

Cocoplum Property Owners Association of Palm Beach, Inc.  
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# **Declaration of Covenants and Restrictions**

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## DECLARATION OF COVENANTS AND RESTRICTIONS FOR COCOPLUM

THIS DECLARATION is made as of the 16th day of April, 2002, by WESTBROOKE COMPANIES, INC., a Florida corporation, which declares hereby that "The Properties" described in Article 2 of this Declaration are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

### ARTICLE 1.

#### DEFINITIONS AND INTERPRETATION

1.1 Definitions. 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 COCOPLUM PROPERTY OWNERS ASSOCIATION OF PALM BEACH, INC. a Florida corporation not for profit.

(b) "Builder" shall mean and refer to any party constructing a Unit on a Lot owned by such party; provided, however, that a party constructing a Unit on a Lot owned by another party shall be deemed a "Builder" only for purposes of Sections 10.3 and 10.4 hereof.

(c) "Common Areas" shall mean and refer to all property designated as Common Areas in any future recorded supplemental declaration; together with the landscaping and any improvements thereon, including, without limitation, all private roadways and pedestrian walkway areas, the primary access road serving The Properties, all lakes located on or immediately adjacent to the Properties; the perimeter walls, structures, recreational facilities, open space, walkways, cluster mailboxes and mail receptacles, sprinkler systems and street lights, if any, but excluding any public utility installations thereon, and any other property of Developer not intended to be made Common Areas.

(d) "Community Development District" shall mean and refer to any Community Development District established for The Properties pursuant to Chapter 190, Florida Statutes.

(e) "Developer" shall mean and refer to WESTBROOKE COMPANIES, INC., a Florida corporation, and its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. Each Developer may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with the sale to Builder(s) of portions of The Properties. In the event of such a partial assignment, the assignee shall not be deemed the

Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a nonexclusive basis.

(f) "Landscaping and Pedestrian Areas" shall mean and refer to strips of land of varying widths abutting the roads within, or adjacent to, The Properties or portions or all of their entire length, notwithstanding that any such strips of land may be located upon Lots or beyond the boundaries of The Properties (provided that as to such portions which are beyond the boundaries of The Properties, the Developer or the Association has an easement over and upon such areas). The Developer may establish a physical boundary between the Landscaping and Pedestrian Areas referred to above and the other portions of an affected Lot, if any, but in the absence of such physical boundary, the Developer shall have the absolute right to determine the actual boundary and such determination shall be binding on all affected associations and the Owners. The fact that certain of such Landscaping and Pedestrian Areas are not legally described shall not affect their character as provided herein. No Owner shall alter any Landscaping and Pedestrian Area or make any use of same contrary to its purposes.

(g) "Lot" shall mean and refer to any Lot on any plat of all or a portion of The Properties, which plat is designated by Developer hereby or by any other recorded instrument to be subject to these covenants and restrictions, any Lot shown upon any resubdivision of any such plat, any individual unit in a condominium or cooperative project, and any other property hereafter declared as a Lot by Developer and thereby made subject to this Declaration. Notwithstanding the foregoing, the portions of the common elements of a condominium or cooperative which are outside of its building(s) shall be deemed a Lot for purposes of landscape maintenance duties, the granting and use of easements and in the case of any other provision of this Declaration which affects a Lot in the physical sense of rights of entry and the like.

(h) "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article 3 hereof.

(i) "Member's Permittee" shall mean and refer to a person described in Section 8.3 hereof.

(j) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties, including Builders and the Developer.

(k) "The Properties" shall mean and refer to all existing properties, and additions thereto, as are now or hereafter made subject to this Declaration, except those which are withdrawn from the provisions hereof in accordance with the procedures hereinafter set forth.

(l) "Unit" shall mean and refer to the individual residential structure constructed on a Lot or an individual condominium or cooperative unit.

1.2 Interpretation. The provisions of this Declaration as well as those of the Articles, By-Laws and any rules and regulations of the Association shall be interpreted by the Board of Directors. Any such interpretation of the Board which is rendered in good faith shall be final, binding and conclusive if the Board receives a written opinion of legal counsel to the Association, or the counsel having drafted this Declaration or other applicable document, that the interpretation is not unreasonable, which opinion may be rendered before or after the interpretation is adopted by the Board. Notwithstanding any rule of law to the contrary, the provisions of this Declaration and the Articles, By-Laws and the Rules and Regulations of the Association shall be liberally construed so as to effectuate the purposes herein expressed with respect to the efficient operation of the Association and The Properties, the preservation of the values of the Lots and Units and the protection of Developer's and Builders' rights, benefits and privileges herein contemplated.



## ARTICLE 2.

### PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

2.1 Legal Description. The real property which, initially, is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Palm Beach County, Florida, and is more particularly described in Exhibit "A" attached hereto and made a part hereof, all of which real property (and all improvements thereto), together with additions thereto, but less any withdrawals therefrom, is herein referred to collectively as "The Properties".

2.2 Withdrawal. Developer reserves the right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of The Properties then owned by Developer or its affiliates or the Association from the provisions of this Declaration to the extent included originally in error or as a result of any changes whatsoever in the plans for The Properties desired to be effected by Developer; provided, however, that such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for The Properties. No such withdrawal amendment shall be recorded until approved by the Palm Beach County attorney's office. Nothing contained herein shall create an obligation on the part of the County Attorney's office to approve any such amendment. Any withdrawal of land not owned by Developer shall require the written consent or joinder of the then-owner(s) and mortgagee(s) of such land. No lands shall be withdrawn from this Declaration unless it is also withdrawn from the Master Plan of the Property.

## ARTICLE 3.

### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.1 Membership. Every person or entity who is a record Owner of a fee interest in any Lot shall be a Member of the Association. Notwithstanding anything else to the contrary set forth in this Article, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association. The Articles of Incorporation and By-Laws of the Association are attached as Exhibits B and C hereto.

3.2 Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all those Owners as defined in Section 3.1 with the exception of the Developer (as long as the Class B Membership shall exist, and thereafter, the Developer shall be a Class A Member to the extent it would otherwise qualify). Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Section 3.1.

Class B. The Class B Member shall be the Developer. The Class B member shall be entitled to one (1) vote, plus two (2) votes for each vote entitled to be cast in the aggregate at any time and from time to time on behalf of the Class A Members. The Class B membership shall cease and terminate: (a) the earlier of (i) ninety (90) days after ninety percent (90%) of the Lots have been sold and conveyed by the Declarant or Builders (provided, that sales from Declarant to a Builder shall not be used for determining the threshold of sales described above) or (ii) December 31, 2008, or (b) sooner at the election of Developer (whereupon the Class A Members shall be obligated to elect the Association's Board of Directors and assume control of the Association).

3.3 General Matters. When reference is made herein, or in the Articles, By-Laws, Rules and Regulations, management contracts or otherwise, to a majority or specific percentage of Members, such

reference shall be deemed to be reference to a majority or specific percentage of the votes of Members represented at a duly constituted meeting of Members (i.e., one for which proper notice has been given and at which a quorum exists).

#### ARTICLE 4.

##### COMMON AREAS; CERTAIN EASEMENTS; COMMUNITY DEVELOPMENT DISTRICT

4.1 Members' Easements. Each Member, and each Member's Permittee, shall have a non-exclusive permanent and perpetual easement over and upon the Common Areas for the intended use and enjoyment thereof in common with all other such Members, Member's Permittees, their agents and invitees, but in such manner as may be regulated by the Association. Without limiting the generality of the foregoing, such rights of use and enjoyment are hereby made subject to the following:

(a) The right and duty of the Association to levy assessments against each Lot for the purpose of maintaining the Common Areas and any facilities located thereon in compliance with the provisions of this Declaration and with the restrictions on the plats of portions of The Properties from time to time recorded.

(b) The right of the Association to suspend the Member's (and his Member's Permittees') right to use the Common Area recreational facilities (if any) for any period during which any assessment against his Lot remains unpaid for more than thirty (30) days; and for a period not to exceed sixty (60) days for any infraction of this Declaration or the Association's lawfully adopted rules and regulations.

(c) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities (if any) situated on the Common Areas.

(d) The right of the Association to adopt at any time and from time to time and enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon, including the right to fine Members as hereinafter provided. Any rule and/or regulation so adopted by the Association shall apply until rescinded or modified as if originally set forth at length in this Declaration.

(e) The right to the use and enjoyment of the Common Areas and facilities thereon shall extend to all Members' Permittees, subject to regulation from time to time by the Association as set forth in its lawfully adopted and published rules and regulations.

(f) The right of Developer to permit such persons as Developer shall designate to use the Common Areas and all recreational facilities located thereon (if any).

(g) The right of Developer and the Association to have, grant and use general ("blanket") and specific easements over, under and through the Common Areas.

(h) The right of the Association, by a 2/3rds affirmative vote of the entire membership, to dedicate or convey portions of the Common Areas to any other association having similar functions, or any public or quasi-public agency, Community Development District or similar entity under such terms as the Association deems appropriate and to create or contract with the other association, Community Development District and special taxing district for lighting, roads, recreational or other services, monitoring, or communications and other similar purposes deemed appropriate by the Association (to which such dedication or contract all Owners, by the acceptance of the deeds to their

Lots, shall be deemed to have consented, no consent of any other party, except Developer, being necessary).

WITH RESPECT TO THE USE OF THE COMMON AREAS AND THE PROPERTIES GENERALLY, ALL PERSONS ARE REFERRED TO SECTIONS 14.10, 14.11 AND 14.12, AND ARTICLE 17 HEREOF, WHICH SHALL AT ALL TIMES APPLY THERETO.

4.2 Community Development District. To the extent that any portion of The Properties is subject to, or governed by, a Community Development District, or to the extent that the members of the Association elect to have any portion of The Properties owned, maintained or governed by a Community Development District as provided for in Section 4.1(h) above, the Community Development District shall have the authority to plan, establish, acquire, equip, operate and maintain such portions and assess all owners therefor. In addition, the Community Development District shall have the right to perform maintenance service on the lakes located on or immediately adjacent to the Property (which are otherwise the responsibility of the Association) if the Association fails to maintain the lakes or the Association and the Community Development District agree that the Community Development District will assume responsibility for such maintenance. In either case, the Community Development District shall have the right to assess all owners therefor.

4.3 Easements Appurtenant. The easements provided in Section 4.1 shall be appurtenant to and shall pass with the title to each Lot, but shall not be deemed to grant or convey any ownership interest in the Common Areas subject thereto.

4.4 Maintenance. The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Areas and, to the extent not otherwise provided for, the paving, drainage structures, landscaping, improvements and other structures (except public utilities) situated on the Common Areas, if any, all such work to be done as ordered by the Board of Directors of the Association. Without limiting the generality of the foregoing, the Association shall assume all of Developer's and its affiliates' responsibilities to Palm Beach County and its governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Common Areas and shall indemnify and hold Developer and its affiliates harmless with respect thereto in the event of the Association's failure to fulfill those responsibilities.

In addition to maintaining the Common Areas, the Association shall be responsible for maintaining all Landscaping and Pedestrian Areas to the same standard as that applicable to all other portions of The Properties and an easement over all such Landscaping and Pedestrian Areas is hereby granted and declared for such purposes.

The Association shall also be responsible for maintaining the landscaping and pavers in Hypoluxo Road and Haverhill Road pursuant to Conditions E15 and E16 of Resolution No. R-2001-1672 of the Board of County Commissioners of Palm Beach County [Resolution Approving Zoning Petition EAC 2000-115(A), Development Order Amendment, Petition of Westbrooke Companies, Inc. by Carole Turk, Agent (Hypoluxo/Haverhill PUD)].

All work pursuant to this Section and all expenses incurred or allocated to the Association pursuant to this Declaration shall be paid for by the Association through assessments (either general or special) imposed in accordance herewith.

To the extent any lake to be maintained by the Association hereunder is conveyed to Palm Beach County or the CDD and the County or the CDD accepts maintenance thereof, the Association shall no longer be required to maintain same.

No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Areas or abandonment of the right to use the Common Areas.



4.5 Utility Easements. Use of the Common Areas for utilities, as well as use of the other utility easements as shown on relevant site plans, shall be in accordance with the applicable provisions of this Declaration and said plans. Developer and its affiliates and its and their designees shall have a perpetual easement over, upon and under the Common Areas and the unimproved portions of the Lots for the installation, operation, maintenance, repair, replacement, alteration and expansion of utilities.

4.6 Public Easements. Fire, police, health and sanitation, park maintenance and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas in the performance of their respective duties.

4.7 Fence Easement. An Owner of a Unit with a side entrance and an entry sidewalk that runs along that Lot's side Lot line shall have an easement extending 1.8 feet inside the adjacent Lot for the placement of a fence and a gate with concrete columns running to a point which intersects with the side fence.

4.8 Drainage Lake Maintenance Easements. Easements are hereby declared and exist and are granted in favor of the Association, the Lake Worth Drainage District, South Florida Water Management District and any other governmental authority having jurisdiction for purposes of constructing and maintaining all lakes, detention ponds, retention ponds and drainage areas and facilities, together with any necessary appurtenances incidental of and necessary therefor. Such drainage and lake maintenance easements shall be a twenty (20) foot wide lake maintenance easement along the rear of each Lot abutting the lakes as shown on the Plats for Cocoplum and those drainage easements established on the Plats for Cocoplum.

4.9 Encroachments. If any portion of the Common Facilities encroaches upon any Lot; if any Dwelling Unit encroaches upon any Lot, or upon any portion of the Common Facilities; or if any encroachment shall hereafter occur as a result of (i) construction or reconstruction of any improvements; (ii) settling or shifting of any improvements; (iii) any addition, alteration or repair to the Common Facilities made by or with the consent of the Association; (iv) any repair or restoration of any improvements (or any portion thereof) or any Dwelling Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Dwelling Unit or the Common Facilities; or (v) any non-purposeful or non-negligent act of an Owner except as may be authorized by the Board, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the improvements shall stand.

4.10 Zero Lot Maintenance Easement. When any lot ("Burdened Lot") abuts another Lot ("Benefitted Lot") on which the exterior wall of a Dwelling Unit has been or can be constructed against or immediately contiguous to the interior property (perimeter) line shared by the Benefitted Lot and the Burdened Lot, then the Owner of the Benefitted Lot shall have an easement over the Burdened Lot, which easement shall be three (3') feet in width contiguous to the interior property line running the length of the Benefitted Lot abutting the Burdened Lot for the following purposes:

(a) For installation, maintenance, repair, replacement and the provision of utility services, equipment and fixtures to serve the Benefitted Lot, including but not limited to, electricity, telephones, sewer, water, lighting, irrigation, drainage, television antenna and cable television facilities, and electronic security.

(b) Of support in and to all structural members, footings and foundations of the Dwelling Unit or other improvements which are necessary for support of the Dwelling Unit or other improvements on the Benefitted Lot. Nothing in this Declaration shall be construed to require the Owner of the Burdened Lot to erect, or permit the erection of, additional columns, bearing walls or other structures on its Lot for the support of the Benefitted Lot.

(c) For entry upon, and for ingress and egress through the Burdened Lot, with persons, materials and equipment, to the extent reasonably necessary in the performance of the maintenance, repair, replacement of the Dwelling Unit or any improvements on the Benefitted Lot.

(d) For overhanging troughs, roofs, gutters and down-spouts and the discharge therefrom of rainwater and the subsequent flow thereof over the easement area and the Common Facilities.

An Owner of a Burdened Lot shall have the right to install a gated fence across the easement described above, and the Owner of the Benefitted Lot shall have right of access through such gate for the purposes described above. Except as set forth herein, an Owner of a Burdened Lot shall do nothing on his Lot which interferes with or impairs the use of this easement.

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

4.12 Ownership. The Common Areas are hereby dedicated non-exclusively to the joint and several use, in common, of Developer and the Owners of all Lots that may from time to time constitute part of The Properties and all Member's Permittees and Developer's tenants, guests and invitees, all as provided and regulated herein or otherwise by the Association, subject to Section 2.3 hereof. The Common Areas (or appropriate portions thereof) shall, upon the later of completion of the improvements thereon or the date when the last Lot within The Properties has been conveyed to a purchaser (or at any time and from time to time sooner at the sole election of Developer), be conveyed by quit claim deed to the Association, which shall be deemed to have automatically accepted such conveyance. Beginning from the date this Declaration is recorded, the Association shall be responsible for the maintenance, insurance and administration of such Common Areas (whether or not then conveyed or to be conveyed to the Association), all of which shall be performed in a continuous and satisfactory manner without cost to the general taxpayers of Palm Beach County. It is intended that any and all real estate taxes and assessments assessed against the Common Areas shall be (or have been, because the purchase prices of the Lots and Units have already taken into account their proportionate shares of the values of the Common Area), proportionally assessed against and payable as part of the taxes of the applicable Lots within The Properties. However, in the event that, notwithstanding the foregoing, any such taxes are assessed directly against the Common Areas, the Association shall be responsible for the payment (subject to protest or appeal before or after payment) of same, including taxes on any improvements and any personal property located thereon, which taxes accrue from and after the date these covenants are recorded, and such taxes shall be prorated between Developer and the Association as of the date of such recordation.

Developer and its affiliates shall have the right from time to time to enter upon the Common Areas and other portions of The Properties (including, without limitation, Lots) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities on the Common Areas or elsewhere on The Properties that Developer and its affiliates or designees elect to effect, and to use, without charge, the Common Areas and other portions of The Properties for sales, displays and signs or for any other purpose during the period of construction and sale of any portion thereof or of other portions of adjacent or nearby communities. Without limiting the generality of the foregoing,

Developer and its affiliates shall have the specific right to maintain upon any portion of The Properties sales, administrative, construction or other offices and appropriate exclusive and non-exclusive easements of access and use are expressly reserved unto Developer and its affiliates, and its and their successors, assigns, employees and contractors, for this purpose. Any obligation (which shall not be deemed to be created hereby) to complete portions of the Common Areas shall, at all times, be subject and subordinate to these rights and easements and to the above-referenced activities. Accordingly, Developer shall not be liable for delays in such completion to the extent resulting from the need to complete any of the above-referenced activities prior to such completion.

4.13 Surface Water Management System. The Association hereby accepts responsibility for the operation and maintenance of the surface water management ("SWM") system described in that certain South Florida Water Management ("SFWMD") Permit No. 50-04980-P, a copy of which is attached hereto as Exhibit "D". Copies of the permit and any future SFWMD permit actions shall be maintained by the Registered Agent for the Association for the benefit of the Association. The SWM system is owned by the Association and is declared to be part of the "Common Area" described in Article 1, Section 1 of the Declaration. No amendment to the Declaration which would affect the SWM system, conservation areas or water management portions of the Common Areas shall be effective unless the Association has received a written determination from the SFWMD that such amendment does not necessitate a modification of the SFWMD permit, or such a modification has been issued. If wetland mitigation, maintenance or monitoring is required, the Association shall be required to carry out such obligations successfully, including meeting all permit conditions associated with wetland mitigation, maintenance and monitoring. SFWMD shall have the right to take enforcement action, including a civil action for an injunction and penalties against the Association to compel it to correct any outstanding problems with the SWM system facilities or in mitigation or conservation areas under the responsibility of control of the Association.

## ARTICLE 5.

### COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation for Assessments. Except as provided elsewhere herein, Developer (and each party joining in any supplemental declaration), for all Lots now or hereafter located within The Properties, hereby covenants and agrees, and each Owner of any Lot by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association annual assessments and charges for the operation of, and for payment of expenses allocated or assessed to or through the Association, of and for the maintenance, management, operation and insurance of the Common Areas, including such reasonable reserves as the Association may deem necessary, capital improvement assessments, as provided in Section 5.5 hereof, special assessments as provided in Section 5.4 hereof, master association assessments referred to in Section 5.5 hereof, and all other charges and assessments hereinafter referred to or lawfully imposed by or on the Association, all such assessments to be fixed, established and collected from time to time as herein provided. In addition, special assessments may be levied against particular Owners and Lots for fines, expenses incurred against particular Lots and/or Owners to the exclusion of others and other charges against specific Lots or Owners as contemplated in this Declaration. The annual, special and other assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due and all subsequent Owners until paid, except as provided in Section 5.9 below. Reference herein to assessments shall be understood to include reference to any and all of said charges whether or not specifically mentioned.

5.2 Rates of Assessments. The Board of Directors shall budget and adopt assessments for the Association's general expenses and for those expense items associated with a specific Neighborhood (as



opposed to those general to all of The Properties) which are different from those of other Neighborhoods. Accordingly, while all Lots within a particular Neighborhood shall be assessed at the same rate, Lots in one Neighborhood may be assessed at a rate different from those located in another Neighborhood in order to reflect expense differentials between/among Neighborhoods. Such different assessment rates may also be established based upon a portion of general expenses (e.g., road or Common Areas landscaping maintenance) reasonably allocated to a Neighborhood.

5.3 Purpose of Assessments. The regular assessments levied by the Association shall be used for the purposes expressed in Section 5.1 above and for such other purposes as the Association shall have within its powers and from time to time elect to undertake.

5.4 Special Assessments. In addition to the regular and capital improvement assessments which are or may be levied hereunder, the Association (through the Board of Directors) shall have the right to levy special assessments against an Owner(s) to the exclusion of other Owners for (i) the repair or replacement of damage to any portion of the Common Areas (including, without limitation, improvements and landscaping thereon) caused by the misuse, negligence or other action or inaction of an Owner or his Member's Permittee(s) or (ii) the costs of work performed by the Association in accordance with Article 6 of this Declaration (together with any surcharges collectible thereunder), or against all Owners to cover actual deficits or anticipated deficits in operating and maintenance accounts resulting from inadequate periodic assessments. Any such special assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure procedures and late charges and interest. Any special assessment levied hereunder shall be due within the time specified by the Board of Directors in the action imposing such assessment or may be of an ongoing nature, as provided in Article 6 hereof.

5.5 Capital Improvements. Funds which, in the aggregate, exceed the lesser of \$50,000.00 or 10% of the total amount of the current operating budget of the Association in any one fiscal year which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance, including repairs and replacement per Article 11 hereof) relating to the Common Areas and which have not previously been collected as reserves or are not otherwise available to the Association (other than by borrowing) shall be levied by the Association as assessments only upon approval of a majority of the Board of Directors of the Association and upon approval by two-thirds (2/3) favorable vote of the Members of the Association. The costs of any of the aforesaid work which are less than the above-specified threshold amount shall be collected as general or special assessments upon approval of a majority of the Association's Board of Directors.

5.6 Date of Commencement of Annual Assessments; Due Dates. The annual regular assessments provided for in this Article shall commence on the first day of the month next following the recordation of these covenants and shall be applicable through December 31 of such year. Each subsequent annual assessment shall be imposed for the year beginning January 1 and ending December 31. The annual assessments shall be payable in advance in monthly installments, or in annual, semi- or quarter-annual installments if so determined by the Board of Directors of the Association (absent which determination they shall be payable monthly). The assessment amount (and applicable installments) may be changed at any time by said Board from that originally stipulated or from any other assessment that is in the future adopted. The original assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, at any appropriate time during the year), but the amount of any revised assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year. The due date of any special assessment or capital improvement assessment shall be fixed in the Board resolution authorizing such assessment.

5.7 Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against the Lots subject to the Association's jurisdiction for each assessment period, to the extent practicable, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto twenty (20) days prior to payment of the



first installment thereof, except as to special assessments. In the event no such notice of the assessments for a new assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein. The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including affiliates of Developer) for management services, including the administration of budgets and assessments as herein provided. The Association shall have all other powers provided in its Articles of Incorporation and By-Laws.

5.8 Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Association. If the assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such assessments (or installments) shall become delinquent and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot which shall bind such property in the hands of the then Owner, his heirs, personal representatives, successors and assigns. Except as provided in Section 5.9 to the contrary, the personal obligation of Owner to pay such assessment shall pass to his successors in title and recourse may be had against either or both. If any installment of an assessment is not paid within fifteen (15) days after the due date, at the option of the Association, a late charge not greater than the amount of such unpaid installment may be imposed (provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to additional late charges; provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid) or the next twelve (12) months' worth of installments may be accelerated and become immediately due and payable in full and all such sums shall bear interest from the dates when due until paid at the highest lawful rate (or, if there is no highest lawful rate, 18% per annum) and the Association may bring an action at law against the Owner(s) personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Lot on which the assessments and late charges are unpaid, may foreclose the lien against the Lot on which the assessments and late charges are unpaid, or may pursue one or more of such remedies at the same time or successively, and attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same, in such action shall be added to the amount of such assessments, late charges and interest secured by the lien, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels. In the case of an acceleration of the next twelve (12) months' of installments, each installment so accelerated shall be deemed, initially, equal to the amount of the then most current delinquent installment, provided that if any such installment so accelerated would have been greater in amount by reason of a subsequent increase in the applicable budget, the Owner of the Lot whose installments were so accelerated shall continue to be liable for the balance due by reason of such increase and special assessments against such Lot shall be levied by the Association for such purpose. In addition to the rights of collection of assessments stated in this Section, any and all persons acquiring title to or an interest in a Lot as to which the assessment is delinquent, including without limitation persons acquiring title by operation of law and by judicial sales, shall not be entitled to the occupancy of such Lot or the enjoyment of the Common Areas until such time as all unpaid and delinquent assessments due and owing from the selling Owner have been fully paid; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated by Section 5.9 below. All assessments, late charges, interest, penalties, fines, attorney's fees and other sums provided for herein shall accrue to the benefit of the Association.

5.9 Subordination of the Lien. The lien of the assessments provided for in this Article shall be subordinate to real property tax liens and the lien of any first mortgage; provided, however, that any such mortgage lender when in possession or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section shall be deemed to be an assessment divided equally among, payable by and a lien against all Lots subject to

assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

5.10 Developer's Assessments. Notwithstanding anything herein to the contrary, Developer shall have the option, in its sole discretion, to (i) pay assessments on the Lots owned by it, (ii) pay assessments only on certain designated Lots (e.g., those under construction or those containing a Unit for which a certificate of occupancy has been issued) or (iii) not pay assessments on any Lots and in lieu thereof fund any resulting deficit in the Association's operating expenses not produced by assessments receivable from Owners other than Developer and any other income receivable by the Association (and if there is more than one Developer, proportionately based on the number of Lots owned by each Developer). The deficit to be paid under option (iii), above, shall be the difference between (a) actual operating expenses of the Association (exclusive of capital improvement costs and reserves) and (b) the sum of all monies receivable by the Association (including, without limitation, assessments, interest, late charges, fines and incidental income) and any surplus carried forward from the preceding year(s). Developer may from time to time change the option under which Developer is making payments to the Association by written notice to such effect to the Association. If Developer at any time elects option (ii), above, it shall not be deemed to have necessarily elected option (i) or (iii) as to the Lots which are not designated under option (ii). When all Lots within The Properties are sold and conveyed to purchasers, neither Developer nor its affiliates shall have further liability of any kind to the Association for the payment of assessments, deficits or contributions.

5.11 Association Funds. The portion of all regular assessments collected by the Association for reserves for future expenses, and the entire amount of all special and capital assessments, shall be held by the Association and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by an agency of the United States.

## ARTICLE 6.

### MAINTENANCE OF UNITS, LOTS AND COMMON AREAS

6.1 Exteriors of Units. The Owner of a Lot shall maintain all exterior surfaces and roofs, facias and soffits of the structures (including the Unit) and other improvements located on the Lot (including driveway and sidewalk surfaces) in a neat, orderly and attractive manner. The aforesaid maintenance shall include maintaining screens (including screen enclosures), windows and doors (including the wood and hardware of garage doors and sliding glass doors). The minimum (though not sole) standard for the foregoing shall be consistency with the general appearance of The Properties as initially constructed and otherwise improved (taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness). The Owner shall clean, repaint or restain, as appropriate, the exterior portions of each Unit (with the same colors as initially used on the Unit), including exterior surfaces of garage doors, as often as is necessary to comply with the foregoing standards. Notwithstanding the foregoing, in the event of any attached Units (i.e., townhouse), the maintenance of the shared components, including, without limitation, the party walls, shared fences, the roofs, facias and soffits, and the exterior maintenance and painting shall be undertaken by the Association, and the expenses related thereto assessed solely against the Owners in the affected Neighborhood.

6.2 Lots. The Owner shall maintain and irrigate the trees, shrubbery, grass and other landscaping on each Lot (i.e., those within fenced areas) in a neat, orderly and attractive manner and consistent with the general appearance of The Properties as a whole, including, without limitation, maintaining low volume sprinklers. The minimum (though not sole) standard for the foregoing shall be the general appearance of The Properties as initially landscaped (such standard being subject to being raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained).

6.3 Right of Entry. For the purposes of performing any required maintenance by the Association upon a Lot or Unit as set forth in this Section 6, and, in addition to such other remedies as may be available under this Declaration, in the event that an Owner fails to maintain a Unit or Lot, the Association shall have the right to enter upon the Lot in question and perform such duties; provided, however, that such entry shall be during reasonable hours and, if to remedy an obligation which was to be performed by the Owner, only after five (5) days' prior written notice. The Owner having failed to perform its maintenance duties shall be liable to the Association for the costs of performing such remedial work and shall pay an additional administrative charge as established from time to time by the Board, all such sums being payable upon demand and to be secured by the lien provided for in Article 5 hereof.

6.4 Additional Maintenance. Each Owner shall maintain, in accordance with the standards set forth in this Article, whether or not located on his Lot, (i) the street-side boundary line(s) of the Owner's Lot (i.e., where applicable, the edge of the common sidewalk closest to the Unit) and the edge of the street's pavement and (ii) the projections of the side boundary lines of the Lot to such pavement's edge. Without limiting the generality of the foregoing, each Owner shall be responsible for the maintenance of any portion of his driveway which extends beyond the Lot as well as any sidewalk, grass or other plant material located immediately adjacent thereto; provided, however, that if the Board of Directors of the Association (after consultation with the applicable Neighborhood Advisory Committee) so elects, the Association may perform all or any portion of such maintenance obligations, on an ongoing or isolated basis, for purposes such as achieving an economy of scale or providing for uniform appearance throughout the applicable Neighborhood. In such event, the costs of such maintenance shall be borne only by the Owners within the affected Neighborhood in accordance with Section 5.2 hereof.

## ARTICLE 7.

### CERTAIN USE RESTRICTIONS

7.1 Applicability. The provisions of this Article 7 shall be applicable to all of The Properties but shall not be applicable to Developer, Builder, or any of its designees or Lots or other property owned by Developer, Builder, or their respective designees.

7.2 Land Use and Building Type. No Lot shall be used except for residential purposes. No building constructed on a Lot shall be used except for residential purposes, or as a related garage, if applicable. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Unit. Temporary uses by Developer and its affiliates for model homes, sales displays, parking lots, sales offices and other offices, or any one or combination of such uses, shall be permitted until the permanent cessation of such uses takes place. No changes may be made in buildings erected by Developer or its affiliates (except if such changes are made by Developer) without the consent of the Architectural Control Board.

7.3 Opening Blank Walls; Removing Fences. Without limiting the generality of Section 7.11 below, no Owner shall make or permit any opening to be made in any blank wall (except as such opening is initially installed) or masonry wall or fence. Further, no such building wall or masonry wall or fence, if any, shall be demolished or removed without the prior written consent of Developer (so long as it owns any portion of The Properties) and the Architectural Control Board. Developer shall have the right, but not be obligated, to assign all or any portion of its rights and privileges under this Section to the Association.

7.4 Easements. Easements for the installation and maintenance of utilities are reserved as provided herein. The area of each Lot covered by an easement and all improvements in such area shall be maintained continuously by the Association to the extent provided herein, except for installations for which a public authority or utility company is responsible. The appropriate water and sewer authority, electric utility company, telephone company, the Association, and Developer and its affiliates, and their respective successors and assigns, shall have a perpetual easement for the installation and maintenance, all



underground, of water lines, sanitary sewers, storm drains, and electric and telephone lines, cables and conduits, under and through the utility easements as provided herein.

7.5 Nuisances. Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to the occupants of other Lots. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors, which shall render a decision in writing, which decision shall be dispositive of such dispute or question. ALL PERSONS ARE REFERRED TO SECTION 14.11 HEREOF WITH RESPECT TO CERTAIN ACTIVITIES OF DEVELOPER.

7.6 Temporary Structures; Gas Tanks; Other Outdoor Equipment. Except as may be approved or used by Developer during construction and/or sales periods, no structure of a temporary character, or trailer, mobile home or recreational vehicle, shall be permitted on any Lots within The Properties at any time or used at any time as a residence, either temporarily or permanently. No gas tank, gas container or gas cylinder shall be permitted to be placed on or about the outside of any Unit or on or about any ancillary building, except for gas tanks which are used for swimming pool heaters which are screened from view, one (1) gas cylinder (not to exceed 20 lbs. capacity) connected to a barbecue grill and/or such other tank as is designed and used for household purposes and approved by the Architectural Control Board. Any outdoor equipment such as, but not limited to, pool pumps and water softening devices shall be completely screened from the view of anyone not standing on the Lot by the use of landscaping or other means (in any event, as approved by the Architectural Control Board); provided, however, that the use of such screening shall not obviate the requirement that the installation of any such equipment nevertheless be approved by the Architectural Control Board.

7.7 Signs. No sign of any kind shall be displayed to the public view on any Lot except for the following:

(a) The exclusive sales agent for the Developer may place one professional sign advertising the Unit for sale.

(b) One sign of not more than one (1) square foot which may be used to indicate the name of the resident(s) of the Unit.

(c) One (1) "for sale" or "for rent" sign may be displayed under the following conditions:

(i) The sign may identify the property, the owner or agent and the address and telephone number of the owner or agent relative to the premises upon which the sign is located.

(ii) The face surface of such sign shall not be larger than eight (8) inches in width and eight (8) inches in height, including, any rider thereto.

(iii) The sign shall be constructed of metal, plastic, wood or pressed wood and shall be fastened to a supporting member constructed of angle iron not exceeding one (1) inch by one (1) inch or a two (2) inch by two (2) inch wooden post, provided that said supporting member shall be all white or all black in color and have no letters or numbers upon it.

(iv) The supporting member shall be driven into the ground to provide that the top of the face of such sign shall not be more than four (4) feet above the finished grade of the ground.

(v) All such signs shall be lettered professionally, but such signs shall not be required to be submitted to the Association for approval.

(vi) Such sign shall be so erected or placed that its center line is parallel or perpendicular to the front property line.

(vii) Such sign shall not be erected or placed closer than five (5) feet from the front of the property line (as opposed to the adjacent street, if different).

(viii) Nothing contained herein shall be construed as prohibiting the same wording from being on both the front and the back of the sign.

(ix) Where such sign is suspended from an arm of the support, such arm shall not exceed a length of sixteen (16) inches.

(x) All such signs shall be erected on a temporary basis.

(xi) Such sign shall be kept in good repair and shall not be illuminated or constructed of a reflective material and shall not contain any flags, streamers, movable items or like devices.

(xii) Any such sign shall be removed within five (5) days from the date a binding agreement is entered into for the sale, lease or rental of the property or immediately upon the removal of the property from the market, whichever occurs first.

(xiii) No sign shall be placed on any Common Areas.

7.8 Oil and Mining Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in The Properties, nor on dedicated areas, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in The Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to these restrictions. ALL PERSONS ARE REFERRED TO SECTION 14.11 WITH RESPECT TO CERTAIN ACTIVITIES OF DEVELOPER.

7.9 Pets, Livestock and Poultry. No animals, reptiles, wildlife, livestock or poultry of any kind shall be raised, bred or kept on any Lot for any commercial purpose. Further, no animals or pets of any kind shall be permitted to become a nuisance or annoyance to any neighbor by reason of barking or otherwise. No dogs or other pets shall be permitted to have excretions on any Common Areas, except areas designated by the Association, if any, and Owners shall be responsible to clean-up any such excretions. ALL PETS SHALL BE KEPT ON A LEASH WHEN NOT IN THE APPLICABLE UNIT OR FULLY ENCLOSED IN REAR YARD. Pets shall also be subject to all applicable rules and regulations.

7.10 Visibility at Intersections. No obstruction to visibility at street intersections or Common Area intersections shall be permitted; provided that the Association shall not be liable in any manner to any person or entity, including Owners and Members Permittees, for any damages, injuries or deaths arising from any violation of this Section.

7.11 Architectural Control.

(a) No building or other structure or improvement of any nature (including, but not limited to, pools, screen enclosures, patios or patio extensions, hedges, other landscaping, exterior paint or finish, awnings, antennae or satellite or microwave dishes, shutters, hurricane protection, basketball hoops, swing sets or play equipment, decorative plaques or accessories, birdhouses, other pet houses, swales, asphaltting, sidewalk/driveway surfaces or treatments or other improvements or changes of any kind, even if not permanently affixed to the land or to other improvements) shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan

showing the location of the structure and landscaping or of the materials as may be required by the Architectural Control Board (which shall be a committee appointed by the Developer for so long as it owns any portion of the Properties, and thereafter, a committee appointed by the Board of Directors of the Association, absent such appointment the Board to serve in such capacity) have been approved, if at all, in writing by the Architectural Control Board and all necessary governmental permits are obtained. Fences, walls and similar improvements shall be governed by Section 7.15 below. Conversions of garages to living space or other uses are hereby prohibited, even though same are not readily apparent from the exteriors of applicable Units. Each building, wall, fence (if any) or other structure or improvement of any nature, together with landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved and applicable governmental permits and requirements. Refusal of approval of plans, specifications and location plans, or any of them, may be based on any grounds, including purely aesthetic ones, which in the sole and uncontrolled discretion of said Architectural Control Board are deemed sufficient. Any change in the exterior appearance of any building, wall, fence or other structure or improvements, and any change in the appearance of screen enclosures, doors, windows, patios or patio extensions, hedges, landscaping, exterior paint or finish, awnings, shutters, hurricane protection, basketball hoops, swing sets or play equipment, decorative plaques or accessories, birdhouses, other pet houses, swales, asphaltting, and/or sidewalk/driveway surfaces or treatments shall be deemed an alteration requiring approval.

(b) The Architectural Control Board shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. A majority of the Board may take any action the Board is empowered to take, may designate a representative to act for the Board and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the Board, the remaining members shall have full authority to designate a successor. The members of the Board shall not be entitled to any compensation for services performed pursuant to this covenant, unless engaged by the Association in a professional capacity.

(c) The Architectural Control Board shall act on submissions to it within forty-five (45) days after receipt of the same (and all further documentation required by it) or else the request shall be deemed approved. No request for approval shall be valid or require any action unless and until all assessments on the applicable Lot (and any interest and late charges thereon) have been paid in full. In light of the fact that the types, styles and locations of Units may differ among the Neighborhoods, in approving or disapproving requests submitted to it hereunder the Architectural Control Board may vary its standards among the Neighborhoods to reflect such differing characteristics. Accordingly, the fact that the Architectural Control Board may approve or disapprove a request pertaining to a Lot in one Neighborhood shall not serve as precedent for a similar request from an Owner in another Neighborhood where the latter has relevant characteristics differing from the former. In determining standards for architectural approval in specific Neighborhoods, the Architectural Control Board may, but shall not be required to, consult with the applicable Neighborhood Advisory Committee in such regard, provided that the Architectural Control Board shall be the final authority in determining and enforcing such standards.

(d) In the event that any new improvement or landscaping is added to a Unit/Lot, or any existing improvement on a Lot is altered, in violation of this Section, the Association shall have the right (and an easement and license) to enter upon the applicable Lot and remove or otherwise remedy the applicable violation after giving the Owner of the Lot at least ten (10) days' prior written notice of, and opportunity to cure, the violation in question. The costs of such remedial work and a surcharge of a minimum of \$25.00 (but in no event more than thirty-five percent (35%) of the aforesaid costs) shall be a special assessment against the Lot, which assessment shall be payable upon demand and secured by the lien for assessments provided for in this Declaration.



County (e) The approval of any proposed improvements or alterations by the Architectural Control Board shall not constitute a warranty or approval as to, and neither the Association nor any member or representative of the Architectural Control Board or the Board of Directors shall be liable for, the safety, soundness, workmanship, materials or usefulness for any purpose of any such improvement or alteration nor as to its compliance with governmental or industry codes or standards. By submitting a request for the approval of any improvement or alteration, the requesting Owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid members and representatives, and the Association generally, from and for any loss, claim or damages connected with the aforesaid aspects of the improvements or alterations. The Architectural Control Board may, but shall not be required to, require that any request for its approval be accompanied by the written consent of the Owners of the Lots [up to five (5)] adjoining or nearby the Lot/Unit proposed to be altered or further improved as described in the request.

(f) Without limiting the generality of Section 7.1 hereof, the foregoing provisions shall not be applicable to Developer or its affiliates or designees or to Builders (to the extent provided in Article 10 hereof).

(g) Nothing in this Declaration shall be interpreted as an exemption from compliance with Palm Beach County regulations.

7.12 Commercial Vehicles, Trucks, Trailers, Campers and Boats. No trucks (other than those of a type, if any, expressly permitted by the Association) or commercial vehicles, or campers, mobile homes, motorhomes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, horse trailers or horse vans, shall be permitted to be parked or to be stored at any place on The Properties, nor in dedicated areas, except in (i) enclosed garages or (ii) spaces for some or all of the above specifically designated by Developer or the Association, if any. For purposes of this Section, "commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. The prohibitions on parking contained in this Section shall not apply to temporary parking of trucks and commercial vehicles, such as for construction use or providing pick-up and delivery and other commercial services, nor to passenger-type vans with windows for personal use which are in acceptable condition in the sole opinion of the Board (which favorable opinion may be changed at any time), nor to any vehicles of Developer or its affiliates. **All Owners and other occupants of Units are advised to consult with the Association prior to purchasing, or bringing onto The Properties, any type of vehicle other than a passenger car inasmuch as such other type of vehicle may not be permitted to be kept within The Properties.** Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted may be towed by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of 24 hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean campers, mobile homes and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

7.13 Parking on Common Areas and Lots/Garages. No vehicles of any type shall be parked on any portion of the Common Areas (including roadways) except to the extent, if at all, a portion(s) of the Common Areas is specifically designated for such purposes. All Owners and Members Permittees shall use at least one (1) space in their respective garages for the parking of a vehicle. In the event that such a party keeps a boat on a trailer (or some other vehicle or trailer) in the party's garage, the other space shall still be used for vehicular parking. Garage doors shall be kept closed at all times except when in actual use and during reasonably limited periods when the garage is being cleaned or other activities are being conducted therefrom which reasonably require the doors to be left open. No parking shall be permitted on any portion of a Lot except its driveway and garage.



7.14 Garbage and Trash Disposal. No garbage, refuse, trash or rubbish (including materials for recycling) shall be placed outside of a Unit except as permitted by the Association. The requirements from time to time of the applicable governmental authority or other company or association for disposal or collection of waste shall be followed. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Containers must be rigid plastic, no less than 20 gallons or more than 32 gallons in capacity, and well sealed. Such containers may not be placed out for collection sooner than 24 hours prior to scheduled collection and must be removed within 12 hours of collection. In the event that an Owner or occupant of a Lot keeps containers for recyclable materials thereon, same shall be deemed to be refuse containers for the purposes of this Section.

7.15 Fences, Walls and Hedges. No fence, wall or other structure shall be erected on any Lot, and no hedge shall be planted, except as originally installed by Developer or its affiliates or approved by the Architectural Control Board. In considering any request for the approval of a fence or wall or a hedge or other landscaping, the Architectural Control Board shall give due consideration to the possibility of same obstructing the view from any adjoining Lot or Common Area and may condition its approval on the hedge or other landscaping being kept to a specific height. All persons are advised that many fences and walls may be prohibited altogether or, if approved, may be subject to stringent standards and requirements.

7.16 No Drying. No clothing, laundry or wash shall be aired or dried on any portion of The Properties except on a portion of a Lot which is completely screened from the view of all persons other than those on the Lot itself.

7.17 Lakefront Property. As to all portions of The Properties which have a boundary contiguous to any lake or other body of water, the following additional restrictions and requirements shall be applicable:

(a) No boathouse, dock, wharf or other structure of any kind shall be erected, placed, altered or maintained on the shores of the lake unless erected by Developer or its affiliates.

(b) No boat, boat trailer or vehicular parking or use of lake slope or shore areas shall be permitted. No motorized boats of any type shall be used on any lake which is part of the Common Areas.

(c) No solid or liquid waste, litter or other materials may be discharged into/onto or thrown into/onto any lake or other body of water or the banks thereof.

(d) Each applicable Owner shall maintain his Lot to the line, adjoining the Lot, of the water in the adjacent lake or other water body, as such line may change from time to time by virtue of changes in water levels.

(e) No landscaping (other than that initially installed or approved by Developer), fences, structures or other improvements (regardless of whether or not same are permanently attached to the land or to other improvements) shall be placed within any lake maintenance or similar easements around lakes or other bodies of water.

WITH RESPECT TO WATER LEVELS AND QUALITY AND OTHER WATERBODY-RELATED MATTERS, ALL PERSONS ARE REFERRED TO SECTION 14.12 HEREOF.

7.18 Unit Air Conditioners and Reflective Materials. No air conditioning units may be mounted through windows or walls. No building shall have any aluminum foil placed in any window or glass door or any reflective substance or other materials (except standard window treatments) placed on any glass, except such as may be approved by the Architectural Control Board for energy conservation purposes.

7.19 Exterior Antennas. No exterior antennas, satellite dishes or similar equipment shall be permitted on any Lot or improvement thereon, except that Developer and its affiliates shall have the right to install and maintain a master cable and television system and the Association may permit antennae and/or dishes which are wholly contained within the Unit.

7.20 Renewable Resource Devices. Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, that same shall be installed only in accordance with the reasonable standards adopted from time to time by the Architectural Control Board and with such Board's approval. Such standards shall be reasonably calculated to maintain the aesthetic integrity of The Properties without making the cost of the aforesaid devices prohibitively expensive.

7.21 Driveway and Sidewalk Surfaces. No Owner shall install on a Lot, and the Architectural Control Board shall not approve, any sidewalk or driveway which has a surface material and/or color which is different from the materials and colors originally used or approved by the Developer. Further, no Owner shall change any existing sidewalk or driveway in a manner inconsistent with this Section.

7.22 Artificial Vegetation. No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Lot without the prior approval of the Architectural Control Board.

7.23 Access Control; Gatehouse Procedures; Roving Patrols. Gated entry posts may be established and maintained in perpetuity in order to control and restrict access to and from The Properties and to assist the traffic flow through The Properties. The Board of Directors shall determine, in its discretion and from time to time, whether such entry posts shall be staffed, controlled by card access or other comparable system. All Owners shall be responsible for complying with and ensuring that their Members' Permittees and invitees comply with, all procedures adopted for controlling access to and upon The Properties through any gatehouse serving The Properties or any portion thereof as well as Common Area roadways and other portions of the Common Areas, as such procedures and restrictions are adopted and amended from time to time. All Owners and other occupants of Units are advised that any gatehouse staff and system, as well as any roving patrol/ surveillance personnel, serving The Properties are not law enforcement officers and are not intended to supplant same, such persons being engaged, if at all, only for the purpose of monitoring access to The Properties and observing activities therein which are readily apparent by such persons.

7.24 Conservation Areas. The Conservation Areas shall be subject to the use restrictions set forth in Section 4.4 above.

7.25 Variances. The Board of Directors of the Association shall have the right and power to grant variances from the provisions of this Article 7 and from the Association's rules and regulations for good cause shown, as determined in the reasonable discretion of the Board. No variance granted as aforesaid shall alter, waive or impair the operation or effect of the provisions of this Article 7 in any instance in which such variance is not granted.

7.26 Additional Rules and Regulations. The Board may adopt additional rules and regulations of the Association which are incorporated herein by this reference and which, as may the foregoing, may be modified, in whole or in part, at any time by the Board without the necessity of recording an amendment hereto or thereto in the public records.

**ARTICLE 8.****RESALE, LEASE AND OCCUPANCY RESTRICTIONS**

8.1 Estoppel Certificate Documents. No Owner, other than Developer, may sell or convey his interest in any Lot unless all sums due the Association are paid in full and an estoppel certificate in recordable form to such effect shall have been received by the Owner. If all such sums shall have been paid, the Association shall deliver such certificate within ten (10) days of a written request therefor. The Owner requesting the certificate may be required by the Association to pay to the Association a reasonable sum to cover the costs of examining records and preparing the certificate. Owners shall be obligated to deliver the documents originally received from Developer, containing this and other declarations and documents, to any grantee of such Owner.

8.2 Leases. No portion of a Lot or Unit (other than an entire Lot and Unit) may be rented. All leases shall be in writing and shall provide (or be automatically deemed to provide) that the Association shall have the right to terminate the lease in the name of and as agent for the lessor upon default by tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association and its applicable rules and regulations or other applicable provisions of any agreement, document or instrument governing The Properties or administered by the Association. The leasing of Lots and Units shall also be subject to the prior written approval of the Association, which approval shall not be unreasonably withheld and which shall be deemed given if the Association does not deny approval within fifteen (15) days of its receipt of a request for approval together with a copy of the proposed lease and all supporting information reasonably requested by the Association. Owners wishing to lease their Lots and Units may, if the Board of Directors so elects, be required to place in escrow with the Association a sum of up to \$500.00 which may be used by the Association to repair any damage to the Common Areas or other portions of The Properties resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). The Association shall not be required to pay or remit any interest on any such escrowed funds. The Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. Any balance remaining in the escrow account, less an administrative charge not to exceed \$50.00 and exclusive of any interest retained by the Association, shall be returned to the Owner within ninety (90) days after the tenant vacates the Unit.

8.3 Members' Permittees. No Lot or Unit shall be occupied by any person other than the Owner(s) thereof or the applicable Members' Permittees and in no event other than as a residence. For purposes of this Declaration, a Member's Permittees shall be the following persons and such persons' families, provided that the Owner or other permitted occupant must reside with his/her family: (i) an individual Owner(s), (ii) an officer, director, stockholder or employee of a corporate owner, (iii) a partner in or employee of a partnership owner, (iv) a fiduciary or beneficiary of an ownership in trust, or (v) occupants named or described in a lease or sublease, but only if approved in accordance with this Declaration. Under no circumstances may more than one family reside in a Unit at one time. In no event shall occupancy (except for temporary occupancy by guests) exceed two (2) persons per bedroom and one (1) person per den (as defined by the Association for the purpose of excluding from such definition living rooms, dining rooms, family rooms, country kitchens and the like). The Board of Directors shall have the power to authorize occupancy of a Unit by persons in addition to those set forth above. The provisions of this Section shall not be applicable to Units used by Developer or a Builder for model homes, sales offices, management services or otherwise. As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting the Unit as or together with the Owner or permitted occupant thereof. As used herein, "guest" or words of similar import shall include only those persons who have a principal residence other than the Unit. Unless otherwise determined by the Board of Directors of the Association, a person occupying a Unit for more than one (1) month shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to leases and lessees. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of this



Article and the Board of Directors of the Association shall enforce, and the Owners comply with, same with due regard for such purpose.

## ARTICLE 9.

### ENFORCEMENT

9.1 Compliance by Owners. Every Owner and Member's Permittee shall comply with the restrictions and covenants set forth herein and any and all rules and regulations which from time to time may be adopted by the Board of Directors of the Association.

9.2 Enforcement. Failure of an Owner or his Member's Permittee to comply with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend the rights of use of Common Areas (except for legal access) of defaulting Owners. The offending Owner shall be responsible for all costs of enforcement including attorneys' fees actually incurred and court costs.

9.3 Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner or his Member's Permittees to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

(a) Notice: The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of the Board of Directors at which time the Owner shall present reasons why a fine(s) should not be imposed. At least six (6) days' notice of such meeting shall be given.

(b) Hearing: The alleged non-compliance shall be presented to the Board of Directors after which the Board of Directors shall hear reasons why a fine(s) should not be imposed. A written decision of the Board of Directors shall be submitted to the Owner by not later than twenty-one (21) days after the Board of Directors' meeting. The Owner shall have a right to be represented by counsel and to cross examine witnesses.

(c) Amounts: The Board of Directors (if its or such panel's findings are made against the Owner) may impose special assessments against the Lot owned by the Owner as follows:

(i) First non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).

(ii) Second non-compliance or violation: a fine not in excess of Five Hundred Dollars (\$500.00).

(iii) Third and subsequent non-compliance, or a violation or violations which are of a continuing nature after notice thereof (even if in the first instance): a fine not in excess of One Thousand Dollars (\$1,000.00).

(d) Payment of Fines: Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

(e) Collection of Fines: Fines shall be treated as an assessment subject to the provisions for the collection of assessments, and the lien securing same, as set forth herein.

(f) Application of Proceeds: All monies received from fines shall be allocated as directed by the Board of Directors.

(g) Non-exclusive Remedy: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

## ARTICLE 10.

### PROVISOS AS TO BUILDERS

10.1 Preamble. In light of the benefits accruing to the Developer, Owners and the Association by virtue of the orderly and efficient development of The Properties not only by Developer but also by independent Builders, this Article has been adopted to further such benefits as well as to cause this Declaration to accurately and reasonably reflect the operations and needs of Builders.

10.2 Voting and Assessments. All Builders shall be Class A Members of the Association and shall have all rights, benefits, duties and obligations pertaining to such class of membership. A Builder shall have one (1) vote for each Lot owned by it and shall pay the same rate of assessment on each such Lot as would any other Class A Member/Owner; provided, however, that (i) in the event that a Builder owns a portion of The Properties which has not been platted or otherwise subdivided into Lots, such property shall, for purposes of this Declaration, be deemed to contain such number of Lots as is provided in the Supplemental Declaration subjecting the Builder's portion of The Properties to this Declaration (absent which the property shall be deemed to contain the number of Lots permitted to be located thereon by applicable land use ordinances or approvals) and (ii) Builder shall only be obligated for the payment of assessments on the Lots owned thereby for which improvements have been constructed thereon and received a certificate of occupancy, said assessment obligation to commence as to such improved Lot on the first day of the month following the issuance of the applicable certificate of occupancy.

10.3 Exemption from Architectural Control. For purposes of the exemption of Developer and its designees as set forth in Section 7.11 hereof, a Builder shall be deemed a designee of Developer and therefore exempt from architectural review/approval requirements if, but only if, the Builder is subject to deed or contractual restrictions imposed by the Developer which govern matters such as plan approval and construction activities. The foregoing exemption shall not, however, apply once the Builder has completed a Unit on a Lot and has received Developer's final approval thereof, the purpose hereof being to require the Architectural Control Board's approval of any alterations of such construction once same are completed.

10.4 Use Restrictions. In addition to the architectural control exemptions set forth in the immediately preceding Section, no Builder shall be deemed to be in violation of any of the other restrictions or requirements of Article 7 of this Declaration by virtue of any activities which are normally and customarily associated with the construction of Units (or the development of land therefor) of the number, nature and type being constructed/developed by the Builder, including, without limitation, the construction and operation of a temporary sales office and/or model homes and the erection of signage. Notwithstanding the foregoing, no Builder may make any installations which, once installed, would constitute a violation of Article 7 of this Declaration. By way of example only, the privileges granted to Builders hereunder may not extend to permit the installation of prohibited gas tanks, obstructions of visibility at intersections, window-mounted air conditioning units, exterior antennas or artificial vegetation. **Further, notwithstanding the foregoing, all Builders shall be subject to the sign restrictions set forth in Section 7.7 of this Declaration (except for the required posting of building permits and similar documents) and to the provisions of Article 8 hereof.**

**ARTICLE 11.****DAMAGE OR DESTRUCTION TO COMMON AREAS**

11.1 Damage or Destruction. Damage to or destruction of all or any portion of the Common Areas shall be addressed in the following manner, notwithstanding any provision in this Declaration to the contrary:

(a) In the event of damage to or destruction of the Common Areas, if the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such portions of the Common Areas to be repaired and reconstructed substantially as they previously existed.

(b) If the insurance proceeds are within Five Hundred Thousand Dollars (\$500,000.00) or less of being sufficient to effect total restoration of the Common Areas, then the Association shall cause such portions of the Common Areas to be repaired and reconstructed substantially as they previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a capital special (and not capital improvement) assessment against each of the Owners in equal shares in accordance with the provisions of Article 5 of this Declaration.

(c) If the insurance proceeds are insufficient by more than Five Hundred Thousand Dollars (\$500,000.00) to effect total restoration of the Common Areas, then by written consent or vote of a majority of each class of the Members, they shall determine, subject to Article 13 hereof, whether (1) to rebuild and restore the Common Areas in substantially the same manner as they existed prior to damage and to raise the necessary funds over the insurance proceeds by levying capital improvement assessments against all Members, (2) to rebuild and restore in a way which is less expensive than replacing the Common Areas in substantially the same manner as they existed prior to being damaged, or (3) subject to the approval of the Board, to not rebuild and to retain the available insurance proceeds.

(d) Each Member shall be liable to the Association for any damage to the Common Areas not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of any Member or his Member's Permittees. Notwithstanding the foregoing, the Association reserves the right to charge such Member an assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Member. In the case of joint ownership of a Unit, the liability of such Member shall be joint and several. The cost of correcting such damage shall be an assessment against the Member and may be collected as provided herein for the collection of assessments.

**ARTICLE 12.****INSURANCE**

12.1 Common Areas. The Association shall keep all improvements, facilities and fixtures located within the Common Areas insured against loss or damage by fire or other casualty for the full insurable replacement value thereof (with reasonable deductibles and normal exclusions for land, foundations, excavation costs and similar matters), and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance for and on behalf of itself and all Members. The insurance coverage with respect to the Common Areas shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses included in the assessments made by the Association.



To the extent obtainable at reasonable rates, the insurance policy(ies) maintained by the Association shall contain provisions, or be accompanied by endorsements, for: agreed amount and inflation guard, demolition costs, contingent liability from operation of building laws and increased costs of construction.

All insurance policies shall contain standard mortgagee clauses, if applicable.

The Association shall also maintain flood insurance on the insurable improvements on the Common Areas in an amount equal to the lesser of 100% of the replacement costs of all insurable improvements (if any) within the Common Areas or the maximum amount of coverage available under the National Flood Insurance Program, in either case if the insured improvements are located within an "A" flood zone.

12.2 Replacement or Repair of Property. In the event of damage to or destruction of any portion of the Common Areas, the Association shall repair or replace the same from the insurance proceeds available, subject to the provisions of Article 11 of this Declaration.

12.3 Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Members, Developer and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

12.4 Liability and Other Insurance. The Association shall have the power to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, with coverage of at least \$1,000,000.00 (if available at reasonable rates and upon reasonable terms) for any single occurrence, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross liability endorsement insuring each Member against liability to each other Member and to the Association and vice versa and coverage for legal liability resulting from lawsuits related to employment contracts shall also be maintained. The Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Member and the Association and its Board of Directors and officers, from liability in connection with the Common Areas, the premiums for which shall be Common Expenses and included in the assessments made against the Members. The Association may also obtain such other insurance as the Board deems appropriate. All insurance policies shall be reviewed at least annually by the Board of Directors and the limits increased in its discretion. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board or any management company engaged by the Association against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or any committee thereof. At a minimum, however, there shall be blanket fidelity bonding of anyone (compensated or not) who handles or is responsible for funds held or administered by the Association, with the Association to be an obligee thereunder. Such bonding shall cover the maximum funds to be in the hands of the Association or management company during the time the bond is in force. In addition, the fidelity bond coverage must at least equal the sum of three (3) months of regular assessments, plus all reserve funds.

12.5 "Blanket" Insurance. The requirements of this Article may be met by way of the Association being an insured party under any coverage carried by the Developer or under coverage obtained by the Association as long as such coverage is in accordance with the amounts and other standards stated in this Article.



## ARTICLE 13.

## MORTGAGEE PROTECTION

13.1 Mortgagee Protection. The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

(a) The Association shall be required to make available to all Owners and Mortgagees, and to insurers and guarantors of any first Mortgage, for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of this Declaration (with all amendments) and the Articles, By-Laws and rules and regulations and the books and records of the Association. Furthermore, such persons shall be entitled, upon written request, to (i) receive a copy of the Association's financial statement for the immediately preceding fiscal year, (ii) receive notices of and attend the Association meetings, (iii) receive notice from the Association of an alleged default by an Owner in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation or the By-Laws of the Association, which default is not cured within thirty (30) days after the Association learns of such default, and (iv) receive notice of any substantial damage or loss to the Common Areas.

(b) Any holder, insurer or guarantor of a Mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Common Areas, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Lot, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, and (iv) any proposed action which requires the consent of a specified number of Mortgage holders.

(c) Any holder, insurer or guarantor of a Mortgage on a Unit shall have the right to pay, singly or jointly, taxes or other charges that are delinquent and have resulted or may result in a lien against any portion of the Common Areas and receive immediate reimbursement from the Association.

(d) Any holder, insurer or guarantor of a Mortgage on a Unit shall have the right to pay, singly or jointly, any overdue premiums on any hazard insurance policy covering the Common Areas or obtain, singly or jointly, new hazard insurance coverage on the Common Areas upon the lapse of a policy and, in either case, receive immediate reimbursement from the Association.

(e) Pay, singly or jointly, any overdue premiums on any hazard insurance policy covering the Common Areas or obtain, singly or jointly, new hazard insurance coverage on the Common Areas upon the lapse of a policy and, in either case, receive immediate reimbursement from the Association.

(f) Unless at least 66-2/3% of first Mortgagees (based upon one vote for each Mortgage owned), and the Members holding at least two-thirds (2/3rds) of the votes entitled to be cast by them, have given their prior written approval, neither the Association nor the Owners shall:

(i) by act or omission seek to sell or transfer the Common Areas and any improvements thereon which are owned by the Association, provided, however, that the granting of easements for utilities or for other such purposes consistent with the intended use of such property by the Association or the Declarant or the transfer of the Common Areas to another similar association of the Owners in accordance with the Articles of Incorporation of the Association or dedication of such property to the public shall not be deemed a transfer within the meaning of this clause);

(ii) change the basic methods of determining the obligations, assessments, dues or other charges which may be levied against a Lot, except as provided herein with respect to future Lots;

(iii) by act or omission, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of The Properties;

(iv) fail to maintain fire and extended insurance on insurable portions of the Common Areas as provided herein; or

(v) use hazard insurance proceeds for losses to any Common Areas for other than the repair, replacement or reconstruction of the improvements.

## ARTICLE 14.

### GENERAL PROVISIONS

14.1 Duration. The covenants and restrictions of this Declaration shall run with and bind The Properties, and shall inure to the benefit of and be enforceable by the Association, the Architectural Control Board, Developer (at all times) and the Owner of any land subject to this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of 75% of all the Lots subject hereto and of 100% of the mortgagees thereof has been recorded, agreeing to revoke said covenants and restrictions; provided, however, that no such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any signatures being obtained.

14.2 Notice. 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 personally delivered or mailed, postpaid, 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.

14.3 Enforcement. Enforcement of these covenants and restrictions shall be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

14.4 Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

14.5 HUD/FHA/VA. If any mortgage encumbering any Lot is guaranteed or insured by the Department of Housing and Urban Development, Federal Housing Administration or by the Veterans Administration, then upon written demand to the Association by either such agency, the following action, if made by Developer or if made prior to the improvement of seventy-five percent (75%) of the total Lots which may be located within The Properties and the Future Development Property, must be approved by either such agency: (i) any annexation of property to The Properties other than that which is part of the Future Development Property; (ii) any mortgage, transfer (except for supplements hereto adding portions of the Future Development Property to The Properties encumbered hereby), or dedication of any Common Areas;

(iii) any amendment to this Declaration (except for supplements hereto), the Articles or the Bylaws, if such amendment materially and adversely affects the Owners or materially and adversely affects the general scheme of development created by this Declaration; provided, however, such approval shall specifically not be required where the amendment is made to add any portion of the Future Development Property, or to correct errors or omissions, or is required to comply with the requirements of any institutional lender, or is required by any governmental authority; or (iv) any merger, consolidation or dissolution of the Association. Such approval shall be deemed given if either agency fails to deliver written notice of its disapproval of any such action to Developer or to the Association within thirty (30) days after a request for such approval (which approval request must include a description of the thirty (30) day limitation) is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval may be conclusively evidenced by a certificate of Developer or the Association that the approval was given or deemed given.

14.6 Effective Date. This Declaration shall become effective upon its recordation in the Palm Beach County Public Records.

14.7 Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and By-Laws of the Association and said Articles shall take precedence over the By-Laws.

14.8 Standards for Consent, Approval and Other Actions. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by the Developer or its affiliates, the Association or the Architectural Control Board, such consent, approval or action may be withheld in the sole and unfettered discretion of the party requested to give such consent or approval or take such action, and all matters required to be completed or substantially completed by the Developer or its affiliates or the Association shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Developer or Association, as appropriate.

14.9 Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners designate hereby the Developer and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

14.10 Notices and Disclaimers. Developer, the Association, or their successors, assigns or franchisees and any applicable cable telecommunications system operator (an "Operator"), may enter into contracts for the provision of security services. DEVELOPER, THE ASSOCIATION, OPERATORS AND THEIR FRANCHISEES, DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH SECURITY SYSTEM OR SERVICES, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME; AND EVERY OWNER OR OCCUPANT OF PROPERTY SERVICED BY ANY SUCH SECURITY SYSTEMS ACKNOWLEDGES THAT DEVELOPER, THE ASSOCIATION OR ANY SUCCESSOR, ASSIGN OR FRANCHISEE OF THE DEVELOPER OR ANY OF THE OTHER AFORESAID ENTITIES AND ANY OPERATOR, ARE NOT INSURERS OF THE OWNER OR OCCUPANT'S PROPERTY OR OF THE PROPERTY OF OTHERS LOCATED ON THE PREMISES AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM SUCH OCCURRENCES. It is extremely difficult and impractical to determine the actual damages, if any, which may proximately result from a failure on the part of a security service provider to perform any of its



obligations with respect to security services and, therefore, every owner or occupant of property receiving security services agrees that Developer, the Association or any successor, assign or franchisee thereof and any Operator assumes no liability for loss or damage to property or for personal injury or death to persons due to any reason, including, without limitation, failure in transmission of an alarm, interruption of security service or failure to respond to an alarm because of (a) any failure of the Owner's security system, (b) any defective or damaged equipment, device, line or circuit, (c) negligence, active or otherwise, of the security service provider or its officers, agents or employees, or (d) fire, flood, riot, war, act of God or other similar causes which are beyond the control of the security service provider. Every owner or occupant of property obtaining security services further agrees for himself, his grantees, tenants, guests, invitees, licensees, and family members that if any loss or damage should result from a failure of performance or operation, or from defective performance or operation, or from improper installation, monitoring or servicing of the system, or from negligence, active or otherwise, of the security service provider or its officers, agents, or employees, the liability, if any, of Developer, the Association, any franchisee of the foregoing and the Operator or their successors or assigns, for loss, damage, injury or death sustained shall be limited to a sum not exceeding Two Hundred Fifty and No/100 (\$250.00) U.S. Dollars, which limitation shall apply irrespective of the cause or origin of the loss or damage and notwithstanding that the loss or damage results directly or indirectly from negligent performance, active or otherwise, or non-performance by an officer, agent or employee of Developer, the Association or any franchisee, successor or designee of any of same or any Operator. Further, in no event will Developer, the Association, any Operator or any of their franchisees, successors or assigns, be liable for consequential damages, wrongful death, personal injury or commercial loss. In recognition of the fact that interruptions in cable television and other services will occur from time to time, no person or entity described above shall in any manner be liable, and no user of any system shall be entitled to any refund, rebate, discount or offset in applicable fees, for any interruption in services, regardless of whether or not same is caused by reasons within the control of the then-provider(s) of such services.

14.11 Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTIES ARE HEREBY PLACED ON NOTICE THAT DEVELOPER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES WILL BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE PROPERTIES. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE PROPERTIES, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE PROPERTIES WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DEVELOPER AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTIES HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (v) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DEVELOPER TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTIES.

14.12 Notices and Disclaimers as to Water Bodies. NEITHER DEVELOPER, THE ASSOCIATION NOR ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY WITHIN THE PROPERTIES, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY

OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK. ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTIES LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS AND OTHER WILDLIFE MAY HABITAT OR ENTER INTO WATER BODIES WITHIN OR NEARBY THE PROPERTIES AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

14.13 Covenants Running With The Land. Anything to the contrary herein notwithstanding and without limiting the generality (and subject to the limitations) of Section 14.1 hereof, it is the intention of all parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions shall run with The Properties and with title to The Properties. Without limiting the generality of Section 14.4 hereof, if any provision or application of this Declaration would prevent this Declaration from running with The Properties as aforesaid, such provision and/or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will allow these covenants and restrictions to so run with The Properties; but if such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties (that these covenants and restrictions run with The Properties as aforesaid) be achieved.

14.14 Dissolution. Any Owner may petition the Circuit Court of Palm Beach for the appointment of a receiver to manage the affairs of the Association in the event of dissolution of the Association.

**ARTICLE 15.**

**AMENDMENTS TO DECLARATION**

(a) Prior to the Turnover Date, Developer shall have the right to amend this Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Such amendments may include, without limitation, the creation of easements for Telecommunication Systems, utility, drainage, ingress and egress and roof overhangs over any portion of Cocoplum; additions or deletions from the properties comprising the Common Areas; changes in the Rules and Regulations, and modifications or restrictions on the homes, and maintenance standards for landscaping. Developer's right to amend under this provision is to be construed as broadly as possible. In the event that Association shall desire to amend this Declaration prior to the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

(b) After the Turnover Date, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed, deleted or added to at any time and from time to time upon the execution and recordation of an instrument executed by the Developer alone, for so long as it or its affiliates holds title to any Lot affected by this Declaration if such amendment is required by the County or any other governmental or quasi-governmental agency (e.g., FNMA, VA, FHA); or alternatively (subject to Article X, Section 8) by approval at a meeting of Owners holding not less than

66 2/3% vote of the membership in the Association, provided, that so long as the Developer or its affiliates is the Owner of any Lot affected by this Declaration, the Developer's consent must be obtained if such amendment, in the sole opinion of the Developer, affects its interest.

**ARTICLE 16.**

**COVENANTS AGAINST PARTITION AND SEPARATE TRANSFER OF MEMBERSHIP RIGHTS**

Recognizing that the full use and enjoyment of any Lot is dependent upon the right to the use and enjoyment of the Common Areas and the improvements made thereto, and that it is in the interest of all of the Owners that the right to the use and enjoyment of the Common Areas be retained by the Owners of Lots, it is therefore declared that the right to the use and enjoyment of any Owner in the Common Areas shall remain undivided, and such Owners shall have no right at law or equity to seek partition or severance of such right to the use and enjoyment of the Common Areas. In addition, there shall exist no right to transfer the right to the use and enjoyment of the Common Areas in any manner other than as an appurtenance to and in the same transaction with, a transfer of title to a Lot. Any conveyance or transfer of a Lot shall include the right to use and enjoyment of the Common Areas appurtenant to such Lot subject to reasonable rules and regulations promulgated by the Association for such use and enjoyment, whether or not such rights shall have been described or referred to in the deed by which said Lot is conveyed.

**ARTICLE 17.**

**DISCLAIMER OF LIABILITY OF ASSOCIATION**

NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a)v IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;



(b)v THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, PALM BEACH COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(c)v ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE.

AS USED IN THIS ARTICLE, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF DEVELOPER, WHICH SHALL BE FULLY PROTECTED HEREBY.

EXECUTED as of the date first above written.

Witnessed by:

Marilyn R. Dixon  
Name: Marilyn R. Dixon

M. Louise Robbins  
Name: M. LOUISE ROBBINS

**WESTBROOKE COMPANIES, INC.,**  
a Florida corporation

By: Charles D. Robbins  
Name: Charles D. Robbins  
Title: Authorized Agent

STATE OF FLORIDA )  
  ) ss:  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2002, by Charles D. Robbins, as authorized agent of WESTBROOKE COMPANIES, INC., a Florida corporation, on behalf of said corporation and partnership. He is personally known to me.

Marilyn R. Dixon  
Name: Marilyn R. Dixon  
Notary Public, State of Florida  
Commission No. CC 936056

My commission expires:

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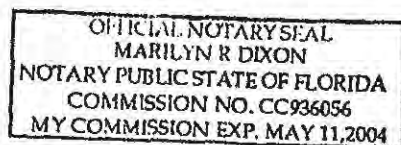




EXHIBIT "A"

All lots and common areas in HYPOLUXO/HAVERHILL P.U.D. – PLAT ONE, according to the plat thereof recorded in Plat Book 94, at Page 31 of the Public Records of Palm Beach County, Florida,

and;

All lots and common areas in HYPOLUXO/HAVERHILL P.U.D. – PLAT TWO, according to the plat thereof to be recorded in the Public Records of Palm Beach County, Florida.

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of COCOPLUM PROPERTY OWNERS ASSOCIATION OF PALM BEACH, INC., a Florida corporation, filed on December 28, 2001, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H01000124452. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this corporation is N01000009027.

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Seventh day of January, 2002

Authentication Code: 201A00067627-123101-N01000009027-1/1



OR2E022 (1-99)

EXHIBIT B

*Katherine Harris*  
Katherine Harris  
Secretary of State

**ARTICLES OF INCORPORATION  
OF  
COCOPLUM  
PROPERTY OWNERS ASSOCIATION OF PALM BEACH, INC.**

The undersigned incorporator, desiring to form a corporation not for profit under Chapter 617, Florida Statutes, as amended, hereby adopts the following Articles of Incorporation:

**ARTICLE I**

**NAME**

The name of the corporation shall be COCOPLUM PROPERTY OWNERS ASSOCIATION OF PALM BEACH, INC. which is hereinafter referred to as "the Association", whose principal place of business is 9350 Sunset Drive, Suite 100, Miami, FL 33173

**ARTICLE II**

**PURPOSES AND POWERS**

The objects and purposes of the Association are those objects and purposes as are authorized by the Declaration of Covenants and Restrictions for Cocoplum recorded (or to be recorded) in the Public Records of Palm Beach County, Florida, as hereafter amended and/or supplemented from time to time (the "Covenants"). The further objects and purposes of the Association are to preserve the values and amenities in The Properties and to maintain the Common Areas thereof for the benefit of the Members of the Association.

The Association is not organized for profit and no part of the net earnings, if any, shall inure to the benefit of any Member or individual person, firm or corporation.

The Association shall have the power to contract for the management of the Association and to delegate to the party with whom such contract has been entered into (which may be an affiliate of the Developer) the powers and duties of the Association, except those which require specific approval of the Board of Directors or Members.

The Association shall have all of the common law and statutory powers of a corporation not for profit which are not in conflict with the terms of these Articles and the Covenants above identified. The Association shall also have all of the powers necessary to implement the purposes of the Association as set forth in the Covenants and to provide for the general health and welfare of its membership.

Definitions set forth in the Covenants are incorporated herein by this reference.



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## ARTICLE III

**MEMBERS**

**Section 1. Membership.** Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall be a Member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member.

**Section 2. Voting Rights.** The Association shall have two (2) classes of voting membership:

**Class "A".** Class "A" Members shall be all those Owners as defined in Section 1 with the exception of the Developer (as long as the Class "B" Membership shall exist, and thereafter, the Developer shall be a Class "A" Member to the extent it would otherwise qualify). Except as provided below, Class "A" Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Section 1. 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, subject only as provided in the following sentence, in no event shall more than one vote be cast with respect to any such Lot.

**Class "B".** The Class "B" Member shall be the Developer. The Class "B" Member shall be entitled to one (1) vote, plus two (2) votes for each vote which the Class "A" Members are entitled to cast in the aggregate from time to time by the Class "A" Member. The Class "B" membership shall cease and convert to a Class "A" Membership on the happening of the earlier of the following events:

(i) when title to seventy-five percent (75%) of all Lots have been conveyed by the Developer, a dwelling has been constructed on all such Lots and such Lots have been conveyed to owner-occupants; or

(ii) at any earlier time that the Developer, in its sole discretion, voluntarily converts its Class "B" Membership to Class "A" Membership to Class "A" membership; or

(iii) on December, 2006.

**Section 3. Meetings of Members.** The By-Laws of the Association shall provide for an annual meeting of Members, and may make provisions for regular and special meetings of Members other than the annual meeting. A quorum for the transaction of business at any meeting of the Members shall exist if 33-1/3% of the total number of Members in good standing shall be present or represented by proxy at the meeting.

**Section 4. General Matters.** When reference is made herein, or in the Covenants, By-Laws, Rules and Regulations, management contracts or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members and not of the Members themselves.

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ARTICLE IV

**CORPORATE EXISTENCE**

The Association shall have perpetual existence; provided that if it is even dissolved, its assets shall be conveyed to another association or public agency having a similar purpose.

*Last year the board agreed to have 7 members. But one resigned.*

ARTICLE V

**BOARD OF DIRECTORS**

Section 1. Management by Directors. The property, business and affairs of the Association shall be managed by a Board of Directors, which shall consist of not less than three (3) persons, but as many persons as the Board of Directors shall from time to time determine. A majority of the directors in office shall constitute a quorum for the transaction of business. The By-Laws shall provide for meetings of directors, including an annual meeting.

Section 2. Election of Members of Board of Directors. Except as otherwise provided herein and for the first Board of Directors and their Developer-appointed replacements, directors shall be elected by the Members of the Association at the annual meeting of the membership as provided by the By-Laws of the Association, and the By-Laws may provide for the method of voting in the election and for removal from office of directors. All directors shall be members of the Association residing in The Properties or shall be authorized representatives, officers, or employees of corporate members of the Association, or designees of the Developer. Notwithstanding the foregoing, until such time as the Class B Membership in the Association terminates, the Developer shall have the right to appoint the Directors of the Association by written notice to such effect or by an announcement reflected in the minutes of the annual meeting of the Association.

Section 3. Duration of Office. Members elected to the Board of Directors shall hold office until the next succeeding annual meeting of Members, and thereafter until qualified successors are duly elected and have taken office.

Section 4. Vacancies. If a director elected by the general membership shall for any reason cease to be a director, the remaining directors so elected may elect a successor to fill the vacancy for the balance of the term.

ARTICLE VI

**OFFICERS**

Section 1. Election and Appointment of Officers. The officers of the Association, in accordance with any applicable provision of the By-Laws, shall be elected by the Board of Directors for terms of one (1) year and thereafter until qualified successors are duly elected and have taken office. The By-Laws may provide for the method of voting in the election, for the removal from office of officers, for filling vacancies and for the duties of the officers. The President shall be a director; other officers may or may not be directors of the Association. If the office of President shall become vacant for any reason, or if the President shall be unable or unavailable to act, the Vice President shall automatically

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succeed to the office or perform its duties and exercise its powers. If any office shall become vacant for any reason, the Board of Directors may elect or appoint an individual to fill such vacancy.

## ARTICLE VII

### BY-LAWS

The Board of Directors shall adopt By-Laws consistent with these Articles of Incorporation. Such By-Laws may be altered, amended or repealed in the manner set forth in the By-Laws.

## ARTICLE VIII

### AMENDMENTS AND PRIORITIES

Section 1. Amendments to these Articles of Incorporation shall be proposed and approved by the Board of Directors and thereafter submitted to a meeting of the membership of the Association for adoption or rejection (by affirmative vote of 75% of the Members), all in the manner provided in, and in accordance with the notice provisions of, Fla. Stat. 617.017.

Section 2. In case of any conflict between these Articles of Incorporation and the By-Laws, these Articles shall control; and in case of any conflict between these Articles of Incorporation and the Covenants, the Covenants shall control.

## ARTICLE IX

### INCORPORATOR

The name and address of the incorporator of this Corporation is:

<u>Name</u>	<u>Address</u>
Charles D. Robbins	5214 La Gorce Drive Miami Beach, Florida 33140-2106

## ARTICLE X

### INDEMNIFICATION

Section 1. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, employee, officer or agent of the Association, against all 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 proceeding, unless (a) it is determined by a court of competent jurisdiction, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or that he acted in a manner he believed to be not in or opposed to the best interest of the Association, and, with respect to any criminal action or

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proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court further 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 or did act in a manner which he believed to be in or opposed to the best interest of the Association, and with respect to any criminal action or proceeding, that he had reasonable cause to believe that his conduct was unlawful.

**Section 2.** To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 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 incurred by him in connection therewith.

**Section 3.** 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, both as to action in his official capacity while holding such office or otherwise, and shall continue as to a person who has ceased to be director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

**Section 4.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

**Section 5.** The provisions of this Article X shall not be amended.

#### ARTICLE XI

#### REGISTERED AGENT

Until changed, Charles D. Robbins, shall be the registered agent of the Association and the registered office shall be at 5214 La Gorce Drive, Miami Beach, Florida 33140-2106.

IN WITNESS WHEREOF, the aforesaid incorporator has hereunto set his hand this 24th day of December, 2001.

*Charles D. Robbins*  
 CHARLES D. ROBBINS

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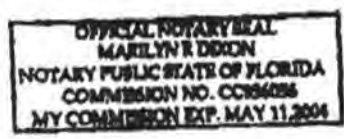
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STATE OF FLORIDA        )  
                                  ) SS:  
COUNTY OF MIAMI-DADE    )

The foregoing instrument was acknowledged before me this 24th day of December 2001, by Charles D. Robbins, who is personally known to me and who did not take an oath.

*Marilyn R. Dixon*  
NOTARY PUBLIC, State of Florida

My Commission Expires:



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**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR  
THE SERVICE OF PROCESS WITHIN THIS STATE, NAMING AGENT  
UPON WHOM PROCESS MAY BE SERVED**

In compliance with the laws of Florida, the following is submitted:

First - That desiring to organize under the laws of the State of Florida with its principal office, as indicated in the foregoing articles of Incorporation, in the County of Miami-Dade, State of Florida, the corporation named in said articles has named Charles D. Robbins located at 5214 La Goree Drive, Miami Beach, Florida 33140-2106, as its statutory registered agent.

Having been named the statutory agent of the above corporation at the place designated in this certificate, I hereby accept the same and agree to act in this capacity, and agree to comply with the provisions of Florida law relative to keeping the registered office open.

Dated this 24th day of December, 2001.

Charles D. Robbins  
CHARLES D. ROBBINS

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**EXHIBIT "C"****BYLAWS  
OF  
COCOPLUM PROPERTY OWNERS ASSOCIATION OF PALM BEACH, INC.****Section 1. Identification of Association**

These are the "Bylaws" of COCOPLUM PROPERTY OWNERS ASSOCIATION OF PALM BEACH, INC. ("Association"), as duly adopted by its Board of Directors ("Board"). The Association is a corporation not for profit, organized pursuant to and under Chapter 617, Florida Statutes.

1.1 The office of the Association shall be for the present at 9350 Sunset Drive, Suite 100, Miami, Florida, 33173, and thereafter may be located at any place designated by the Board.

1.2 The fiscal year of the Association shall be the calendar year.

1.3 The seal of the Association shall bear the name of the Association, the word "Florida" and the words "Corporation Not For Profit."

**Section 2. Definitions**

The terms defined in the Articles of Incorporation of the Association ("Articles") as well as in the Declaration of Covenants and Restrictions for Cocoplum ("Declaration") are incorporated herein by reference.

**Section 3. Membership; Members' Meeting; Voting and Proxies**

3.1 The qualification of Members, the manner of their admission to membership in the Association, the termination of such membership and the manner of voting by Members shall be as set forth in Articles V and XII of the Articles.

3.2 The Members shall meet annually at the office of the Association or at such other place within the State of Florida, in the month of November at such time and place as determined by the Board and as designated in the notice of such meeting ("Annual Members' Meeting"). The purpose of the Annual Members' Meeting shall be to hear reports of the officers and transact any other business authorized to be transacted at such meeting.

3.3 Special meeting of the members shall be held at any place within the State of Florida whenever called by the President or Vice President or by a majority of the Board. A special meeting must be called by the President or Vice President upon receipt of a written request from Members having the right to vote at least one-third (1/3) of the total number of votes entitled to be cast at such meeting.

3.4 A written notice of all meetings of Members whether the Annual Members' Meeting or special meetings, shall be given to each Member at his last known address as it then appears on the books of the Association unless specifically waived in writing by a Member prior to the required notification period as set forth below. In the absence of any specific address for a Member, the Association shall use the address of any Dwelling Unit owned by such Member. Such notice of an Annual Members' Meeting or special meeting shall be mailed to the said address not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. Proof of such mailing shall be given by the Affidavit of the person who mailed such notice. The notice shall state the time and place of the meeting of members to take place within the State of Florida and the purpose for which the meeting is called. The

notice shall be signed by an officer of the Association or reflect a facsimile of such signature. If a meeting of the membership, either Annual or special, is one which, by express provision of the Declarations or Articles permits or requires a greater or lesser amount of time for the mailing or posting of notice than is required or permitted by the provision of this Section 3.4, then the aforesaid express provision shall govern. Notwithstanding any provision herein to the contrary, notice of any Meeting may be waived before, during or after such Meeting by a Member or by the person entitled to vote for such Member by signing a document setting forth the waiver of such notice.

3.5 The membership may, at the discretion of the Board, act by written agreement in lieu of a meeting, provided written notice of the matter(s) to be agreed upon is given to the Members at the addresses and within the time period set forth in Section 3.4 hereof or duly waived in accordance with such Section. Unless some greater number is required under the Declarations or Articles, the decision of a majority of the votes cast by members as to the matter(s) to be agreed or voted upon shall be binding. Notice with respect to actions to be taken by written response in lieu of a meeting shall set forth a time period in which the written response is to be received by the Association.

3.6 A quorum for a meeting of the Members shall consist of persons entitled to cast at least a majority of all votes of each class of membership. If the required quorum is not present another meeting may be called subject to notice requirements, and the required quorum at the subsequent meeting shall be thirty-three and one-third percent (33-1/3%) of all votes of each membership. A Member may join in the action of a meeting by signing and concurring in the minutes thereof and such a signing shall constitute the presence of such parties for the purpose of determining a quorum. When a quorum is present at any meeting and a question which raises the jurisdiction of such meeting is presented, the holders of a majority of the voting rights present in person or by "Proxy" (as hereinafter defined) shall be required to decide the question unless the question is one upon which an express provision of the Declarations or Articles requires a vote other than the majority vote of a quorum, then such express provision shall govern and control the required vote on the decision of such question.

3.7 If any meeting of the Members cannot be organized because a quorum is not in attendance, the Members who are present, either in person or by Proxy, may adjourn the meeting from time to time until a quorum is present. In the case of the meeting being postponed, the notice provisions for the adjournment shall be as determined by the Board.

3.8 Minutes of all meetings shall be kept in a businesslike manner and available for inspection by the Members at all reasonable times. The Association shall retain minutes for at least seven (7) days subsequent to the date of the meeting the minutes reflect.

3.9 Voting rights of Members shall be as stated in the Articles. Such votes may be cast in person or by Proxy. "Proxy" is defined to mean an instrument containing the appointment of a person who is substituted in the place and stead of the person or entity entitled to vote. Proxies shall be in writing signed by the person or entity giving the same and shall be valid only for the particular meeting designated therein and, if so stated in the Proxy, any adjournments thereof. A Proxy must be filed with the Secretary of the Association at least two (2) business days before the appointed time of the meeting in order to be effective. A Proxy may be revoked only by a separate written instrument filed with the Secretary of the Association prior to the time a vote is cast according to such Proxy. No person or entity other than an officer of the Association may hold more than ten (10) Proxies.

3.10 The voting interest of the Owners of any Lot owned by more than one (1) person, a corporation or other entity, or by one (1) person and a corporation and/or other entity, or by any combination of the aforesaid, shall be cast by the Owner, officer, partner or principal ("Voting Member") named in a voting certificate ("Voting Certificate") filed with the Secretary of the Association signed by all of the Owners of such Lot or, if appropriate, by properly designated officers, principals or partners of the respective legal entity which owns the Lot. In the alternative, a Proxy as to a particular meeting may be

executed in the same manner as the Voting Certificate. If neither a Proxy nor a Voting Certificate is on file, the voting interest associated with a Lot where the designation of a Voting Member or execution of a Proxy is required shall not be considered in determining the requirement for a quorum or for any other purpose. In the event a valid Voting Certificate and a Valid Proxy are filed with the Secretary of the Association with respect to a particular Lot(s) which provide for different persons present at the meeting to vote for such Lot(s), the Voting Certificate shall control and the person named as the Voting Member therein shall be entitled to vote for such Lot(s).

3.11 Notwithstanding the provisions of Paragraph 3.10 above, whenever any Lot is owned solely by a husband and wife they may, but shall not be required to, designate a Voting Member. In the event a Voting Certificate designating a Voting Member is not filed by the husband and wife, the following provisions shall govern their right to vote:

- (i) Where both husband and wife are present at a meeting, each shall be regarded as the agent and proxy for the other for purposes of casting the voting interest for each Lot owned solely by them. In the event they are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to exercise their voting interest on that subject at that meeting, but will be counted for purposes of determining if a quorum is present.
- (ii) Where only one (1) is present at a meeting, the spouse present may exercise the voting interest of the Lot without establishing the concurrence of the other spouse, absent any prior written notice to the contrary to the Association by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of said Lot shall not be considered in determining if there is a quorum or for any other purpose unless such prior notice to the contrary has been withdrawn by a subsequent written notice executed by both husband and wife.
- (iii) Where neither spouse is present, the person designated in a Proxy signed by either spouse may exercise the voting interest of the Lot, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different Proxy by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different Proxy by the other spouse, the vote of said Lot shall not be considered in determining if there is a quorum or for any other purpose.

3.12 At any time prior to a vote upon a matter at a meeting of the Members, any Member may demand the use of a secret written ballot for the voting on such matter. The chairman of the meeting shall call for nominations for inspectors of election to collect and tally written ballots under the completion of balloting upon the subject matter.

#### **Section 4. Board of Directors' Meetings**

4.1 The form of administration of the Association shall be by a Board of not less than three (3) Directors.

4.2 The provisions of the Articles setting forth the selection, designation, election and removal of the First Board of Directors are hereby incorporated herein by reference.

4.3 Any person elected or designated as a Director shall have all the rights, privileges, duties and obligations of a Director of the Association.



4.4 The term of each Director's service shall extend until the next Annual Members' Meeting and thereafter, until his successors is duly elected and qualified or until he is removed.

4.5 A Director designated by Declarant as provided in the Articles may be removed only by Declarant in its sole discretion and without any need for a meeting or vote. Declarant shall have the unqualified right to name a successor for any Director designated and thereafter removed by it or for any vacancy on the First Board as to a Director designated by it, and Declarant shall notify the First Board as to any such removal or vacancy and the name of the successor Director and of the commencement date for the term of such successor Director.

4.6 The organizational meeting of the newly elected Board shall be held within ten (10) days of the Annual Members' Meeting at such place and time as shall be fixed by the Directors at the Annual Members' Meeting. No further notice of the organizational meeting shall be necessary, providing that a quorum shall be present at such organizational meeting.

4.7 Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of Directors. Special meetings of the Board may be called at the discretion of the President or the Vice President of the Association. Special meetings must be called by the Secretary at the written request of one-third (1/3) of the Directors.

4.8 Notice of the time and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally or by mail, telephone or telegraph at least three (3) days prior to the day specified for such meeting. Any Director may waive notice of the meeting before, during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director.

4.9 Quorum of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. A Director may join in the action of the meeting of the Board by signing the minutes thereof, and such signing shall constitute the presence of such Director for the purpose of determining a quorum. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board, except as specifically provided otherwise in the Declaration, the Articles or herein. If at any meetings of the Board there shall be less than a quorum present, the majority of those 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. In the case of the meeting being postponed, the notice provisions for the adjournment shall be as determined by the Board.

4.10 The presiding officer at Board meetings shall be the President. In the absence of the President, the Directors present shall designate any one of their number to preside.

4.11 Directors' fees, if any, shall be determined by a majority of the members.

4.12 Minutes of all meetings shall be kept in a businesslike manner and shall be available for inspection by Members and Directors at all reasonable times.

4.13 The Board shall have the power to appoint executive committees consisting of not less than two (2) Directors. Executive committees shall have and exercise such powers of the Board as may be delegated to such executive committee by the Board.

4.14 Unless the Board holds a closed meeting, meetings of the Board shall be open to all Owners. Unless an Owner serves as a Director or unless he has been specifically invited by the Directors to participate in the meeting, the Owner shall not be entitled to participate in the meeting, but shall only be entitled to act as an observer. In the event an Owner not serving as a Director or not otherwise invited by

the Directors to participate in the meeting attempts to become more than a mere observer at the meeting or conducts himself in a manner detrimental to the carrying on of the meeting, then any Director may expel said Owner from the meeting by any reasonable means which may be necessary to accomplish said Owner's expulsion. Also, any Director shall have the right to exclude from any meeting of the Board any person who is not able to provide sufficient proof that he is an Owner or a duly authorized representative, agent or proxy holder of an Owner, unless said person has been specifically invited by any of the Directors to participate in such meeting.

4.15 Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if a written consent, specifically setting forth the action to be taken, shall be signed by all the Directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of Directors.

#### **Section 5. Powers and Duties of the Board of Directors**

5.1 All of the powers and duties of the Association shall be exercised by the Board. Such powers and duties of the Board shall include, but not be limited to, all powers and duties set forth in the Declarations and Articles, as well as all of the powers and duties of a director of a corporation not for profit.

5.2 Assessments shall be collected by the Association in payments made directly to it by each Owner as set forth in the Declarations. The Board shall be empowered to levy fines and late fees in order to effectuate the enforcement of the provisions of the Declarations and the timely payment of all Assessments levied thereunder.

#### **Section 6. Officers of the Association**

6.1 Executive officers of the Association shall be the President, who shall be a Director, one or more Vice Presidents, a Treasurer, a Secretary and, if the Board so determines, an Assistant Secretary and an Assistant Treasurer, all of whom shall be elected annually as set forth in Article IX of the Articles. Any officer may be removed without cause from office by vote of the Directors at any meeting of the Board. The Board shall, from time to time, elect such other officers and assistant officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

6.2 The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the President of an association or a corporation not for profit, including, but not limited to, the power to appoint such committees at such times from among the members as he may in his discretion determine appropriate to assist in the conduct of the affairs of the Association. If in attendance, the President shall preside at all meetings of the Board.

6.3 In the absence or disability of the President, a Vice President shall exercise the powers and perform the duties of the President. The Vice President(s) shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board. In the event there shall be more than one Vice President elected by the Board, then they shall be designated "First," "Second," etc. and shall exercise the powers and perform the duties of the presidency in such order.

6.4 The Secretary shall cause to be kept the minutes of all meetings of the Board and the members, which minutes shall be kept in a businesslike manner and shall be available for inspection by members and Directors at all reasonable times. He shall have custody of the seal of the Association and shall affix the same to instruments requiring a seal which duly signed, he shall keep the records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of

Secretary of the Association as may be required by the Board or the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent and shall assist the Secretary.

6.5 The Treasurer shall have custody of all of the 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 he shall perform all of the duties incident to the officer of Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer whenever the Treasurer is absent and shall assist the Treasurer.

6.6 The compensation, if any, of all officers and other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director or an officer as an employee of the Association or preclude the contracting with a Director or an officer for the management of the Association Common Area.

### **Section 7. Accounting Records; Fiscal Management**

7.1 The Association shall maintain accounting records in accordance with good accounting practices, which shall be open to inspection by Members and "Institutional Mortgagees" or their respective authorized representatives at reasonable times. Such authorization as a representative of a member must be in writing and signed by the person giving the authorization and dated within sixty (60) days of the date of the inspection. Written summaries of the accounting records shall be available at least annually to the members. Such records shall include, but not be limited to, (a) a record of all receipts and expenditures; and (b) an account for each contributing Lot which shall designate the name and address of the contributing Lot Owner thereof, the amount of individual Lot Assessments and all other Assessments, if any, charged to the contributing Lot, the amounts and due dates for payment of same, the amounts paid upon the account and the balance due.

7.2 The Board shall adopt a Budget (as provided for in the Declaration) of the anticipated "Common Expenses" of the Association for each forthcoming calendar year (the fiscal year of the Association being the calendar year) at a special meeting of the Board ("Budget Meeting") called for that purpose to be held during the first two weeks of November of the year preceding the year to which the Budget applies. Prior to the Budget Meeting, a proposed Budget for the Common Expenses shall be prepared by or on behalf of the Board. Within thirty (30) days after adoption of the Budget, a copy thereof shall be furnished to each member and each contributing Lot Owner shall be given notice of the individual Lot Assessment applicable to his contributing Lot(s). The copy of the Budget shall be deemed furnished and the notice of the individual Lot Assessment shall be deemed given upon its delivery or upon its being mailed to the member or contributing Lot Owner shown on the records of the Association at the address for giving notices to such member or contributing Lot Owner as provided in Section 3.4 hereof.

7.3 In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any income received by the Association in any calendar year may be used by the Association to pay expenses incurred in the same calendar year; (iii) there shall be apportioned between calendar year on a pro rata basis any expenses which are prepaid in any one calendar year for Common Expenses which cover more than such calendar year; (iv) Assessments shall be made monthly or quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current Common Expenses and for all unpaid Common Expenses previously incurred; and (v) items of Common Expenses incurred in a calendar year shall be charged against income for the same calendar year regardless of when the bill for such expenses is received.

Notwithstanding the foregoing, the Assessments for Common Expenses and any periodic installments thereof shall be of sufficient magnitude to insure an adequacy and availability of



cash to meet all budgeted expenses in any calendar year as such expenses are incurred in accordance with the cash basis method of accounting.

7.4 All Assessments shall be payable as provided for in the Declarations.

7.5 No Board shall be required to anticipate revenue from Assessments or expend funds to pay for Common Expenses not budgeted or which shall exceed budgeted items, and no Board is required to engage in deficit spending. Should there exist any deficiency which results from there being greater Common Expenses than monies from Assessments, then such deficits shall be carried into the next succeeding year's Budget as a deficiency or shall be the subject of an adjustment to the applicable Assessments set forth in the Declarations.

7.6 The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board.

7.7 A financial report of actual receipts and expenditures for the immediately preceding fiscal year of the Association shall be made annually and a copy of the report shall be provided to each member not later than the first day of April of the year following the year for which the report is made. The report shall be deemed to be furnished to the member upon its delivery or mailing to the member at the address for giving notices to such member as provided in Section 3.4 hereof. The holder, insurer or guarantor of any first mortgage upon written request therefor, shall receive such financial report of the Association for the prior fiscal year without charge.

#### **Section 8. Books and Papers; Financial Matters**

8.1 The books, records, financial statements and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection of any Member of the Association.

8.2 The fiscal year of the Association shall be the calendar year, the operating budget therefor to be adopted at least sixty (60) days prior to the commencement thereof (provided that the failure to do so shall not impair the validity or enforceability of the assessments to be levied thereunder).

8.3 At least twenty (20) days prior to the effective date of any change in the amount of assessments, the Association shall send written notice of the new assessment amount and the due date(s) thereof to each Member.

8.4 Within a reasonable amount of time after the end of the Association's fiscal year, the Association shall prepare, or cause to be prepared, financial statements for the Association showing its actual receipts and expenditures for the previous twelve (12) months in the classifications provided in the budget for such period. Such statements need not be audited or reviewed by a Certified Public Accountant.

8.5 The Association shall maintain each of the following items, when applicable, which constitute the official records of the Association:

(a) 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.

(b) A copy of the bylaws of the Association and of each amendment to the bylaws.

- (c) A copy of the articles of incorporation of the Association and of each amendment thereto.
- (d) A copy of the declaration of covenants and a copy of each amendment thereto.
- (e) A copy of the current rules of the Association.
- (f) The minutes of all meeting of the Board of Directors and of the members, which minutes must be retained for at least seven (7) years.
- (g) A current roster of all members and their mailing addresses and parcel identifications.
- (h) All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years.
- (i) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreements, 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.
- (j) The financial and accounting records of the Association, shall be 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:
  - (1) Accurate, itemized, and detailed records of all receipts and expenditures.
  - (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.
  - (3) All tax returns, financial statements, and financial reports of the Association.
  - (4) Any other records that identify, measure, record, or communicate financial information.

8.6 The official records shall be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable time and places within ten (10) business days after receipt of a written request for access.

(a) 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. The Association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members, and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

8.7 The Association shall prepare an annual budget. The 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 budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the Declarant, or another person. 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. The copy must be provided to the member within the time limits set forth in subsection 8.6.

8.8 The association shall prepare an annual financial report within sixty (60) days after the close of the fiscal year. The association shall, within the time limits set forth in subsection 8.6, 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:

(a) Financial statements presented in conformity with generally accepted accounting principles; or

(b) A financial report of actual receipts and expenditures, cash basis, which report must show:

(1) The amount of receipts and expenditures by classification; and

(2) The beginning and ending cash balances of the Association.

#### **Section 9. Rules and Regulations**

The Board may adopt rules and regulations or amend, modify or rescind existing rules and regulations for the operation and use of the Common Facilities; provided such rules and regulations are not inconsistent with the Declarations or Articles. Copies of any rules and regulations promulgated, modified, amended or rescinded shall be mailed or delivered to all Members at the address for giving notices to such Member as provided in Section 3.4 hereof and shall not take effect until forty-eight (48) hours after such mailing or delivery. Notwithstanding the foregoing, where rules and regulations are to regulate the use of specific portions of the Common Facilities such rules and regulations may be conspicuously posted at such facility and such rules and regulations shall be effective immediately upon such posting.

#### **Section 10. Parliamentary Rules**

The then latest edition of Robert's Rules of Order shall govern the conduct of meetings of this Association when not in conflict with the Declarations the Articles, or these Bylaws.

#### **Section 11. Amendments of the Bylaws**

11.1 These Bylaws may be amended as hereinafter set forth:

(a) After the "Turnover Date," any Bylaw of the Association may be amended or repealed, and any new Bylaw of the Association may be adopted by either:

(i) Majority vote of the Members present in person or by proxy at any Annual Members' Meeting or any special meeting of the Members called for that purpose or by majority action of the Members who have acted by written response in lieu of a meeting as permitted by these Bylaws; or

(ii) by the affirmative vote of a majority of the Directors then in office at any regular meeting of the Board or at any regular meeting of the Board or at any special meeting of the Board or at any special meeting of the Board called for that purpose or by written instrument signed by all of the Directors provided that the Directors shall not have authority to adopt or amend or repeal any Bylaw



if such new Bylaw or such amendment or the repeal of a Bylaw would be Inconsistent with any Bylaw previously adopted by the Members.

11.2 Notwithstanding any of the foregoing provisions of this Section 10 to the contrary, until the Turnover Date, all amendments or modifications to these Bylaws and adoption or repeal of Bylaws shall only be made by action of the First Board, which First Board shall have the power to amend, modify, adopt and repeal any Bylaws without the requirement of any consent of the Members.

11.3 Notwithstanding any provision of this Section 10 to the contrary, these Bylaws shall not be amended in any manner which shall amend, modify or affect any provisions, terms, conditions, rights or obligations set forth in the Declarations or Articles, as the same may be amended from time to time in accordance with the provisions thereof, including, without limitation, any rights of Declarant, or of an Institutional Mortgagee without the prior written consent thereto by Declarant or Institutional Mortgagee, as the case may be.

11.4 Any instrument amending, modifying, repealing or adding Bylaws shall identify the particular Section(s) affected and give the exact language of such modification, amendment or addition or of the provisions repealed.

**Section 12. Interpretation**

In the event of a conflict between the Bylaws and the provisions of the Articles and/or the Declarations the provision in the Articles and/or Declarations shall control.

The foregoing Bylaws of Cocoplum Property Owners Association of Palm Beach, Inc. have been adopted by all of the Directors of Cocoplum Property Owners Association of Palm Beach, Inc.

COCOPLUM PROPERTY OWNERS  
ASSOCIATION OF PALM BEACH, INC.

By: \_\_\_\_\_

Dated: \_\_\_\_\_

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
STANDARD GENERAL PERMIT NO. 50-04980-P**

Form #0941  
08/95

DATE ISSUED: October 3, 2001

PERMITTEE: WESTBROOKE COMPANIES  
1860 OLD OKEECHOBEE ROAD SUITE 503  
WEST PALM BEACH, FL 33409

PROJECT DESCRIPTION: MODIFICATION OF A SURFACE WATER MANAGEMENT SYSTEM SERVING 63.85  
ACRE(S) OF RESIDENTIAL DEVELOPMENT KNOWN AS HYPOLUXO/HAVERHILL  
PUD.

PROJECT LOCATION: PALM BEACH COUNTY, SEC 2 TWP 45S RGE 42E

PERMIT DURATION: Five years from the date issued to complete construction of the  
surface water management system as authorized herein. See attached  
Rule 40E-4.321. Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for  
Permit Application No. 010807-10, dated August 7, 2001. This action is taken pursuant  
to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

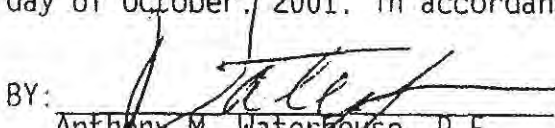
Based on the information provided, District rules have been adhered to and an  
Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative  
hearing.
2. the attached General Conditions.
3. the attached 12 Special Conditions, and
4. the attached 12 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of  
Rights" which addresses the procedures to be followed if you desire a public hearing  
or other review of the proposed agency action. Please contact this office if you  
have any questions concerning this matter. If we do not hear from you in accordance  
with the "Notice of Rights," we will assume that you concur with the District's  
action.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the  
persons listed in the attached distribution list) no later than 5:00 p.m. on this 3rd  
day of October, 2001, in accordance with Section 120.60(3), Florida Statutes.

BY:   
Anthony M. Waterhouse, P.E.  
Director - Surface Water Management  
Palm Beach Service Center

Certified Mail No. 7000 1530 0000 2749 3283

Enclosures

## ENVIRONMENTAL RESOURCE PERMIT

## CHAPTER 40E-4 (10/95)

## 40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding

or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to chapter 40-E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit,

or

2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.



### NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

#### Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by



ny such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner is consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

RECUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the provisions of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15<sup>th</sup> Judicial Circuit in and for Palm Beach County or circuit court in the county where the use of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of the date of the SFWMD's action, through mail or posting of



publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

- (1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (2) a statement of the preliminary agency action;
- (3) an explanation of how the person's substantial interests will be affected by the agency determination; and
- (4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the voluntary agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for a hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of a dispute, the SFWMD shall notify all parties in writing at the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

#### VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Section 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

- (a) the caption shall read: Petition for (Variance from) or (Waiver of) Rule (Citation)
- (b) The name, address, telephone number and any facsimile number of the petitioner.

(c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

(d) the applicable rule or portion of the rule;

(e) the citation to the statute the rule is implementing;

(f) the type of action requested;

(g) the specific facts that demonstrate a substantial hardship or violation of principles of fairness that would justify a waiver or variance for the petitioner;

(h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

(a) the specific facts that make the situation an emergency; and

(b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

#### WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

#### 28-106.201 INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.



**42-106.301 INITIATION OF PROCEEDINGS  
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)**

- 2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
  - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
  - (c) A statement of when and how the petitioner received notice of the agency decision;
  - (d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
  - (e) A demand for relief.

**42-107.004 SUSPENSION, REVOCATION, ANNULMENT,  
OR WITHDRAWAL**

- 3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
  - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
  - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

**42-2.013 REQUEST FOR REVIEW PURSUANT TO  
SECTION 373.114 OR 373.217**

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S. or rules duly adopted thereunder.

(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

(e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

**28-107.005 EMERGENCY ACTION**

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.

(2) The 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

**40E-1.611 EMERGENCY ACTION**

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

## GENERAL CONDITIONS

1. ALL ACTIVITIES AUTHORIZED BY THIS PERMIT SHALL BE IMPLEMENTED AS SET FORTH IN THE PLANS, SPECIFICATIONS AND PERFORMANCE CRITERIA AS APPROVED BY THIS PERMIT. ANY DEVIATION FROM THE PERMITTED ACTIVITY AND THE CONDITIONS FOR UNDERTAKING THAT ACTIVITY SHALL CONSTITUTE A VIOLATION OF THIS PERMIT AND PART IV, CHAPTER 373, F.S.
2. THIS PERMIT OR A COPY THEREOF, COMPLETE WITH ALL CONDITIONS, ATTACHMENTS, EXHIBITS, AND MODIFICATIONS SHALL BE KEPT AT THE WORK SITE OF THE PERMITTED ACTIVITY. THE COMPLETE PERMIT SHALL BE AVAILABLE FOR REVIEW AT THE WORK SITE UPON REQUEST BY THE DISTRICT STAFF. THE PERMITTEE SHALL REQUIRE THE CONTRACTOR TO REVIEW THE COMPLETE PERMIT PRIOR TO COMMENCEMENT OF THE ACTIVITY AUTHORIZED BY THIS PERMIT.
3. ACTIVITIES APPROVED BY THIS PERMIT SHALL BE CONDUCTED IN A MANNER WHICH DOES NOT CAUSE VIOLATIONS OF STATE WATER QUALITY STANDARDS. THE PERMITTEE SHALL IMPLEMENT BEST MANAGEMENT PRACTICES FOR EROSION AND POLLUTION CONTROL TO PREVENT VIOLATION OF STATE WATER QUALITY STANDARDS. TEMPORARY EROSION CONTROL SHALL BE IMPLEMENTED PRIOR TO AND DURING CONSTRUCTION, AND PERMANENT CONTROL MEASURES SHALL BE COMPLETED WITHIN 7 DAYS OF ANY CONSTRUCTION ACTIVITY. TURBIDITY BARRIERS SHALL BE INSTALLED AND MAINTAINED AT ALL LOCATIONS WHERE THE POSSIBILITY OF TRANSFERRING SUSPENDED SOLIDS INTO THE RECEIVING WATERBODY EXISTS DUE TO THE PERMITTED WORK. TURBIDITY BARRIERS SHALL REMAIN IN PLACE AT ALL LOCATIONS UNTIL CONSTRUCTION IS COMPLETED AND SOILS ARE STABILIZED AND VEGETATION HAS BEEN ESTABLISHED. ALL PRACTICES SHALL BE IN ACCORDANCE WITH THE GUIDELINES AND SPECIFICATIONS DESCRIBED IN CHAPTER 6 OF THE FLORIDA LAND DEVELOPMENT MANUAL; A GUIDE TO SOUND LAND AND WATER MANAGEMENT (DEPARTMENT OF ENVIRONMENTAL REGULATION, 1988), INCORPORATED BY REFERENCE IN RULE 40E-4.091, F.A.C. UNLESS A PROJECT-SPECIFIC EROSION AND SEDIMENT CONTROL PLAN IS APPROVED AS PART OF THE PERMIT. THEREAFTER THE PERMITTEE SHALL BE RESPONSIBLE FOR THE REMOVAL OF THE BARRIERS. THE PERMITTEE SHALL CORRECT ANY EROSION OR SHOALING THAT CAUSES ADVERSE IMPACTS TO THE WATER RESOURCES.
4. THE PERMITTEE SHALL NOTIFY THE DISTRICT OF THE ANTICIPATED CONSTRUCTION START DATE WITHIN 30 DAYS OF THE DATE THAT THIS PERMIT IS ISSUED. AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ACTIVITY AUTHORIZED BY THIS PERMIT, THE PERMITTEE SHALL SUBMIT TO THE DISTRICT AN ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMMENCEMENT NOTICE FORM NO. 0960 INDICATING THE ACTUAL START DATE AND THE EXPECTED COMPLETION DATE.
5. WHEN THE DURATION OF CONSTRUCTION WILL EXCEED ONE YEAR, THE PERMITTEE SHALL SUBMIT CONSTRUCTION STATUS REPORTS TO THE DISTRICT ON AN ANNUAL BASIS UTILIZING AN ANNUAL STATUS REPORT FORM. STATUS REPORT FORMS SHALL BE SUBMITTED THE FOLLOWING JUNE OF EACH YEAR.



6. WITHIN 30 DAYS AFTER COMPLETION OF CONSTRUCTION OF THE PERMITTED ACTIVITY, THE PERMITTEE SHALL SUBMIT A WRITTEN STATEMENT OF COMPLETION AND CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER OR OTHER APPROPRIATE INDIVIDUAL AS AUTHORIZED BY LAW, UTILIZING THE SUPPLIED ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMPLETION/CONSTRUCTION CERTIFICATION FORM NO.0881. THE STATEMENT OF COMPLETION AND CERTIFICATION SHALL BE BASED ON ONSITE OBSERVATION OF CONSTRUCTION OR REVIEW OF ASBUILT DRAWINGS FOR THE PURPOSE OF DETERMINING IF THE WORK WAS COMPLETED IN COMPLIANCE WITH PERMITTED PLANS AND SPECIFICATIONS. THIS SUBMITTAL SHALL SERVE TO NOTIFY THE DISTRICT THAT THE SYSTEM IS READY FOR INSPECTION. ADDITIONALLY, IF DEVIATION FROM THE APPROVED DRAWINGS ARE DISCOVERED DURING THE CERTIFICATION PROCESS, THE CERTIFICATION MUST BE ACCOMPANIED BY A COPY OF THE APPROVED PERMIT DRAWINGS WITH DEVIATIONS NOTED. BOTH THE ORIGINAL AND REVISED SPECIFICATIONS MUST BE CLEARLY SHOWN. THE PLANS MUST BE CLEARLY LABELED AS "ASBUILT" OR "RECORD" DRAWING. ALL SURVEYED DIMENSIONS AND ELEVATIONS SHALL BE CERTIFIED BY A REGISTERED SURVEYOR.
7. THE OPERATION PHASE OF THIS PERMIT SHALL NOT BECOME EFFECTIVE: UNTIL THE PERMITTEE HAS COMPLIED WITH THE REQUIREMENTS OF CONDITION (6) ABOVE, HAS SUBMITTED A REQUEST FOR CONVERSION OF ENVIRONMENTAL RESOURCE PERMIT FROM CONSTRUCTION PHASE TO OPERATION PHASE, FORM NO.0920; THE DISTRICT DETERMINES THE SYSTEM TO BE IN COMPLIANCE WITH THE PERMITTED PLANS AND SPECIFICATIONS; AND THE ENTITY APPROVED BY THE DISTRICT IN ACCORDANCE WITH SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, ACCEPTS RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE SYSTEM. THE PERMIT SHALL NOT BE TRANSFERRED TO SUCH APPROVED OPERATION AND MAINTENANCE ENTITY UNTIL THE OPERATION PHASE OF THE PERMIT BECOMES EFFECTIVE. FOLLOWING INSPECTION AND APPROVAL OF THE PERMITTED SYSTEM BY THE DISTRICT, THE PERMITTEE SHALL INITIATE TRANSFER OF THE PERMIT TO THE APPROVED RESPONSIBLE OPERATING ENTITY IF DIFFERENT FROM THE PERMITTEE. UNTIL THE PERMIT IS TRANSFERRED PURSUANT TO SECTION 40E-1.6107, F.A.C., THE PERMITTEE SHALL BE LIABLE FOR COMPLIANCE WITH THE TERMS OF THE PERMIT.
8. EACH PHASE OR INDEPENDENT PORTION OF THE PERMITTED SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO THE INITIATION OF THE PERMITTED USE OF SITE INFRASTRUCTURE LOCATED WITHIN THE AREA SERVED BY THAT PORTION OR PHASE OF THE SYSTEM. EACH PHASE OR INDEPENDENT PORTION OF THE SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO TRANSFER OF RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE PHASE OR PORTION OF THE SYSTEM TO A LOCAL GOVERNMENT OR OTHER RESPONSIBLE ENTITY.
9. FOR THOSE SYSTEMS THAT WILL BE OPERATED OR MAINTAINED BY AN ENTITY THAT WILL REQUIRE AN EASEMENT OR DEED RESTRICTION IN ORDER TO ENABLE THAT ENTITY TO OPERATE OR MAINTAIN THE SYSTEM IN CONFORMANCE WITH THIS PERMIT, SUCH EASEMENT OR DEED RESTRICTION MUST BE RECORDED IN THE PUBLIC RECORDS AND SUBMITTED TO THE DISTRICT ALONG WITH ANY OTHER FINAL OPERATION AND MAINTENANCE DOCUMENTS REQUIRED BY SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, PRIOR TO LOT OR UNIT SALES OR PRIOR TO THE COMPLETION OF THE SYSTEM, WHICHEVER OCCURS FIRST. OTHER DOCUMENTS CONCERNING THE ESTABLISHMENT AND AUTHORITY OF THE OPERATING ENTITY MUST BE FILED WITH THE SECRETARY OF STATE WHERE APPROPRIATE. FOR THOSE SYSTEMS WHICH ARE PROPOSED TO BE MAINTAINED BY THE COUNTY OR MUNICIPAL ENTITIES, FINAL OPERATION AND MAINTENANCE DOCUMENTS MUST BE RECEIVED BY THE DISTRICT WHEN MAINTENANCE AND OPERATION OF THE SYSTEM IS ACCEPTED BY THE LOCAL GOVERNMENT ENTITY. FAILURE TO SUBMIT THE APPROPRIATE FINAL DOCUMENTS WILL RESULT IN THE PERMITTEE REMAINING LIABLE FOR CARRYING OUT MAINTENANCE AND OPERATION OF THE PERMITTED SYSTEM AND ANY OTHER PERMIT CONDITIONS.



10. SHOULD ANY OTHER REGULATORY AGENCY REQUIRE CHANGES TO THE PERMITTED SYSTEM, THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING OF THE CHANGES PRIOR TO IMPLEMENTATION SO THAT A DETERMINATION CAN BE MADE WHETHER A PERMIT MODIFICATION IS REQUIRED.
11. THIS PERMIT DOES NOT ELIMINATE THE NECESSITY TO OBTAIN ANY REQUIRED FEDERAL, STATE, LOCAL AND SPECIAL DISTRICT AUTHORIZATIONS PRIOR TO THE START OF ANY ACTIVITY APPROVED BY THIS PERMIT. THIS PERMIT DOES NOT CONVEY TO THE PERMITTEE OR CREATE IN THE PERMITTEE ANY PROPERTY RIGHT, OR ANY INTEREST IN REAL PROPERTY, NOR DOES IT AUTHORIZE ANY ENTRANCE UPON OR ACTIVITIES ON PROPERTY WHICH IS NOT OWNED OR CONTROLLED BY THE PERMITTEE, OR CONVEY ANY RIGHTS OR PRIVILEGES OTHER THAN THOSE SPECIFIED IN THE PERMIT AND CHAPTER 40E-4 OR CHAPTER 40E-40, F.A.C.
12. THE PERMITTEE IS HEREBY ADVISED THAT SECTION 253.77, F.S. STATES THAT A PERSON MAY NOT COMMENCE ANY EXCAVATION, CONSTRUCTION, OR OTHER ACTIVITY INVOLVING THE USE OF SOVEREIGN OR OTHER LANDS OF THE STATE, THE TITLE TO WHICH IS VESTED IN THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND WITHOUT OBTAINING THE REQUIRED LEASE, LICENSE, EASEMENT, OR OTHER FORM OF CONSENT AUTHORIZING THE PROPOSED USE. THEREFORE, THE PERMITTEE IS RESPONSIBLE FOR OBTAINING ANY NECESSARY AUTHORIZATIONS FROM THE BOARD OF TRUSTEES PRIOR TO COMMENCING ACTIVITY ON SOVEREIGNTY LANDS OR OTHER STATE-OWNED LANDS.
13. THE PERMITTEE MUST OBTAIN A WATER USE PERMIT PRIOR TO CONSTRUCTION DEWATERING, UNLESS THE WORK QUALIFIES FOR A GENERAL PERMIT PURSUANT TO SUBSECTION 40E-20.302(4), F.A.C., ALSO KNOWN AS THE "NO NOTICE" RULE.
14. THE PERMITTEE SHALL HOLD AND SAVE THE DISTRICT HARMLESS FROM ANY AND ALL DAMAGES, CLAIMS, OR LIABILITIES WHICH MAY ARISE BY REASON OF THE CONSTRUCTION, ALTERATION, OPERATION, MAINTENANCE, REMOVAL, ABANDONMENT OR USE OF ANY SYSTEM AUTHORIZED BY THE PERMIT.
15. ANY DELINEATION OF THE EXTENT OF A WETLAND OR OTHER SURFACE WATER SUBMITTED AS PART OF THE PERMIT APPLICATION, INCLUDING PLANS OR OTHER SUPPORTING DOCUMENTATION, SHALL NOT BE CONSIDERED BINDING UNLESS A SPECIFIC CONDITION OF THIS PERMIT OR A FORMAL DETERMINATION UNDER SECTION 373.421(2), F.S., PROVIDES OTHERWISE.
16. THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING WITHIN 30 DAYS OF ANY SALE, CONVEYANCE, OR OTHER TRANSFER OF OWNERSHIP OR CONTROL OF A PERMITTED SYSTEM OR THE REAL PROPERTY ON WHICH THE PERMITTED SYSTEM IS LOCATED. ALL TRANSFERS OF OWNERSHIP OR TRANSFERS OF A PERMIT ARE SUBJECT TO THE REQUIREMENTS OF RULES 40E-1.6105 AND 40E-1.6107, F.A.C. THE PERMITTEE TRANSFERRING THE PERMIT SHALL REMAIN LIABLE FOR CORRECTIVE ACTIONS THAT MAY BE REQUIRED AS A RESULT OF ANY VIOLATIONS PRIOR TO THE SALE, CONVEYANCE OR OTHER TRANSFER OF THE SYSTEM.
17. UPON REASONABLE NOTICE TO THE PERMITTEE, DISTRICT AUTHORIZED STAFF WITH PROPER IDENTIFICATION SHALL HAVE PERMISSION TO ENTER, INSPECT, SAMPLE AND TEST THE SYSTEM TO INSURE CONFORMITY WITH THE PLANS AND SPECIFICATIONS APPROVED BY THE PERMIT.
18. IF HISTORICAL OR ARCHAEOLOGICAL ARTIFACTS ARE DISCOVERED AT ANY TIME ON THE PROJECT SITE, THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE APPROPRIATE DISTRICT SERVICE CENTER.
19. THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE DISTRICT IN WRITING OF ANY PREVIOUSLY SUBMITTED INFORMATION THAT IS LATER DISCOVERED TO BE INACCURATE.

## SPECIAL CONDITIONS

1. MINIMUM BUILDING FLOOR ELEVATION: 20.2 FEET NGVD.
2. MINIMUM ROAD CROWN ELEVATION: 18 FEET NGVD.
3. DISCHARGE FACILITIES:
  - 1-6' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 19.6' NGVD.
  - 1-1.56' W X .92' H X 80 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 16' NGVD.RECEIVING BODY : LWDD L-17 CANAL  
CONTROL ELEV : 16 FEET NGVD. /16 FEET NGVD DRY SEASON.
4. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE CORRECTION OF ANY EROSION, SHOALING OR WATER QUALITY PROBLEMS THAT RESULT FROM THE CONSTRUCTION OR OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM.
5. MEASURES SHALL BE TAKEN DURING CONSTRUCTION TO INSURE THAT SEDIMENTATION AND/OR TURBIDITY PROBLEMS ARE NOT CREATED IN THE RECEIVING WATER.
6. THE DISTRICT RESERVES THE RIGHT TO REQUIRE THAT ADDITIONAL WATER QUALITY TREATMENT METHODS BE INCORPORATED INTO THE DRAINAGE SYSTEM IF SUCH MEASURES ARE SHOWN TO BE NECESSARY.
7. LAKE SIDE SLOPES SHALL BE NO STEEPER THAN 4:1 (HORIZONTAL:VERTICAL) TO A DEPTH OF TWO FEET BELOW THE CONTROL ELEVATION. SIDE SLOPES SHALL BE TOP SOILED AND STABILIZED THROUGH SEEDING OR PLANTING FROM 2 FEET BELOW TO 1 FOOT ABOVE THE CONTROL ELEVATION TO PROMOTE VEGETATIVE GROWTH.
8. FACILITIES OTHER THAN THOSE STATED HEREIN SHALL NOT BE CONSTRUCTED WITHOUT AN APPROVED MODIFICATION OF THIS PERMIT.
9. OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM SHALL BE THE RESPONSIBILITY OF PROPERTY OWNERS ASSOCIATION. THE PERMITTEE SHALL SUBMIT A COPY OF THE RECORDED DEED RESTRICTIONS (OR DECLARATION OF CONDOMINIUM, IF APPLICABLE), A COPY OF THE FILED ARTICLES OF INCORPORATION, AND A COPY OF THE CERTIFICATE OF INCORPORATION FOR THE HOMEOWNERS ASSOCIATION CONCURRENT WITH THE ENGINEERING CERTIFICATION OF CONSTRUCTION COMPLETION.
10. ALL SPECIAL CONDITIONS, EXHIBITS AND TEXT OF STAFF REPORTS PREVIOUSLY STIPULATED BY PERMIT NUMBER 50-04980-P REMAIN IN EFFECT UNLESS OTHERWISE REVISED AND SHALL APPLY TO THIS MODIFICATION.
11. THE SCREW GATE PROPOSED FOR THE CONTROL STRUCTURE SHALL REMAIN CLOSED AT ALL TIMES UNLESS SPECIFIC APPROVAL IS GRANTED BY THE LAKE WORTH DRAINAGE DISTRICT FOR ITS OPERATION. AT NO TIME SHALL THE GATE BE OPERATED TO BYPASS THE WATER QUALITY DETENTION REQUIREMENTS FOR THE PROJECT OR TO LOWER THE LAKE LEVELS BELOW THE PERMITTED CONTROL ELEVATION. IF FOR WHATEVER REASON IT IS DETERMINED THAT THE PERMITTEE IS NOT COMPLYING WITH THE DIRECTIVES OF THE LAKE WORTH DRAINAGE DISTRICT, AND/OR, IS OPERATING THE STRUCTURE CONTRARY TO ITS INTENDED PURPOSE AS AN EMERGENCY OUTFLOW (WHEN LWDD CANAL CONDITIONS ALLOW), THE STRUCTURE SHALL BE MODIFIED TO PERMANENTLY PREVENT ITS USE. IN ADDITION, THE SCREW GATE SHALL BE EQUIPPED WITH A LOCK MECHANISM TO PREVENT UNAUTHORIZED USE, AND A STAFF GAGE SHALL BE INSTALLED UPSTREAM OF THE STRUCTURE SO THAT LAKE LEVELS WITHIN THE PROJECT CAN BE QUICKLY DETERMINED.

## SPECIAL CONDITIONS

12. REFERENCE IS MADE TO EXHIBITS 3 THROUGH 11 CONSISTING OF PAVING, GRADING AND DRAINAGE PLANS AND DETAIL SHEETS. THE DRAWINGS HAVE BEEN SIGNED AND SEALED BY A FLORIDA REGISTERED PROFESSIONAL ENGINEER AND ARE HEREBY INCORPORATED IN THIS PERMIT BY REFERENCE (PLEASE SEE PERMIT FILE).





LOCATION MAP

N.T.S.

SEC. 2 TWP. 45 S RGE. 42 E

EXHIBIT **1**

PREPARED BY:

**LNW**

## PROJECT: HYPOLUXO/HAVERHILL PUD

PERMIT SUMMARY SHEET

APPLICATION NUMBER: 010807-10

PERMIT MODIFICATION NO.: 50-04980-P

LOCATION: PALM BEACH COUNTY, S2/T45S/R42E

OWNER: WESTBROOKE COMPANIES

ENGINEER: LAWSON NOBLE AND WEBB INC

PROJECT AREA: 63.85 ACRES DRAINAGE AREA: 63.85 ACRES

PROJECT USE: RESIDENTIAL

## FACILITIES:

1. EXISTING: This project is located at the northwest corner of the intersection of Haverhill Road and Hypoluxo Road, in the City of Boynton Beach, Palm Beach County.

Permit No. 50-04980-P was issued for this project on June 15, 2001 allowing the construction and operation of a surface water management system to serve a 63.85-acre residential project known as Hypoluxo/Haverhill PUD.

2. PROPOSED: Proposed is the modification of a previously issued permit, Permit No. 50-04980-P, to allow for the construction and operation of a surface water management system to serve a 63.85-acre residential development known as Hypoluxo/Haverhill PUD. This project is located in the City of Boynton Beach, Palm Beach County.

The proposed surface water management system will consist of inlets, culverts and swales which will direct runoff into two interconnected onsite lakes which will provide the required water quality treatment and attenuation. Discharge from the lake system is to Lake Worth Drainage District L-17 Canal via a proposed control structure.

The proposed modification to the previously permitted surface water management will consist of increasing the lake size and changing the proposed site grades.

PROJECT LEVEL:

APPLICATION NUMBER: 010807-10

DRAINAGE BASIN: C-16

RECEIVING BODY: LWDD L-17 CANAL

BASIN DESIGN FREQUENCY: 25YR-3DAY STORM

WATER QUALITY:

Detention of the first inch of runoff will provided within the onsite lake system.

Basin	Method	Vol Req'd. (ac-ft)	Vol Prov'd (ac-ft)
SITE	8.29 acres WET DETENTION	5.32	5.32

DISCHARGE RATE:

The applicant engineer has provided calculations to demonstrate that the proposed discharge rate for the 25-year, 3-day storm event is within the allowable limit for the area.

Basin	Allow Disch (cfs)	Method of Determination	Design Disch (cfs)	Design Stage (ft, NGVD)
SITE	6.3	DISCHARGE FORMULA	6.17	19.58

ENVIRONMENTAL ASSESSMENT:

ENVIRONMENTAL SUMMARY:

This project is located within the previously permitted Hypoluxo / Haverhill PUD development in Palm Beach County (Permit 50-04980-P). The applicant proposes the construction of a surface water management system to serve 63.85 acres of residential development. The area where this project is proposed has been filled and graded as previously permitted and no wetlands or preserve areas have been identified within the project area. No adverse wetland impacts are anticipated from this development. Therefore, no wetland mitigation requirements have been included in this permit.



APPLICATION NUMBER: 010807-10

APPLICABLE LAND USE:

In the following table, the water management areas (lakes) are given at the control elevation.

	TOTAL PROJECT	PREVIOUSLY PERMITTED	THIS PHASE
TOTAL ACRES	63.85		63.85 acres
WTRM ACREAGE	8.29		8.29 acres
PAVEMENT	11.13		11.13 acres
BUILD COVERAGE	15.73		15.73 acres
PERVIOUS	28.70		28.70 acres

DEPARTMENT APPROVAL:

NATURAL RESOURCE MANAGEMENT

Anita R. Bain  
Anita R. Bain

DATE: 10/2/01

SURFACE WATER MANAGEMENT

Carlos A. DeRojas  
Carlos A. DeRojas, P.E.

DATE: 10/2/01

STAFF REPORT DISTRIBUTION LIST

HYPOLUXO/HAVERHILL PUD  
APPLICATION NUMBER: 010807-10  
PERMIT MODIFICATION NUMBER: 50-04980-P

INTERNAL DISTRIBUTION

Reviewer:

- X Marwan Fakhoury, P.E.
- X Nirmala Jeyakumar
- X Anita R. Bain
- X Carlos A. DeRojas, P.E.  
J. Golden - 4210  
R. Robbins - 4250
- X P. Walker, PBCSC - 1680  
A. Waterhouse - 4220
- X ERC Engineering
- X ERC Environmental  
Enforcement
- X Permit File

EXTERNAL DISTRIBUTION

- X Owner:  
WESTBROOKE COMPANIES
- X Applicant:  
WESTBROOKE COMPANIES
- X Applicant's Consultant  
LAWSON NOBLE AND WEBB INC
- X Engineer, County of:  
PALM BEACH
- Engineer, City of:

DEPT. OF ENVIRONMENTAL PROTECTION

- X Local Drainage District:  
LAKE WORTH DRAINAGE DISTRICT

COUNTY

- X Palm Beach -Building Division
- Environmental Res Mgmt
- Health Dept
- Land Development Div
- School Board Growth Mgt

BUILDING AND ZONING

OTHER

- FDEP
- Florida Audubon - Charles Lee
- Florida Fish & Wildlife Conservation Com
- X Michael N. Vanatta  
Mr. Ed Dailey, Chairman
- X Rosa Durando
- X Sierra Club, Loxahatchee  
Timothy K Large, Bldg Code Permit Admini



PALM BEACH COUNTY, STATE OF FLORIDA

I hereby certify that the foregoing is a true copy of the record in my office.

This 6 Day of April 20 02

DOROTHY H. WILKEN  
Clerk Circuit Court

BY [Signature] D.C.

**Certificate of Amendment  
to the  
Rules and Regulations**



Record and return to:  
Iglesias Law Group, P.A.  
15800 Pines Boulevard  
Suite 303  
Pembroke Pines, Florida 33027  
David D. Iglesias, Esq.

**CERTIFICATE OF AMENDMENT  
TO THE RULES AND REGULATIONS FOR COCOPLUM PROPERTY OWNERS  
ASSOCIATION OF PALM BEACH, INC.**

**WITNESSETH:**

**WHEREAS**, the Declaration of Covenants and Restrictions for Cocoplum Property Owners Association of Palm Beach, Inc., was duly recorded amongst the Public Records of Palm Beach County, Florida in Official Records Book 13612 at Page 0193 et. seq. ; and

**WHEREAS**, at a meeting of the Board of Directors for Cocoplum Property Owners Association of Palm Beach, Inc., held on February 24, 2020 the Board of Directors of the Association have voted in the affirmative for the Amendment to the Rules and Regulations attached hereto as Exhibit "A"; and

**NOW THEREFORE**, the undersigned hereby certify that the attached Amendments are a true and correct copy of the Amendments to the Rules and Regulations for Cocoplum Property Owners Association of Palm Beach, Inc., as approved.

**IN WITNESS WHEREOF**, Cocoplum Property Owners Association of Palm Beach, Inc., has executed this Certificate of Amendment to the Rules and Regulations for Cocoplum Property Owners Association of Palm Beach, Inc., this 24 day of February 2020.

**COCOPLUM PROPERTY OWNERS ASSOCIATION OF PALM BEACH, INC.**  
a Florida not-for-profit corporation

By: [Signature]  
David Brand, President

By: [Signature]  
Eric Handel, Secretary

**WITNESS,**

Sign: [Signature]  
Print Name: Sophie Priestley

Sign: [Signature]  
Print Name: Krystal Cross

Certificate of Amendment  
Rules and Regulations  
Cocoplum Property Owners Association of Palm Beach, Inc.  
Page 2 of 2

**STATE OF FLORIDA**  
**COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me this 24 day of February 2020, by David Brent as President of Cocoplum Property Owners Association of Palm Beach, Inc., a Florida not-for-profit corporation.

Personally Known  OR  
Produced Identification \_\_\_\_\_

\_\_\_\_\_  
Type of Identification



**LAURA CARLISLE**  
Commission # GG 381914  
Expires December 2, 2023  
Bonded Thru Budget Notary Services

**NOTARY PUBLIC- STATE OF FLORIDA**  
Sign Laura Carlisle

Print Laura Carlisle

**STATE OF FLORIDA**  
**COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me this 24 day of February 2020, by Erick Mandel as Secretary of Cocoplum Property Owners Association of Palm Beach, Inc., a Florida not-for-profit corporation.

Personally Known  OR  
Produced Identification \_\_\_\_\_

\_\_\_\_\_  
Type of Identification



**LAURA CARLISLE**  
Commission # GG 381914  
Expires December 2, 2023  
Bonded Thru Budget Notary Services

**NOTARY PUBLIC- STATE OF FLORIDA**  
Sign Laura Carlisle

Print Laura Carlisle

# •COCOPLUM•

PROPERTY OWNERS ASSOCIATION OF PALM BEACH, INC.

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## AMENDED/RESTATED RULES AND REGULATIONS

Board of Directors Approval Date      February 24, 2020

Effective Date                                      February 24, 2020

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## GENERAL

These Rules and Regulations are designed for the mutual benefit of all Owners. All Rules and Regulations shall apply to and be binding upon all Owners. Notwithstanding the foregoing, the Rules and Regulations shall not apply to Declarant or Declarant's agents, employees or contractors or to Lots or Homes owned by Declarant until they are conveyed to Owners.

1. **RESPONSIBILITY.** With respect to compliance with the Rules and Regulations, an Owner shall be held responsible for the actions of his family members, guests, invitees, tenants, contractors and other persons for whom they are responsible, as well as for the actions of persons over whom they exercise control and supervision.

2. **OBSERVANCE OF LAWS.** All applicable laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction relating to the Common Areas or any Lot or Home shall be corrected by, and at the sole expense of, the responsible Owner and, as appropriate, the violator.

3. **IMPROPER USE.** No improper, hazardous or unlawful use shall be made of the Common Areas or any Home or Lot. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

4. **NUISANCE.** No obnoxious activity shall be carried on at any Home or Lot or in or about any portion of the Community. Nothing shall be done which may be an unreasonable annoyance or a nuisance to any other Owner or which interferes with the peaceful possession or proper use of the Homes or the surrounding areas. Nothing shall be done within the Common Areas or any Home or Lot which tends to cause embarrassment, discomfort, unreasonable annoyance or nuisance to any Owner or his family members, guests, invitees and tenants using any portion of the Community.

5. **VIOLATIONS.** Violations of any Rule or Regulation shall subject the responsible Owner and/or violator to any and all remedies available to the Association pursuant to the Declaration of Covenants, Restrictions and Easements for Cocoplum (the "Declaration"). All violations of any of the Rules and Regulations should be reported immediately to the Board or its designees. Violations shall be called to the attention of the responsible Owner(s) and, as appropriate, the violator(s) by the Board or its designees in writing. Disagreements concerning violations shall be presented to and be ruled upon by the Board in accordance with the Declaration.

6. **DISTURBANCE.** No loud noises or noxious odors shall be permitted. None of the following shall be located, used or placed on any Lot or inside any Home, or exposed to other Owners without the prior written approval of the Board of Directors (the "Board"), (a) whistles, bells or other sound devices (other than security devices used exclusively for security purposes); (b) noisy vehicles, power equipment, power tools - (suggest putting a time frame for these items) or off-road motor vehicles; or (c) any items which may unreasonably interfere with television or radio reception. Owners/Tenants shall not operate radios, televisions, musical instruments or any other noise producing items at times or at volume levels, which shall disturb others between the hours of dusk and 8 AM.

7. **NO AMENDMENT.** Any of the Rules and Regulations contained in this document do not amend any provision of the Declaration. In the event of conflict between the two, the provisions of the Governing Documents shall control.

8. **INTERPRETATION.** The provisions of this document, as well as those of the Declaration of Covenants and Restrictions, Articles, By-Laws and any separate rules and regulations of the Association shall be interpreted by the Board of Directors. Any such interpretation of the Board which is rendered in good faith shall be final, binding and conclusive if the Board receives a written opinion of legal counsel to the Association, or the counsel having drafted this Declaration or other applicable document, that the interpretation is not unreasonable, which opinion may be rendered before or after the interpretation is adopted by the Board. Notwithstanding any rule of law to the contrary, the provisions of the Declaration and the Articles, By-Laws and the Rules and Regulations of the Association shall be liberally construed so as to effectuate the purposes herein expressed with respect to the efficient operation of the Association and The Properties, the preservation of the values of the Lots and Units.

9. **FURTHER AMENDMENT.** The Board reserves the right to amend, clarify or alter these Rules and Regulations at any time with proper notice as provided for in Florida Statute Chapter 720 as amended from time to time.

## ARCHITECTURAL REVIEW

1. All Homeowners are required to submit an Architectural Control Board (ARB) Application in accordance with Article 7.11 of the Declaration of Covenants, Restrictions and Easements for Cocoplum. Separate applications are required for each improvement.

(a) An Application for Architectural Control Board (ARB) Review may be obtained from the Property Management Company. It is required that the most current version of the form be utilized.

(b) ARB applications must be submitted for all exterior modifications to the unit or lot. This includes but is not limited to: exterior painting, exterior walls, windows, roofs, exterior lighting, driveways, landscaping modifications, pools, screen enclosures, patios or patio extensions, awnings, antennae or satellite dishes, shutters, hurricane protection, basketball hoops, swing sets or play equipment, decorative plaques or accessories, birdhouses, other pet houses, swales, asphaltting, sidewalk/driveway surfaces or treatments or other improvements or changes of any kind, even if not permanently affixed to the land or to other improvements. All modifications must otherwise comply with the Association's Governing Documents.

(c) All Homeowners will send their completed ARB application, including all applicable documentation, to the Property Management Company. The application submission must include a Copy of Property Survey, marking location of improvement, a Copy of Blueprints, if applicable, Color swatches for body and trim of house if applicable, and Samples and/or Photos. If you are hiring a company to perform the work, a Certificate of Liability Insurance, a Certificate of Workers Compensation Insurance, and Contractors County License, and copy of work order/contract must be provided.

2. Homeowners shall not start or complete any improvement that requires an ARB approval, until they have received the "Approval Response" or "Conditionally Approved" letter from the Property Management Company.

3. Homeowners must make all approved improvements in strict conformance with the approved plans and specifications.

4. Any Homeowner receiving "Conditionally Approved - See Comments" response from the Architectural Control Board (ARB) must adhere to all stipulated conditions. If a Homeowner fails to follow the conditions, the Homeowner will be declared to be in noncompliance.

5. Any Homeowner who starts or completes any improvement that requires an ARB approval without first receiving the "ARB Response," will receive a "Letter of Intent to Fine" for this violation.

6. A homeowner must notify the Property Management Office in writing when the approved work is completed.

7. If an inspection shows deficiencies once work is completed, a homeowner has 30 days to correct any deficiencies or be subject to violations, fines, or other legal remedies.

8. All ARB approvals are valid for ninety (90) days from the date of the approval. All work approved by the ARB must be completed. Homeowners are required to submit a new ARB application for each modification made to the exterior of the property.

**AMENDED/RESTATED RULES AND REGULATIONS**

9. All homeowners who receive an application that "Conditionally Approved" or "Denied" have the right to request the Board of Directors review their application.

(a) All Requests of this nature must be in written form.

(b) All requests must be sent to the Property Management Company 14 days prior to the Board Meeting.

(c) The homeowner or a representative must attend the Board Meeting at the time of the hearing. If the homeowner or their representative is not present the ARB ruling will automatically be upheld.



## MAINTENANCE OF UNITS, LOTS, AND LANDSCAPING

1. **EXTERIOR OF UNIT.** The Owner of a Lot shall maintain all exterior surfaces and roofs, fascia and soffits of the structures (including the Unit) and other improvements located on the Lot (including driveway and sidewalk surfaces) in a neat, orderly and attractive manner. The aforesaid maintenance shall include maintaining screens (including screen enclosures), windows and doors (including the wood and hardware of garage doors and sliding glass doors). The minimum (though not sole) standard for the foregoing shall be consistency with the general appearance of the Properties as initially constructed and otherwise improved (taking into account, however, normal weathering and fading of exterior finishes, not to the point of unsightliness). Notwithstanding the foregoing, the maintenance of the shared components, including, without limitation, the party walls, shared fences, the roofs, fascia and soffits, and the exterior maintenance and painting shall be undertaken by the Association, and the expenses related thereto assessed solely against the Owners in the affected Neighborhood.

2. **EXTERIOR PAINT.** The Owner shall clean or repaint, as appropriate, the exterior surfaces of unit, as often as is necessary to comply with the Community standards. Architectural Control Board (ARB) approval is required.

(a) Units must be painted when signs of fading, weathering, or visible signs of age appear OR at a minimum of every eight (8) years, whichever comes first.

(b) All approved exterior, trim, and accent (front door) paint colors can be located on the current ARB application. Please contact the property management company for the most up-to-date copy of the application and questions regarding approved Sherwin-Williams Colors.

(c) The garage door, shutters, limestone accents, and all exterior plaster relief must be painted the Trim Color.

(d) Front Door may be painted either the Trim Color or one of the approved Sherwin Williams Accent Colors.

(e) All exterior Paint must be Satin Finish.

(f) If a homeowner chooses to purchase paint(s) from any site other than an authorized Sherwin Williams location, homeowner acknowledges that it must match the Sherwin Williams color exactly and will be responsible to cover all costs associated with correcting the paint if necessary.

(g) In the event paint is purchased from a location other than an authorized Sherwin Williams location, a sample of the paint must be submitted with the ARB application for approved color comparison.

(h) The Architectural Control Board reserves the right to deny an application based on factors, including but not limited to the following: roof tile color, neighbor's home color, and home model.

(i) Architectural Control Board (ARB) Application must be submitted for any exterior painting, even when repainting the existing color.

**AMENDED/RESTATED RULES AND REGULATIONS**

3. **DRIVEWAY AND SIDEWALK SURFACES.** No Owner shall install on a Lot, and the Architectural Control Board shall not approve, any sidewalk, patio or driveway which has a surface material and/or color which is different from the existing size (6" x 9" rectangle and 6" x 6" square), pattern (Muster K with wide boarder), and color paver installed by the Developer. Further, no Owner shall change any existing sidewalk or driveway in a manner inconsistent with this Section. The Property Owner is responsible for maintenance of the driveway, including leveling, up to the street's pavement.

4. **FENCING.** A fence is defined as any enclosure or barrier, permanent or removable, taller than six inches and of any length, that effectively divides two pieces of land. Six foot (6') White Vinyl (PVC) Fences and Standard White Continuous Aluminum Rail Fences are approved in the community.

(a) PVC Fence Height is six (6) feet and not to exceed six (6) feet on the Aluminum Rail style.

(b) All existing wood fences must be painted the approved Sherwin Williams fence color in satin Finish.

(c) The more finished side the fence must face the street, common areas, and your neighbor's yard.

(d) It is the Fence Owner's responsibility to clean and maintain both sides. If an aging section starts to lean, shore it or replace it with the current approved fence as listed above.

(e) Fences facing community common areas, including lakes, must be Standard White continuous Aluminum Rail Fence Panels and may not exceed 4-5 feet.

(f) Any fence abutting a sidewalk must be maintained to keep the outside perimeter of the fence at least twenty-four (24) inches from the sidewalk and may not encroach any easement or extend beyond property line.

(g) No homeowner may have more than one (1) type of fence material on any single lot unless a privacy gate is installed between two homes.

(h) In considering any request for the approval of a fence or wall or a hedge or other landscaping, the Architectural Control Board shall give due consideration to the possibility of same obstructing the view from any adjoining Lot or Common Area and may condition its approval on the hedge or other landscaping being kept to a specific height. All persons are advised that many fences and walls may be prohibited altogether or, if approved, may be subject to stringent standards and requirements.

(i) Iron, chain link, lattice, bamboo electric, and any other fence type, not defined as "approved" in this section, is not allowed in the community. Architectural Control Board may not grant exception to this rule.

(j) Existing wood fences are allowed in the community as long as they are in good condition. Otherwise, the fence will be replaced with a current approved fence as listed above.

5. **LANDSCAPING.** The Owner shall maintain and irrigate the trees, shrubbery, grass and other landscaping on each Lot (i.e., those within fenced areas) in a neat orderly and attractive manner and consistent with the general appearance of The Properties as a whole, including, without limitation, maintaining low volume sprinklers.

- (a) **Acceptable Sod Types.** St. Augustine Grass varieties are approved to be planted in the community.
- (b) **Mowing Frequency and Maximum Height of Lawn Vegetation.** During the growing season (April 1 to October 31) lawns must be mowed *at least* twice every month. Year-round, any lawn vegetation should be no more than six (6) inches in height as measured from the top of the soil. This includes the areas of the lawn that adjoin surface structures, or adjoin hardscape, are next to utility boxes and underneath and around fences, therefore residents should take care to trim lawn vegetation that might not easily be cut by a conventional lawn mower.
- (c) **Grass Encroachment of Permanent Surfacing.** Residents are required to trim or "edge" areas of their lawn adjacent to driveways, curbs and sidewalks to prevent vegetation encroachment of those permanent surfaces.
- (d) **General Appearance.** The appearance of the lawn during the growing season should be predominantly green in color. Unless government authorities have issued watering restrictions, Residents should water frequently enough to encourage greening of lawns. "Bald" areas or dry spots must be treated by the resident to facilitate growth of a desirable decorative grass such as St. Augustine.
- (e) **Weeds.** Lawns must be well-kept and maintained to include that lawns must be treated to remove/deter weeds.
- (f) **Lawn Surface Area.** Front yard shall consist of at least sixty percent (60%) lawn / grass with no more than forty percent (40%) dedicated to landscape shrubbery or bedding area. Lots whose back-yard faces community Common Areas, lakes, and/or streets must follow the same guidelines as the front yard.
- (g) **Landscape Trimming.** Landscape shrubbery, including trees, will be neatly trimmed so as to be visually appealing, symmetrical and proportionate to the property. At no time should landscape shrubbery be so thick as to prevent lawn areas from growing. Dead landscape shrubbery material must be removed within ten (10) days of browning. The exception is entire dead trees above fifteen (15) feet in height, dead trees must be removed within sixty (60) days of complete browning.
- (h) **Bedding Area Maintenance.** As bedding areas are aesthetically designed to be vegetation-free except for landscape shrubbery, the appearance of weeds and even decorative grasses in bedding areas will greatly depreciate the visual appearance of a yard. Residents should maintain bedding areas by regularly pulling weeds and grasses by hand or treating the areas chemically.
- (i) **Leaf or Natural Lawn Debris.** Dead vegetation matter such as leaves, pine needles, or visible clumps of lawn clippings must be bagged and placed in trash receptacles at least once per month.
- (j) **Foreign Objects.** Objects that are not reasonably considered approved hardscaping should be removed from the yard daily. These include bicycles, toys, tools, garden implements, newspapers, trash, and other objects or materials not normally associated with yard decoration.
- (k) **Gardens.** Vegetable gardens, whose purpose is to grow edible items, are prohibited from the front lawns and view from the road or common areas. All gardens must be maintained at all times.

**AMENDED/RESTATED RULES AND REGULATIONS**

- (l) **Composting.** No compost materials or containers are permitted in any areas of a resident's yard.
- (m) **Artificial Vegetation.** With the exception of limited season artificial plants as holiday decorations, no artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Lot without the prior approval of the Architectural Control Board.
- (n) **Community Trees.** Maintenance of trees in the common areas, as well as the trees located between the sidewalk and roads, are the responsibility of the Association. These trees should not be trimmed without prior authorization.
- (o) **Visibility at Intersections.** No obstruction to visibility at street intersections or Common Area intersections shall be permitted; provided that the Association shall not be liable in any manner to any person or entity, including Owners and Members Permittees, for any damages, injuries or deaths arising from any violation of this Section.
- (p) **ARB Exemptions.** When replacing the existing landscape with the same species/variety of small plant, bedding, mulch, or rock, approval is not required from the Architectural Control Board. Any other modification, including but not limited to changing, removing, or adding trees, modifying existing bedding size or shape, changing mulch or rock style, and changing, removing, or adding plants/hedges, requires approval of an Architectural Control Board (ARB) Application.
- (q) **Fruit Trees.** Fruit trees are not allowed to be planted in the front yards. They may be planted in the backyard and must be maintained at all times.
- (r) **Plants.** See attached Addendum for list of suggested plants.
6. **UNIT NUMBERS.** Unit/House Numbers must match the original community font style, color (black), and size (four inches) installed by the Developer. Numbers must be centered above the garage door inside the trim boarder. All number changes must receive Architectural Control Board (ARB) approval.
7. **EXTERIOR LIGHTING.** All exterior lighting visible from the front elevation of the Unit or Common Areas must be selected from the Association pre-approved list found in the attached Addendum. If the Unit Owner is planning to install exterior fixtures not consistent with those originally installed on their home or found in the attached Addendum, approval from the Architectural Control Board (ARB) is required prior to installation. Lights may be black, white or oiled bronze.
8. **EXTERIOR ROOF.** Consistent with the general appearance of The Properties when built, Spanish Colonial style ceramic s-tile must be used for all exterior roof surfaces.
- (a) Roof should not have tiles that are loose, broken, displaced or missing.
- (b) Roof should be cleaned regularly to avoid a dirty appearance.
9. **GARAGES.** Garage doors shall be maintained in good repair, with no visible dents or markings. Garage doors must be painted the approved Sherwin-Williams Trim Color and must follow the Association Document standards.
- (a) Garage doors shall be kept closed at all times except when in actual use and during reasonably limited periods when the garage is being cleaned or other activities are being conducted therefrom which reasonably require the doors to be left open.



**AMENDED/RESTATED RULES AND REGULATIONS**

(b) Conversions of garages to living space or other uses are hereby prohibited, even though same are not readily apparent from the exteriors of applicable Units.

10. **WINDOWS.** Exterior of all windows must be white. Unless otherwise approved by the Architectural Control Board (ARB), windows on zero-lot-line must be glass block or single hung frosted/opaque.

(a) Hurricane Impact Resistant Windows, matching the above requirements, may be installed in the community once Architectural Control Board (ARB) Application is approved.

(b) Accordion Hurricane Shutters, matching the adjacent paint color where installed on windows with either trim or no trim, may be installed in the community once Architectural Control Board (ARB) Application is approved.

(c) No air conditioning units may be mounted through windows or walls.

(d) No building shall have any aluminum foil placed in any window or glass door or any reflective substance or other materials (except standard window treatments) placed on any glass, except such as may be approved by the Architectural Control Board for energy conservation purposes.

(e) For all windows facing streets or common areas, interior window treatments or coverings must be esthetically pleasing from the exterior of the residence, contain neutral colors (white, gray, beige, brown, ivory, or taupe) and neutral patterns. Bed sheets, towels, aluminum coverings, or torn blinds are not acceptable.

(f) Window screens must be maintained with no noticeable rips or tears.

(g) Tint on the windows must be a color and type approved by the ARB.

11. **FRONT ENTRY DOORS.** Front entry doors shall be maintained in good repair, with no visible dents or markings. Front doors must be painted with an approved Sherwin-Williams Trim Color or Sherwin-Williams Accent Color. All changes to the front door appearance, including repainting, require Architectural Control Board (ARB) Application approval.

(a) All changes to front doors must meet Florida HVHZ (high-velocity hurricane zone) requirements.

(b) Any change to the appearance of front door handle sets must be approved by the Architectural Control Board (ARB).

(c) Hurricane Impact Resistant Glass style doors or inserts may be added to front entry doors with Architectural Control Board (ARB) approval. Design of the door must be approved by the ARB.

(d) Kick Plates may not be installed on front entry doors.

12. **MAILBOXES.** The Association is responsible for the installation for all members' mailboxes. The homeowner is responsible for keeping the mailbox clean and free of mildew and stains. If a mailbox is damaged due to the negligence of owner, or surrogate of the owner, the Association will perform the repair and invoice the homeowner for the repair's actual cost. Other maintenance (e.g., required due to a loose or leaning post) will be performed by the Association at no cost to the owner. The addition of decoration of any kind to the mailbox is not permitted decorations (please refer to Exterior of Units #3).

**AMENDED/RESTATED RULES AND REGULATIONS**

13. **RAINGUTTERS.** The property owner shall be responsible for keeping unit's gutters clear of debris and in operation. All units must have rain gutters installed on zero lot line elevation. Rain gutters may be white or painted to match the adjacent trim/exterior. The addition of rain gutters requires Architectural Control Board (ARB) Application approval. Seamless gutters must be used.
14. **POOLS AND OTHER WATER FEATURES.**
- (a) All pools and fountains must be maintained and kept in good working order.
  - (b) In accordance with the Residential Swimming Pool Safety Act, all outdoor swimming pools must have a four foot (4') (or as specified under the code) tall fence or other barrier around the outer perimeter of the pool, with no gaps in coverage. Small, shallow temporary wading pools, often referred to as "kiddie pools", are exempt from fencing requirements.
  - (c) Pool screen enclosures must be kept in good repair, with no missing panels, signs of rips/tears, rust, or deterioration.
  - (d) All water features must be maintained to limit growth of any organism in the water, including insects, fish, reptiles, and amphibians. This includes maintaining pH and chlorine levels in all fountains, water features, pools, and Jacuzzi/hot tubs.
  - (e) Above ground swimming pools or Jacuzzis are not permitted.
15. **RENEWABLE RESOURCE DEVICES.** Nothing shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, that same shall be installed only in accordance with the reasonable standards adopted from time to time by the Architectural Control Board and with such Board's approval. Such standards shall be reasonably calculated to maintain the aesthetic integrity of The Properties. Architectural Control Board (ARB) approval is required.
16. **LAKEFRONT PROPERTY.** As to all portions of The Properties which have a boundary contiguous to any lake or other body of water, the following additional restrictions and requirements shall be applicable:
- (a) No boathouse, dock, wharf or other structure of any kind shall be erected, placed, altered or maintained on the shores of the lakes.
  - (b) No boat, boat trailer or vehicular parking or use of lake slope or shore areas shall be permitted. No motorized boats of any type shall be used on any lake which is part of the Common Areas.
  - (c) No solid or liquid waste, litter or other materials may be discharged into/onto or thrown into/onto any lake or other body of water or the banks thereof.
  - (d) Each applicable Owner shall maintain his Lot to the line, adjoining the Lot, of the water in the adjacent lake or other water body, as such line may change from time to time by virtue of changes in water levels.
  - (e) No landscaping (other than that initially installed or approved by Developer), fences, structures or other improvements (regardless of whether or not same are permanently attached to the land or to other improvements) shall be placed within any lake maintenance or similar easements around lakes or other bodies of water.

**AMENDED/RESTATED RULES AND REGULATIONS**

(f) From here on in, use of the lake or body of water for lot irrigation is prohibited unless previously approved in writing through the upgrade package from the Developer.

**AMENDED/RESTATED RULES AND REGULATIONS****EXTERIOR OF UNITS**

1. **HOSES**. All hoses should be stored neatly on a hose reel or holder when not in use.
2. **ENTRY ACCESSORIES**. Decor on the front door/porch shall be well-maintained, inoffensive, appropriate, and in keeping with the community's aesthetics.
3. **HOLIDAY DECORATIONS**. Outdoor holiday lights associated with Christmas, Hanukah, etc., shall not be illuminated before Thanksgiving and must be turned off completely and removed by January 15th. Other seasonal decorations should be displayed for no longer than thirty (30) consecutive days. Decorations that prove to be a nuisance, produce excessive glare or noise or endanger the health and welfare of the community, visitors or residents are not permitted.
4. **SIGNS**. No sign of any kind shall be displayed to the public view on any Lot except as listed in the Association documents.
5. **YARD ART**. No yard pieces or yard art, including but not limited to sculptures, statues, furniture, pots or potted plants, and other freestanding or attached works, whether for decoration or otherwise shall be permitted outside of the home which are visible from the streets without prior Architectural Control Board Approval.
6. **FLAGS**. Flags may be displayed in accordance with Florida Statutes 720.304.
7. **LANDSCAPE ACCENT LIGHTING**. To be considered by the Architectural Control Board (ARB), landscape accent lighting should be: of professional grade, white high or low voltage light; the fixture color should blend with the surrounding area (i.e. black, browns, or greens); the entire fixture should be hidden when possible, but in no case may it be more than six (6) inches above the ground, unless approved by the ARB; and the beams should be directed away from all adjacent property.
8. **EXTERIOR ANTENNAS**. No exterior antennas, satellite dishes or similar equipment shall be permitted on any Lot or improvement thereon, except with Architectural Control Board (ARB) approval. All exterior antennas, satellite dishes or similar equipment must not distract from the front elevation of the Unit.
9. **AWNINGS**. Permanent or Retractable awnings attached to home covering a rear patio are allowed with Architectural Control Board (ARB) approval. Awnings must be approved by the ARB for type and color. Awnings are to be kept clean and in good repair.
10. **TEMPORARY STRUCTURES**. Except as may be approved no structure of a temporary character, or trailer, mobile home or recreational vehicle, shall be permitted on any Lots within The Properties at any time or used at any time as a residence, either temporarily or permanently. Prohibited structures to further include but not limited to tents, Gazebos, Tiki Huts, shacks, barn, or out-buildings. No Temporary structure of any kind shall be allowed without the written consent of the Architectural Control Board (ARB).
11. **BASKETBALL HOOPS**. Permanent backboards of any type are not permitted. Portable units are permitted provided they are kept on the driveway, adjacent to the home or on their rear patios if not facing a common or lake area and in good appearance.
12. **GAS TANKS**. No gas tank, gas container or gas cylinder shall be permitted to be placed on or about the outside of any Unit or on or about any ancillary building, except for gas tanks which are used for swimming pool heaters which are screened from view, one (1) gas cylinder (not to exceed 20 lbs. capacity) connected to a barbecue grill and/or such other tank as is designed and used for household purposes and approved by the Architectural Control Board.



13. **OTHER OUTDOOR EQUIPMENT.** Any outdoor equipment such as, but not limited to, air conditioning units, pool pumps, and water softening devices shall be completely screened from the view of anyone not standing on the Lot by the use of landscaping or other means (in any event, as approved by the Architectural Control Board); provided, however, that the use of such screening shall not obviate the requirement that the installation of any new equipment nevertheless be approved by the Architectural Control Board. No approval for air conditioning units replacing the lot/unit owner's current air conditioning unit will be required.

## TRASH AND OTHER MATERIALS

1. No rubbish, trash, garbage, refuse, tree limbs, grass clippings, hedge trimmings or other waste material ("Trash") shall not be placed, dumped or permitted on any part of the subject area including Lots and Common Areas.
2. Trash that is placed at the front of a Lot in order to be collected may be placed and kept at the curb on the day before the scheduled day of collection, but not sooner. Any trash containers shall be removed after pickup on the day of collection.
  - (a) Garbage Service and Trash/Bulk Item collection occurs as listed on Solid Waste Authority Guidelines.
  - (b) Garbage Service, Trash/Bulk Items, Recycling, and Yard Waste collection as listed on Solid Waste Authority Guidelines.
  - (c) For more information please visit the SWA.org website.
3. All trash must be placed in appropriate containers.
4. Except when placed for collection, all containers, dumpsters and garbage facilities must be kept inside the home or garage.
5. No odors shall be permitted to arise from trash containers so as to render any portion of the property unsanitary, offensive or a nuisance to any Owners, to the Association Property or to any other property in the vicinity.
6. No stripped-down vehicles, lumber or other building materials, grass, tree clippings, metals scrap, automobile pieces or parts, refuse or trash shall be stored or allowed to accumulate on any portion of the property.
7. Each owner shall regularly pick up all Trash around his Home and Lot.

**Contact *Solid Waste Authority of Palm Beach County*  
for information about waste collection at 561-697-2700.**

## AMENDED/RESTATED RULES AND REGULATIONS

### PARKING AND VEHICULAR RESTRICTIONS

1. There will be NO parking in the streets, grass, or any portion of the common areas (other than designated guest/resident parking in the pool area with a pass from the Guard House).
2. Street parking is strictly prohibited at any time except approved guests and vendors if the driveway is full and an approved parking pass is given and placed in a visible location of the vehicle.
3. Any violation reported or seen by management will result in one violation letter as a warning and then notice to fine if seen again. Fines are \$100 per day up to \$1,000 per violation.
4. Daytime street parking will be permitted with a guest pass from the Guard House on the designated street side as listed on the guest pass received from the guard house.
5. Resident parking shall be permitted only on driveways and inside garages.
6. There will be no parking on the grass or common areas (other than designated guest/resident parking in the pool area with a pass from the Guard House) at any time, including resident's front lawn and the swales. There shall be no parking of a vehicle on the street within an intersection as provided for in the Palm Beach County Code of Ordinances.
7. If parked on driveways, vehicles shall not obstruct traffic on the streets.
8. Homeowners and tenants are not permitted to park overnight in recreational area parking lot unless with an approved parking pass.
9. No vehicle or other possessions belonging to an Owner or to an Owner's family member, guest, invitee or tenant shall be positioned in such a manner as to impede or prevent ready ingress or egress to another Owner's driveway.
10. The overnight parking of boats and commercial vehicles is not allowed unless within the garage of the Home and with the garage door closed. As otherwise provided for in the Declaration, trailers, motor homes and recreational vehicles shall not be parked in the Community.
11. Disposal of drained automotive fluids is not allowed within the Community.
12. Vehicles which cannot operate under their own power and/or which remain within the Community for more than seventy-two hours shall be towed at the Owners expense, unless parked on the Owner's driveway or inside the Owner's garage.
13. All vehicles shall be kept in proper operating condition so as not to be a hazard or a nuisance by noise, exhaust emission, appearance or otherwise.
14. No Owner shall keep any vehicle on the Lot, which is deemed to be a nuisance by the Board.
15. No Owner shall perform restorations of any motor vehicle, boat or other vehicle within the Community unless made within the garage of the Home and with the garage door closed.
16. Car washing shall be permitted only on an Owner's driveway.
17. Owners shall maintain a current registration and all required insurance coverages for all vehicles parked within the community.

**AMENDED/RESTATED RULES AND REGULATIONS**

19. The Board shall make a reasonable attempt to give notice to the owners of offending vehicles. If such vehicle is not removed or if the violation is not corrected, the Board may have the offending vehicle towed at the expense and risk of the owner of the vehicle.
20. The operation of off-road vehicles and other non-licensed or non-registered vehicles are prohibited in the Community. There is an exception for all motor vehicles classified in this section, if said vehicles are otherwise permitted to be operated on the paved streets of Palm Beach County and said motor vehicles are properly registered with the State and insured. The above exception includes the use of a golf cart and same may be driven on the Association roads. Any alterations to a standard golf cart that increase the vehicles speed or alters its performance capabilities form a standard golf cart required Association approval.
21. Vehicles may not park horizontally on a driveway.
22. Any violation of the established parking rules reported or seen by management will result in the following:
- (a) First violation: A warning will be issued.
  - (b) Second violation: Vehicle towed at owner's expense and/or subject to fines.
23. Any Vehicle that causes a safety hazard will be towed immediately with no notice.
24. Commercial vehicles are not allowed as listed in the Association Documents.



## ANIMALS AND PETS

In accord with The Palm Beach County Animal Care and Control Ordinance:

1. Ordinary household domestic pets are permitted, subject to the guidelines contained herein. Ordinary house pets shall include dogs, cats, caged domesticated birds, hamsters, gerbils, guinea pigs, aquarium fish, small snapping turtles and tortoises, domesticated rabbits, mice and creatures normally maintained in a terrarium or aquarium.
2. Notwithstanding the foregoing, breeding of any animals or pets, including ordinary house pets, or any other keeping of pets for any commercial purpose whatsoever within the Community is prohibited.
3. Unusual pets shall not be kept, raised, bred or maintained on any portion of the property, including the Home, Lot and Common Areas. Unusual pets shall include, by way of example and not limitation, those animals not generally maintained as pets, such as poultry, livestock, horses, large reptiles, anthropoids, felines other than cats, canines other than dogs, rodents, birds and other creatures other than those listed in item 1 above, or not maintained in a terrarium or aquarium.
4. Pet Owners are responsible for any property damage, personal injury or disturbance, which their pet may cause or inflict. Each Owner who determines to keep a pet agrees to indemnify the Association and hold harmless the Association against any loss or liability of any kind or character whatsoever arising from having any animal on the property.
5. Pets shall not be left unattended outside the Home. No pet shall be kept tied up outside of a Home or in any covered or screened porch or patio unless someone is present in the area. Outdoor pets are not allowed in the community.
6. All dogs and cats shall be walked on a leash and in full control by their owners at all times. Any pet shall be carried or kept on a leash when outside of a Home or outside of a fenced-in area.
7. Any solid animal waste shall be immediately picked up and removed and shall not be deposited on or within the Common Areas.
8. All pets shall have and display, as appropriate, evidence of all required registrations and inoculations listing the name and address of its owners.
9. If any pet becomes obnoxious to the Owners, residents, or any other individual by barking or otherwise, the pets Owner shall cause the problem to be corrected. If the problem is not corrected, then the Owner, upon written notice from the Association shall be required to remove the animal.
10. No Owner shall inflict or cause cruelty upon or in connection with any pet.
11. Any pet must not be an unreasonable nuisance or annoyance to other residents or the subject property.
12. The Association may require any pet to be immediately and permanently removed from the subject property due to a violation of this section.
13. No aggressive dogs are permitted within the community. The Association shall take and all action necessary for the removal of said dogs.

**GENERAL USE OF COMMON AREAS AND RECREATIONAL AREAS**

**1. Responsibility:**

(a) With respect to the use of Common Areas and Recreational Areas, an Owner shall be held responsible for the actions and conduct of his family members, guests, invitees and tenants. Decorum, good conduct and safety shall be observed and shall be strictly enforced.

(b) Any damage to Association Property, including the Recreational Areas or equipment therein, which is caused by any Owner or family member, guest, invitee or tenant of the Owner shall be repaired or replaced at the expense of the owner.

(c) The use of the Recreational Areas by persons other than an Owner or the family members, guests, invitees or tenants of the Owner is strictly prohibited and shall be at the risk of those involved and not, in any event, the risk of the Association or its manager.

(d) The Association shall not be responsible for any personal injury or any loss or damage to personal property at the Recreational Areas regardless of where such property is kept, checked, left or stored on the premises.

**2. General Use Restrictions:**

(a) The Recreational Areas shall be solely for the use of the Owner and his family members, guests, invitees, guests or tenants, subject to the provisions of the Association Documents.

(b) Residents shall accompany their guests, invitees or tenants to the recreation areas.

(c) Pets shall not be permitted in the Recreational Areas.

(d) The walkways and entrances of the Recreational Areas and facilities shall not be obstructed or used other than ingress and egress.

(e) There shall be no swimming, fishing or boating within or on the lakes or bodies of water within the community.

**3. Cleanliness:**

(a) It is prohibited to litter or cause debris to be put in any of the Common Areas or Recreational Areas. Owners, their family members, guests, invitees and tenants shall cause to be removed or disposed of all rubbish, garbage, trash, refuse or other waste materials generated during their respective use within any recreational facilities or other Association Property.

(b) No personal articles shall be allowed to stand overnight in any of the Common Areas.

(c) No garbage cans other than those provided by the Association, supplies, water bottles or other articles shall be placed or left within in the Common Areas and Recreational Areas.

## **COMMUNITY SWIMMING POOL AREA**

### **1. Pool Area Use:**

(a) THERE SHALL BE NO LIFEGUARD ON DUTY. ALL PERSONS USING THE POOL DO SO AT THEIR OWN RISK. The Association and its Board of Directors assumes no responsibility for any accident or personal injury or for any loss or damage to personal property arising out of or in connection with the use of the pool and/or the pool area. Persons using the pool or pool area agree not to hold the Association or the Board of Directors liable for actions of any nature occurring within the pool area.

(b) Pool hours are from dawn to dusk daily. At no time shall use of the pool be permitted which is deemed disruptive to the peaceful enjoyment of those residents living adjacent to the pool area.

(c) All persons 12 years of age and under must be accompanied by an Owner or supervising adult over the age of twenty-one (21).

(d) Wheelchairs, strollers, child waist and arm flotation devices shall be permitted in the pool area. No rafts and/or similar flotation devices shall be permitted in the pool area.

### **2. Code of Conduct for the Pool area:**

(a) No nude swimming shall be allowed at any age. Anyone wearing diapers must wear protective, leak-proof pants. Proper swim attire must be worn in the pool. No jean type shorts shall be allowed in the pool.

(b) No intoxicants or smoking shall be permitted on the pool Wet Deck Area (the four-foot-wide, unobstructed pool deck area around the outside of the pool water perimeter).

(c) No roller skates, skateboards, roller blades, bicycles, scooters, or scuba equipment shall be permitted.

(d) No dunking, rough play, profane language, diving, jumping, running, or pushing shall be permitted in the pool or pool area

(e) No radios, tape or CD players or portable televisions shall be permitted in the pool area without the use of headphones.

(f) Use of the pool is a privilege and right of every member. Misuse of the pool area may result in action taken by the Association.

(g) Guests must be accompanied by a resident.

### **3. Health and Safety considerations:**

(a) All users shall shower before entering the pool.

(b) No soaps or shampoos shall be used at the pool side shower or in pool.

(c) Persons wearing bandages shall not use the pool.

(d) Persons having any communicable disease or infections of any type (such as strep, intestinal infections, flu, pink eye, conjunctivitis, etc.), open sores, colds, coughs or inflamed eyes shall not enter the pool.

(e) No glass containers or other breakable objects shall be permitted in the pool area.

(f) All belongings shall be removed when the user is leaving the pool area. The Association and its Board of Directors shall not be responsible for any belongings lost or stolen.

(g) All rubbish, garbage, trash, refuse or other waste materials shall be placed into proper containers around the pool area provided for this purpose or removed from the pool area.

(h) A four (4) foot walking area shall be maintained around the pool at all times. Additionally, walking areas around and through the pool area shall not otherwise be blocked. The gates are the means ingress/egress to and from the pool and therefore must be kept clear of obstructions at all times, in case of emergency.

(i) In accordance with health department regulations, no food, drink or animals are permitted on the pool wet deck area.

**4. Use of pool furniture and equipment:**

(a) Pool furniture and equipment shall not be removed from the pool area, reserved for anyone not in the pool area, modified, altered or changed in any manner.

(b) Pool furniture shall be returned to an orderly position after use. Umbrellas must be lowered when not in use.

(c) Towels shall be placed on pool furniture before sunbathing.

(d) At no time shall Life saving devices (preservers, shepherd's hook, etc.) be used for play. They are for emergency use only.

5. Use of the pool area shall also be governed by-all other applicable Rules and Regulations adopted by the Board of Directors, including but not limited to those concerning the "General Use of Common Areas and Recreational Areas."



### **TROPICAL STORMS / HURRICANES**

1. Atlantic Hurricane Season begins on June 1st and ends on November 30th.
2. **Prior to a storm:**
  - (a) The Owner shall be held responsible for preparation of their property and dwelling in the event of a tropical storm or hurricane.
  - (b) Unless impact resistant windows have been installed, storm shutters must cover all windows when a hurricane watch is issued for the area.
  - (c) No tree trimming will occur in the community once a hurricane watch has been issued.
  - (d) All loose, lightweight outdoor objects (such as patio furniture, outdoor signs, garbage cans, potted plants) must be brought inside or anchor down any objects that would be unsafe to bring inside.
  - (e) Depending on the severity of the storm, the Guardhouse will be unmanned. During this period, gate arms will be opened and/or removed.
  - (f) The Association shall not be responsible for any personal injury or any loss or damage to personal property.
3. **After a storm:**
  - (a) Check with local officials for cleanup instructions before disposing of debris. You can help get your garbage picked up faster if you separate it into different piles: yard debris (trees, bushes, leaves, etc.); building materials (shingles, plywood, glass, screens, carpets, etc.); appliances and electronics; furniture; and regular bagged garbage (including food).
  - (b) Hurricane shutters must be removed from all windows within seven (7) days after the storm has passed.

**AMENDED/RESTATED RULES AND REGULATIONS****ENFORCEMENT**

1. **COMPLIANCE BY OWNERS.** Every Owner and Member's Permittee shall comply with the restrictions and covenants set forth herein and any and all rules and regulations which from time to time may be adopted by the Board of Directors of the Association.

2. **ENFORCEMENT.** Failure of an Owner or his Member's Permittee to comply with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend the rights of use of Common Areas (except for legal access) of defaulting Owners. The offending Owner shall be responsible for all costs of enforcement including attorneys' fees actually incurred and court costs.

3. **FINES.** In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner or his Member's Permittees to comply with any covenant, restriction, rule or regulation with a specific set of procedures as provided for in the Association's Governing Documents and as listed in these Rules and Regulations.

(a) **Amounts:** The Board of Directors (if its or such panel's findings are made against the Owner) may impose special assessments against the Lot owned by the Owner as follows:

Non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00) per day up to One Thousand Dollars (\$1,000.00) per non-compliance or violation. Or as allowed per Florida Statutes.

(b) **Payment of Fines:** Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

(c) **Collection of Fines:** Fines shall be treated as an assessment subject to the provisions for the collection of assessments, and the lien securing same, as set forth herein. Any residents that is delinquent more than 30 days will have all barcodes that are allocated to their home turned off until their account is brought current. All residents will have to enter the community thru the guest side.

(d) **Application of Proceeds:** All monies received from fines shall be allocated as directed by the Board of Directors.

(e) **Non-exclusive Remedy:** These fines shall not be construed to be exclusive and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

4. **COMPLIANCE POLICY.** As it relates to violations of the Association's Governing Documents, the Board shall apply a policy for notification and fining, as follows:

(a) At the outset, the Board will identify the violation(s) and provide the owner(s) with fourteen (14) days from the date of the aforementioned letter to correct the violation(s).

**AMENDED/RESTATED RULES AND REGULATIONS**

- (b) Should homeowner fail to correct the violation(s), a second letter shall be sent to the owner(s) serving as a final warning that the violation(s) must be corrected within seven (7) days of the issuance of the aforementioned letter.
- (c) Should the violation(s) continue on the property, the owner(s) shall receive a fourteen (14) day notice of the setting of a fining hearing before the Fining Committee.
- (d) Once the Fine is issued, the matter shall be placed on hold for thirty (30) days, giving the owner the opportunity to correct the violation(s) and remit payment for the fine(s). If the owner(s) correct the violation(s) within said thirty (30) day timeframe said owner(s) may petition the Association for waiver of the fine(s). Said waiver of the fine amount shall only be issued following confirmation by the Association that the violation has been remedied.
- (e) Should owner(s) fail to correct the violation(s) within the thirty (30) day timeframe as listed in subsection (d), the Association shall forward the matter to its legal counsel for the issuance of an attorney demand letter, or other remedies as the Association sees fit. Redundant.
- (f) Should the owner(s) fail to correct the violation(s) following the aforementioned steps, the Association may pursue legal action against the owner(s).

**FINING COMMITTEE**

The Fining Committee shall be a committee appointed by the Board of Directors of the Association, The members of the Fining Committee shall not be entitled to any compensation for services performed pursuant to the Association's Governing Documents and Florida Statutes, unless engaged by the Association in a professional capacity. The Fining Committee shall have the responsibility of reviewing any and all fines brought before it based on violations of the Association's Governing Documents and shall approve or disapprove the issuance of said fine(s). All responsibilities and requirements of the Fining Committee are otherwise derived from the Association's Governing Documents and Florida Statute Chapter 720 and any and all subsequent amendments to the aforementioned documents.