/or refusing to control and accept responsibility for the occupancy of his unit;
3. The application on its face appears to indicate that the person seeking approval intends to conduct himself in a manner inconsistent with applicable covenants and restrictions;
4. The prospective lessee has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude;
5. The prospective lessee has a history of conduct which evidences disregard for the rights and property of others;
6. In the case of a renewal, the lessee has during previous occupancy, evidenced an attitude of disregard for applicable covenants and restrictions; and
7. The prospective lessee gives false information or incomplete information to the Association as part of the application procedure.

E. Assessments. The legal responsibility for paying Association assessments shall not be delegated to or become the responsibility of the lessee.

F. Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board may approve or disapprove the lessee. 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 30 days notice, and without securing consent to such eviction from the owner or owners agent.

G. Disapproval Notice. Notice of disapproval of the lessee shall be sent or delivered to the owner and owner agent presenting the proposed intent to lease.

H. Board Delegation. The Board may by resolution, delegate approval powers to an ad hoc committee, which shall consist of at least two (2) Board members, two (2) association members, and the Manager.

17.2 Regulation By Association. All of the provisions of the documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a living unit as a lessee or guest to the same extent 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 documents, designating the Association as the owner's agent with the authority to terminate any lease agreement and evict the tenant(s) 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. The Board may require the use of a lease addendum to incorporate the terms of this paragraph into any lease approved by the Board. The unit owners shall have a duty to bring his or her tenant's conduct into compliance with this Declaration or the rules and regulations by whatever action is necessary, including without limitation the institution of eviction proceedings, without notice to cure, where legally permissible. If the unit owner fails to bring the conduct to the tenant into compliance, the Association shall then have the authority to act as agent of the owner to undertake whatever action is necessary to abate the tenant's non-compliance, including without limitation the right to institute an action for

eviction against the tenant in the name of the Association. The Association shall have a right to recover any costs or fees, including attorney's fees, from the unit owner which shall be secured by assessment and lien in the same manner as common expense charges.

ARTICLE IX GENERAL PROVISIONS

Section 1. Amendments. Anything in this Declaration to the contrary notwithstanding, this Declaration of Covenants and Restrictions may be amended from time to time by recording among the Public Records of Charlotte County, Florida, an instrument executed by the President and attested to by the Secretary of the Association indicating that at a meeting called for that purpose at which a quorum has been attained, two-thirds (2/3) of the fee owners present, in person or by proxy, voted to approve such amendment, provided however, an amendment shall not be adopted unless approved by not less than 230 fee owners. Alternatively, amendments to this Declaration may be approved in writing, without a meeting, with the approval of 230 fee owners. Any amendment which would affect the surface water management system, including the water management portions of the common areas, as provided in Article IX hereof, must have the prior approval of the South Florida Water Management District.

Section 2. Duration. Except as provided in Section 1 hereof, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration and their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, unless the same be amended, modified or revised pursuant to the provisions of Section 1 of this Article. Thereafter, and after the expiration of said initial twenty (20) year period, said covenants shall be automatically extended for successive periods of ten (10) years unless amended, modified, or revised as provided in Section 1 of this Article.

Section 3. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, or hand delivered to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing or delivery.

Section 4. Enforcement. Every Owner, tenant, guest or other invitee shall at all times comply with all the covenants, conditions and restrictions of the Governing Documents including this Declaration, the Articles, Bylaws and Rules and Regulations. Violations of the Governing Documents should be reported immediately in writing to a member of the Board of Directors. Before undertaking any remedial, disciplinary or enforcement action against a person alleged to be in violation, the Association shall give the alleged violator reasonable written notice of the alleged violation, except in emergencies. Disagreements concerning violations, including, without limitation, disagreements regarding the proper interpretation and effect of the Governing Documents fails to abide by them, as they are interpreted by the Board of Directors of the Association, that person shall be liable to be fined by the Association for each such failure to comply or other violation. Judicial enforcement of these covenants and restrictions shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants, conditions and restrictions; and failure by the Association or 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.

Violation of any conditions or restrictions or breach of any covenant herein contained or in any of the Governing Documents shall also give the Association and its authorized agent or representative in addition to all other remedies, the right to enter upon the land where such violation or breach exists and summarily abate and remove, at the expense of the Owner of the land, any construction or other violation that may be or exist thereon. Any costs and expenses incurred by the Association in abatement of any violations including attorney's fees, shall be assessed against the Owner of said Lot, which assessment, if unpaid, shall become a lien on the Lot and foreclosed, or otherwise collected in the same manner as assessments for common expenses. All rights and remedies available to the Association, whether set forth herein or in law, are cumulative and in addition to each other. The prevailing party in any legal, equitable or administrative action sought to enforce

this Declaration, the Articles, the Bylaws or rules and regulations of the Association shall be entitled to an award of prevailing party attorney's fees and costs, at pretrial, trial and appellate levels.

Section 5. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision hereof, which shall remain in full force and effect.

Section 6. Financial Statements. Any holder of a first mortgage shall be or is entitled, upon written request, to a financial statement of the Association for the immediately preceding fiscal year.

Section 7. Lender's Notices. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the property number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of

- a. Any condemnation loss or any casualty loss which affects a material portion of the project or any property on which there is a first mortgage held, insured, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;
- b. Any delinquency in the payment of assessments or charges owned by an owner of a property subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of 60 days;
- c. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- d. Any proposed action which would require the consent of a specified percentage of mortgage holders.

Section 8. Insurance and Fidelity Bonds. The Association has a duty to maintain in effect casualty and liability insurance and fidelity bond coverage as specified in the FNMA Lending Guide, Chapter Three, Part 5, Insurance Requirements.

ARTICLE X DRAINAGE SYSTEM

Section 1. There is reserved to the Association the ownership and control of all areas dedicated for drainage assessments so that the Association shall have the right and power to operate and maintain the drainage system.

Section 2. The Association reserves to itself the right to levy assessments against all Owners for the purpose of operating and maintaining such drainage system and in connection therewith, reserves to itself the lien rights as provided elsewhere in this Declaration.

Section 3. In the event that the corporation is dissolved or its existence is otherwise terminated, then in such event the Association reserves the right to transfer and assign its ownership and control over such drainage maintenance areas to a Governmental authority or to another incorporated property owners' association with like powers.

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THIS INSTRUMENT PREPARED BY
AND RETURN TO:
LISA A. WOLINER, ESQ.
BECKER & POLIAKOFF, P.A.
630 S. ORANGE AVENUE
SARASOTA, FL 34236

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
OAK HOLLOW PROPERTY OWNERS' ASSOCIATION, INC.**

WHEREAS, the original Articles of Incorporation of Oak Hollow Property Owners' Association, Inc. were filed with the Florida Department of State on August 3, 1981, and

WHEREAS, the Articles have been amended from time to time as reflected by instruments filed with the Secretary of State, and

WHEREAS, these Amended and Restated Articles of Incorporation contain amendments to all the Articles which amendments were duly approved by not less than two-third's (2/3rds) of the members participating (in person or by proxy) at a duly-called membership meeting of the Association held January 8, 2001 and continued on February 15, 2001; and

WHEREAS, the number of membership votes cast for the amendments were sufficient for approval under the corporation documents and applicable law.

NOW THEREFORE, the following are adopted as the Amended and Restated Articles of Incorporation of Oak Hollow Property Owners' Association, Inc.

Substantial Rewrite of the Articles of Incorporation. See original Articles and prior amendments for current text.

**ARTICLE I
NAME OF CORPORATION AND PRINCIPAL ADDRESS**

The name of this corporation is OAK HOLLOW PROPERTY OWNERS' ASSOCIATION, INC., hereinafter referred to as Association. The principal office of said corporation is located AT 1111 Forrest Nelson Blvd., Port Charlotte, Charlotte County, Florida 33952. The Directors of the Association may change the location of the principal office of said Association from time to time.

**ARTICLE II
PURPOSES**

PURPOSES: This corporation shall operate and manage the affairs and property of the subdivision known as Oak Hollow, located in Charlotte County, Florida, and to perform all acts

provided in the Declaration of Covenants and Restrictions and the Florida Homeowners' Association Act, Chapter 720, Florida Statutes.

ARTICLE III POWERS

The Association shall have all of the statutory powers of a corporation not for profit and all of the powers and duties set forth in the Florida Homeowners' Association Act and the Declaration of Covenants and Restrictions, as amended from time to time, except as may be limited or otherwise provided by these Articles.

ARTICLE IV MEMBERS

All persons owning a vested present interest in the fee title to any of the lots subject to the Declaration of Covenants and Restrictions for Oak Hollow, which interest is evidenced by a duly recorded proper instrument in the Public Records of Charlotte County, Florida, shall be members. Membership shall terminate automatically and immediately as a member's vested interest in the fee title terminates.

After the Association approves of a conveyance of a lot as provided in the Declaration of Covenants and Restrictions, the change of membership in the Association shall be evidenced in the Association records by delivery to the Secretary of a copy of the deed or other instrument of conveyance.

ARTICLE V VOTING RIGHTS

Each lot shall be entitled to one vote at Association meetings, notwithstanding that the same owner may own more than one unit or that units may be joined together and occupied by one owner.

ARTICLE VI REGISTERED OFFICE AND REGISTERED AGENT

The registered office of the Association shall be 630 S. Orange Avenue, Sarasota, Florida and the registered agent at such address will be Becker & Poliakoff, P.A. The Board may change the registered office and registered agent from time to time as permitted by law.

**ARTICLE VII
EXISTENCE**

TERM OF EXISTENCE: The term for which this corporation is to exist shall be perpetual, unless dissolved according to law.

**ARTICLE VIII
BOARD OF DIRECTORS**

OFFICERS AND DIRECTORS: The affairs of this corporation shall be managed by a governing board called the Board of Directors, who shall be elected and serve in accordance with the Bylaws.

**ARTICLE IX
BYLAWS**

BY-LAWS: The By-Laws of this corporation may be amended, altered or rescinded in the manner provided in such Bylaws.

**ARTICLE X
AMENDMENTS**

The Association reserves the right to amend, alter, change or repeal any provisions contained in these Articles of Incorporation. Amendments to these Articles shall be proposed and adopted in the following manner:

- (A) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.
- (B) An amendment may be proposed either by the Board of Directors or by not less than twenty (20%) percent of the voting interest of the Association.
- (C) Except as otherwise required by law, a proposed amendment to these Articles of Incorporation shall be adopted if it is approved by two-thirds (2/3rds) of the members participating either in person or by proxy at any duly-called meeting of the Association, 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, or by approval in writing by at least 230 of the voting interests.

- (D) An amendment shall become effective upon filing with the Secretary of State and recording a copy in the Public Records of Charlotte County, Florida.

**ARTICLE XI
INDEMNIFICATION OF OFFICERS AND DIRECTORS**

A. Indemnity. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceedings, 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 attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceedings, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith, nor 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 (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceedings 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, 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.

B. Expenses. 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 Article XI(A) above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

C. 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 proceedings upon receipt of an undertaking by or on behalf of the affected director, officer, or committee member to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article XI, or as otherwise permitted by law.

D. Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such person.

E. Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, or committee member 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. Notwithstanding anything in this Article XI to the contrary, the provisions herein provided for indemnification shall only be applicable to the extent insurance coverage does not apply or is insufficient.

ARTICLE XII MERGERS AND CONSOLIDATIONS

Subject to the provisions of the recorded covenants and restrictions applicable to The Properties described in the Declaration of Covenants and Restrictions, and to the extent permitted by law, the Corporation may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of two-thirds of the members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be mailed to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

ARTICLE XIII DISSOLUTION

The Corporation may be dissolved only with the assent given in writing and signed by the members entitled to cast two-thirds of the membership. Written notice of a proposal to dissolve, setting forth the reasons thereof and the disposition to be made of the assets shall be mailed to every member at least ninety (90) days in advance of any action taken.

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**AMENDED AND RESTATED BYLAWS
OF
OAK HOLLOW PROPERTY OWNERS' ASSOCIATION, INC.**

1. IDENTITY. These are the Bylaws of Oak Hollow Property Owners' Association, Inc., a not-for-profit Florida Corporation formed for the purpose of administering Oak Hollow (hereinafter "the Property") which is located at Port Charlotte, Charlotte County, Florida, upon the lands described in the Declaration of Covenants and Restrictions recorded in O.R. Book 617, commencing at Page 735 of the Public Records of Charlotte County, Florida, as same is amended and supplemented from time to time. (The corporation shall hereafter be referred to as the "Association.")

1.1 Office. The office of the Association shall at 1111 Forrest Nelson Blvd., Port Charlotte, Charlotte County, Florida 33952, or such other location within Charlotte County as may from time to time be determined by the Board of Directors.

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

1.3 Seal. A seal of the Association may be adopted by the Board of Directors. If adopted, it may be changed by the Board of Directors and shall bear the name or abbreviated name of the Association, the word "Florida," the year of establishment, and shall identify the Association as a not-for-profit corporation.

1.4 Definitions. All terms used in these Bylaws shall have the same meaning, to the extent applicable, as set forth in the Declaration of Covenants and Restrictions for the property, the Articles of Incorporation for the Association, and the Florida Homeowners Association Act (Chapter 720, Florida Statutes, 2000), all as amended from time to time.

1.5 Governing Documents. The term Governing Documents shall mean the Declaration of Covenants and Restrictions, the Articles of Incorporation, these Bylaws, and the Rules and Regulations of the Association, and any other document referenced in the Declaration of Covenants and Restrictions as constituting part of the Governing Documents, all as amended from time to time.

2. MEMBERS' MEETINGS.

2.1 Annual Meetings. Annual members' meetings shall be held at the office of the Association or at such other convenient location as may be determined by the Board of Directors on the date and time determined by the Board for the purpose of transacting any business authorized to be transacted by the members.

2.2 Special Meetings. Special members' meetings shall be held whenever called by the President or by a majority of the Board of Directors and shall be called by the President when requested by written notice from 20% of the voting interests of the Association. Notice of special meetings must include a description of the purpose or purposes for which a meeting is called.

2.3 Notice of Members' Meetings. Notice of all annual members' meetings, stating the time and place of the meeting, shall be sent to each owner by United States mail or hand delivery, at least 14 days prior to the annual meeting. Unless otherwise provided in the Declaration, notice of all special members' meetings, stating time, place, and purpose(s) of the meeting, shall be sent to each owner by United States mail or hand delivery, unless waived in writing, at least fourteen (14) days prior to the special meeting.

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

2.4 Adjournment. Adjournment of an annual or special meeting to a different date, time, or place must be announced at that meeting before an adjournment is taken, or additional notice must be given of the new date, time, or place pursuant to Section 720.306(5) Florida Statutes (2000), as amended from time to time, and Article 2.3 of these Bylaws. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting.

2.5 Board of Directors Election Meetings - Notice and Procedure. The regular election of Directors shall occur at the annual meeting.

2.5.1 Qualifications. Every director must be a member of the Association.

2.5.2 Election of Directors. The election of directors shall occur at the annual meeting.

2.5.2.1 The ballot prepared for the annual meeting shall list all pre-nominated Director candidates in alphabetical order. Ballots shall be mailed to all members with notice of the annual meeting and may be returned to the Association prior to the meeting, or cast at the meeting.

2.5.2.2 The Board of Directors may appoint a nominating committee to nominate or recommend specific persons for election to the Board, and shall generally recruit and encourage eligible persons to run as candidates for election to the Board. Any eligible person desiring to be a candidate may nominate themselves at the annual meeting.

2.5.2.3 Directors shall be elected by a plurality of the votes cast.

2.5.2.4 Tie votes 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.

2.5.3 The Board of Directors may adopt additional procedures to ensure a fair election.

2.6 Quorum. A quorum at members' meetings shall consist of persons entitled to cast thirty (30%) percent of the voting interests of the entire membership. Decisions made by a majority of the voting present and voting in person or by proxy at a meeting at which a quorum is present shall be binding and sufficient for all purposes except such decisions that require a larger percentage in which case the percentage required in F.S. 720 or the Governing Documents shall govern.

2.7 Indivisible Vote/Suspension of Voting Rights. Each dwelling unit shall have one indivisible vote. If multiple owners of a unit cannot agree on a vote, the vote shall not be counted as to the issue upon which disagreement exists. Voting certificates are not required. The Association may suspend the voting rights of a member for the non-payment of regular assessments that are delinquent in excess of ninety (90) days.

2.8 Proxies. Votes may be cast in person or by proxy for any matter. Proxies shall be in writing, signed and dated, and shall be valid only for the particular meeting designated therein or an adjournment thereof, but in no event for more than 90 days, and must be filed with the Association before or at the voter registration immediately preceding the meeting, or adjournment thereof. Owners may retroactively cure any alleged defect in a proxy by signing a statement ratifying the owner's intent to cast a proxy vote. The use of proxies is to be liberally construed.

2.9 No Quorum. If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, according to procedures set forth in Bylaw Section 2.4.

2.10 Order of Business. The order of business at annual members' meetings and, as far as applicable at all other members' meetings, shall be:

- 2.10.1 Election of Chairman of the meeting, unless the president or Vice-President of the Association is present then he (or she) shall preside. The Chairman may appoint a parliamentarian to assist in the conduct of the Association meetings.
- 2.10.2 Calling of the roll, certifying of proxies or other means of establishing a quorum.
- 2.10.3 Proof of Notice of meeting or waiver of notice.
- 2.10.4 Reading and disposing of any unapproved minutes.
- 2.10.5 Reports of Directors.
- 2.10.6 Reports of Committees.
- 2.10.7 Election of Directors.
- 2.10.8 Unfinished business.
- 2.10.9 New business.
- 2.10.10 Adjournment.

2.11 Action Without a Meeting. Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any annual or special meeting of members, or any action which may be taken by the Association, may be taken without a meeting, without prior notice, and without a vote if a consent in writing setting forth the action so taken shall be signed by the requisite number of voting interests to approve the action. Members may also consent in writing to action taken at a meeting, before or after the meeting, by providing a written statement to that effect and their vote shall be fully counted as though they had attended the meeting.

3. BOARD OF DIRECTORS

3.1 Number, Term, and Qualifications. The affairs of the Association shall be governed by a Board composed of not less than five (5) nor more than nine (9) Directors, the exact number to be determined from time to time by Board resolution. All Directors shall be members. All officers of a corporation, trust, partnership, or other such owner shall be deemed to be members so as to be eligible for Board membership. Directors shall be elected by the voting interests on the date of the annual membership meeting for a one-year term. The term of each Director's service shall extend until their elected term is completed and thereafter until their successor is duly elected and qualified or until the Director resigns. A seat held by a Director who ceases to be an owner shall thereby automatically become vacant.

3.2 Board Vacancies. Vacancies in the Board of Directors shall be filled by appointment by a majority vote of the remaining Directors for the remainder of the unexpired term as provided in Article 3.1; provided that when a Director has been recalled by the membership, the vacancy created by his removal cannot be filled with the same person as has been removed from the Board.

3.3 Organizational Meeting. The organizational meeting of each newly-elected Board of Directors shall be held immediately following the annual meeting for the purpose of electing officers, unless otherwise noticed.

3.4 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings, unless fixed by Board resolution, shall be given to each Director personally or by mail, telephone, or telecopier at least two (2) days (48 hours) prior to the day named for such meeting.

3.5 Special Meetings. Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of any three (3) Directors. Not less than two days' (48 hours) notice of the meeting (except in an emergency) shall be given to each Director personally or by mail, electronic mail, telephone, or telecopier, which notice shall state the time, place, and purpose of the meeting.

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

3.7 Notice to Owners of Board Meetings. All meetings of the Board shall be open to all members except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all board meetings shall be posted in a conspicuous place in the community at least 48 hours in advance of the meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting shall be mailed or delivered to each member at least seven days before the meeting, except in an emergency. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments.

3.8 Board Meetings, Quorum, and Voting. A quorum at Directors' Meetings shall consist of a majority of the Directors. The acts approved by a majority of Directors present at a meeting shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings (except that Directors may vote by secret ballot when electing Officers) and a vote or abstention for each member present shall be recorded in the minutes. Directors may not abstain from voting except in the case of an asserted conflict of interest. If at any meeting of the Board there be less than a quorum present, the Director(s) present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum.

3.9 Minutes of Meetings. The minutes of all meetings of the Board shall be kept in a book available for inspection by the members of the Association, or their authorized representatives, and the directors at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years. A vote or abstention from voting on each matter voted upon for each director present at a Board meeting must be recorded in the minutes.

3.10 Committees. The Board may, by resolution duly adopted, appoint committees. Any committee shall have and may exercise such powers, duties, and functions as may be determined by the Board from time to time, which may include any powers which may be exercised by a committee. If required by law, the notice requirements of Section 3.7 shall apply to the meetings of any such committee.

3.11 Removal of Directors. Any director may be removed with or without cause by the vote of the majority of the members of the Association at a special meeting of the members called by not less than ten percent (10%) of the members of the Association expressly for that purpose. Alternatively, any director may be removed with or without cause by the agreement in writing by a majority of the members of the Association. The vacancy on the Board caused by any such removal shall be filled by the remaining members of the Board, as in the case of any other vacancy on the Boards.

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

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

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS. All of the powers and duties of the Association existing under Chapters 617 and 720, Florida Statutes (2000), the Declaration of Covenants and Restrictions, the Articles of Incorporation, these Amended and

Restated Bylaws, and the Rules and Regulations of the Association, all as amended from time to time, shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees subject only to the approval by unit owners where such is specifically required. Such powers and duties of the Directors shall include, but shall not be limited to, the following:

4.1 **Assess.** To adopt budgets and make and collect assessments against owners to defray the costs of the Association, subject to any limitations in the Declaration of Covenants and Restrictions.

4.2 **Spend Money.** To use the proceeds of assessments in the exercise of its powers and duties.

4.3 **Maintenance.** To maintain, repair, replace, and operate the Property, as provided in the Declaration of Covenants and Restrictions.

4.4 **Rules.** To enact Rules and Regulations concerning the transfer, use, appearance, and occupancy of the Property and administration or operation of the Association, subject to any limitations contained in the Declaration of Covenants and Restrictions.

4.5 **Casualty Repair.** To reconstruct any association property improvements after casualty and to further improve the Property.

4.6 **Approval of Transfers.** To approve or disapprove proposed transactions or transfers of title in the manner provided by the Declaration of Covenants and Restrictions, and to charge a preset fee in connection with such right of approval.

4.7 **Enforcement.** To enforce by legal means the provisions of applicable laws and the Governing Documents, and to interpret said Governing Documents, as the final arbiter of their meaning.

4.8 **Management.** To contract for management of the Property.

4.9 **Insurance.** To carry insurance for the protection of the common area and Association against casualty and liabilities.

4.10 **Utilities.** To pay the cost of all utility services rendered to the Common Area and not billed to owners of individual dwelling units.

4.11 **Hire and Fire.** To employ personnel to be paid a reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.

4.12 **Sue, Execute Documents.** To bring and defend suits, make and execute contracts, deeds, mortgages, notes, and other evidence of indebtedness, leases, and other instruments by its officers and to purchase, own, lease, convey, and encumber real and personal property. To grant easements and licenses over the Property necessary or desirable for proper operation of the Homeowners' Association.

4.13 **Suspend Use Rights and Levy Fines.** The Directors may, pursuant to F.S. 720.305, suspend, for a reasonable period of time, the rights of a member or a member's tenants, guest, or invitees or both, to use the common areas and facilities, and may levy reasonable fines as set forth in the Declaration of Covenants and Restrictions.

5. OFFICERS.

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

5.2 President Powers and Duties. The President shall be the chief executive officer of the Association. The President shall have general supervision over the affairs of the Association and shall have all of the powers and duties which are usually vested in the office of President of a corporation.

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

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

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

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

5.7 Indemnification

5.7.1 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), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (a) 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 (b) 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.

5.7.2 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 5.7.1 above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees), actually and reasonably incurred by him in connection therewith.

5.7.3 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 5.7.

5.7.4 Miscellaneous. The indemnification provided by this Article 5.7 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, 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.

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

5.7.6 Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article 5.7 may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

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

6. MINUTES AND INSPECTION OF RECORDS.

6.1 Minutes of all meetings of the members of the Association and of the Board of Directors of an association must be maintained in written form or in another form that can be converted into written form within a reasonable time.

6.2 The official records shall be maintained within the State of Florida and shall be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access. The Association shall be required to make available to prospective purchasers of Lots current copies of the Declaration, Articles, and Bylaws, and the most recent annual financial statement of the Association. The Association shall maintain each of the following items which constitute the official records of the Association.

6.2.1 Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the Association is obligated to maintain, repair, or replace.

6.2.2 A copy of the Bylaws of the Association and of each amendment to the Bylaws.

6.2.3 A copy of the Articles of Incorporation of the Association and of each amendment thereto.

6.2.4 A copy of the Declaration of Covenants and Restrictions and a copy of each amendment thereto.

6.2.5 A copy of the current rules of the Homeowners' Association.

6.2.6 The minutes of all meetings of the board of directors and of the members, which minutes must be retained for at least seven (7) years.

6.2.7 A current roster of all members and their mailing addresses and parcel identifications.

6.2.8 All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years.

6.2.9 A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility. Bids received by the Association for work to be performed must also be considered official records and must be kept for a period of one (1) year.

6.2.10 The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and accounting records must include:

6.2.10.1 Accurate, itemized, and detailed records of all receipts and expenditures.

6.2.10.2 A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.

6.2.10.3 All tax returns, financial statements, and financial reports of the Association.

6.2.10.4 Any other records that identify, measure, record, or communicate financial information.

6.3 The association may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspections, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying.

7. FISCAL MANAGEMENT. Shall be in accordance with the following provisions and subject to any limitations contained in the Declaration of Covenants and Restrictions:

7.1 Budget. The Board shall adopt an annual budget. The proposed budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The Board meeting at which the budget is to be discussed and/or adopted must be posted or mailed as set forth in Section 3.7, and the notice must include a statement that the budget will be considered. Copies of the proposed budget will be made available to members at the meeting. The association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. If requested, the copy must be provided to the member within the time limits set forth in Article 6 of these Bylaws. If the Board adopts a budget which requires assessments against unit owners that are more than fifteen (15%) percent greater than the last year's assessments, the members may petition for a special meeting to consider a substitute budget. The petition must be signed by at least 10% of the owners and delivered to the Board within twenty-one (21) days of adoption of the budget for that fiscal year. The special meeting shall be held within sixty (60) days of receipt of the petition and the Board shall provide each owner with notice of the meeting (by mail or hand delivery) at least fourteen (14) days in advance. A substitute budget requires approval of the majority of the entire membership of the Association. If the vote fails or there is no meeting due to lack of quorum, the budget previously adopted by the Board shall take effect as scheduled. Any determination of whether assessments are more than fifteen (15%) percent greater than the previous year shall exclude reserves, expenses that are not anticipated to be incurred on a regular or annual basis or assessments for capital improvements.

7.2 Financial Reporting. The association shall prepare an annual financial report within 60 days after the close of the fiscal year. The association shall, within the time limits set forth in Article 6 of these Bylaws, provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report must consist of either:

7.2.1 Financial statements presented in conformity with generally accepted accounting principles; or

7.2.2 A financial report of actual receipts and expenditures, cash basis, which report must show:

7.2.2.1 The amount of receipts and expenditures by classification;
and

7.2.2.2 The beginning and ending cash balances of the association.

7.3 Assessments. The annual shares of the Members of the common expenses shall be made payable in installments due quarterly in advance and shall become due on the first day of each such period and shall become delinquent thirty (30) days thereafter. The Association shall have the right to accelerate assessments of an owner delinquent in the payment of assessments. Accelerated assessments shall be due and payable on the date a claim of lien is filed and may include the amounts due for the remainder of the fiscal year for which the claim of lien was filed.

7.4 Special Assessments. Assessments for Association expenses which are not provided for and funded in the budget or an amendment to the budget may be made by the Board of Directors, and the time of payment shall likewise be determined by them. Any non-emergency special assessment in an amount of more than Ten Thousand Dollars (\$10,000) requires the approval of two-thirds (2/3rds) of the members voting (in person or by proxy) at any regular or special meeting of the membership or the written agreement of 230 members.

7.5 Assessment Roll. The assessments for Association expenses and charges shall be set forth upon a roll of the Dwelling Units which shall be available for inspection at all reasonable times by Members. Such roll shall indicate for each Dwelling Unit the name and address of the owner, and the assessments and charges paid and unpaid. A certificate made by a duly authorized representative of the Association or by the Board of Directors as to the status of a Dwelling Unit's account may be relied upon for all purposes by any person for whom made.

7.6 Liability for Assessments and Charges. A Member shall be liable for all assessments and charges coming due while the owner of a Dwelling Unit, and except as otherwise provided in the Declaration with respect to Institutional First Mortgagees, such Member and Member's grantees or successors after a conveyance or other acquisition of title shall be jointly and severally liable for all unpaid assessments and charges due and payable up to the time of such conveyance. Liability may not be avoided by waiver of the use or enjoyment of any Association property or by abandonment of the Dwelling Unit for which the assessments are due.

7.7 Liens for Assessments. The unpaid portion of an assessment, including an accelerated assessment which is due, together with all costs, interest, late fees, and reasonable attorney's fees for collection (including those incurred prior to lien preparation), shall be secured by a continuing lien upon the unit, and any tangible personal property located in the unit. The effective date of the lien shall relate back to the filing of the Original Declaration, and shall be superior to all other liens, except first mortgages, taxes, and any lien afforded priority by law.

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

7.9 Collection Interest; Administrative Late Fee; Application of Payments. Assessments or charges paid on or before thirty (30) days after the date due shall not bear interest, but all sums not paid on or before thirty (30) days shall bear interest at the highest lawful rate from the date due until paid. In addition to such interest the Association may charge an administrative late fee. All payments upon account shall be first applied to interest, then the late fee, then to any costs and reasonable attorney's fees incurred, and then to the assessment payment first due.

7.10 Collection Suit. The Association, at its option, may enforce collection of delinquent assessments or charges by suit at law, by foreclosure of the lien securing the assessments or charges, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment, or decree, together with those which have become due by acceleration or which have thereafter become due, plus interest thereon, and all costs incident to the collection and the proceedings, including reasonable attorney's fees, incurred before trial, at trial, and on appeal.

The Association may attach rental income for delinquent Dwelling Units and may withhold approval for the sale, lease, or other transfer of a unit, or any interest therein, until all past due assessments, interest, late fees, costs, and attorney's fees have been paid in full.

7.11 Association Depository. The depository of the Association shall be a bank or banks or state or federal savings and loan associations with offices in Florida and other insured depositories as shall be designated from time to time by the Directors and in which the monies for the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

7.12 Commingling of Funds Prohibited. All funds shall be maintained separately in the Association's name. No community association manager or business entity required to be licensed or registered under F.S. 468.432, and no agent, employee, officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other homeowners' association or community association as defined in F.S. 468.431, or with those of any other entity.

7.13 Fidelity Bonds. Fidelity bonds may be obtained by the Board of Directors for all officers and Directors of the Association who control or disburse Association funds. The amount of such bonds shall be determined by the Directors.

8. PARLIAMENTARY RULES. Robert's Rules of Order (latest edition) shall be used as a guide to ensure fairness, impartiality, and respect for minority views without unduly burdening majority rights. The meetings of the Members shall be conducted in accordance with these Amended and Restated Bylaws and the procedures established by the Board from time to time, including the form of voting documents to be used. The ruling of the Chairman of the Members' meetings, who shall be the President of the Association unless he or the Board of Directors designates a third person, shall be binding unless contrary to law.

9. BY-LAW AMENDMENTS. Amendments to the Bylaws shall be proposed in the following manner:

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

9.2 Initiation. An amendment may be proposed by either a majority of the Board of Directors or by twenty-five percent (25%) of the voting interests of the Association.

9.3 Percentage Vote. A resolution adopting a proposed amendment must receive approval of two-thirds (2/3) of the voting interests of the Association present (in person or by proxy) and voting at a duly called meeting at which a quorum is present so long as at least 230 members vote in favor of the amendment. Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing. Alternatively, amendments to these Bylaws may be adopted in writing, without a meeting, with the approval of at least 230 of the voting interests.

9.4 Effective Date. An amendment to the Bylaws shall become effective only after being recorded in the Public Records of Charlotte County, Florida.

10. DISPUTE RESOLUTION. Nothing herein shall preclude the Association from pursuing any remedy for the violation of the Governing Documents or disputes with a unit owner or other party as may be available to the Association under the laws of the State of Florida or the Governing Documents. All remedies are cumulative.

11. MISCELLANEOUS. The following miscellaneous provisions shall apply to these Bylaws and the Homeowners' Governing Documents.

11.1 Conflicts. The term "Governing Documents," as used in these Bylaws and elsewhere shall include the Declaration of Covenants and Restrictions for the Property, the Articles of Incorporation, these Bylaws, the Rules and Regulations of the Association, the Plats, Surveys, Plot Plans, and graphic descriptions of improvements of record, and all other exhibits to the original

Declarations of Covenants and Restrictions. In the event of a conflict between the language in the Declaration of Covenants and Restrictions and the graphic descriptions of record, the graphic description of record shall control. In the event of a conflict between language in any of the other Governing Documents, the following priorities shall control:

1. Declaration of Covenants and Restrictions;
2. Articles of Incorporation;
3. Bylaws; and
4. Rules and Regulations.

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

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

12. EMERGENCY BOARD POWERS. In the event of any "emergency" as defined in Section 12.7 below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes, as amended from time to time.

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

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

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

12.4 Corporation 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.

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

12.6 These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

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

12.7.1 a state of emergency declared by local civil or law enforcement authorities;

12.7.2 a hurricane warning;

12.7.3 a partial or complete evacuation order;

12.7.4 federal or state "disaster area" status; or

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

An "emergency" also exists for purposes of this Section during the time when a quorum of the board cannot readily be assembled because of the occurrence of a catastrophic event, such as a hurricane, earthquake, act of terrorism, or other similar event. A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive quality.

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