

Instrument prepared by and return to:
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(Space above line for recording information)

CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the duly elected and acting President of The Sorrento at the Colony Condominium Association, Inc., a Florida corporation not for profit, does hereby certify that at the duly called Annual Members' Meeting held on March 26, 2015, where a quorum was present, after due notice, the amendments to the governing documents attached hereto as Exhibit "A" were approved and adopted by the required vote of the membership. The Declaration of Condominium for Sorrento at the Colony, a Condominium was originally recorded in O.R. Book 3416 at Page 2672 of the Public Records of Lee County, Florida.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand and the seal of the corporation.

THE SORRENTO AT THE COLONY
CONDOMINIUM ASSOCIATION, INC.
(SEAL)

Al Thompson

Witness

Print Name: Al Thompson

John M. McGuire

Witness

Print Name: John M. McGuire

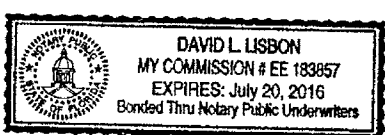
STATE OF FLORIDA)
COUNTY OF LEE)

By: *Carole Maeder*
Carole Maeder, President

The foregoing instrument was acknowledged before me this 30th day of March, 2015, by Carole Maeder, as President of The Sorrento at the Colony Condominium Association, Inc., the corporation described in the foregoing instrument, who is (is) personally known to me or who has produced _____ as identification.

David L. Lisbon
Notary Public, State of Florida

Printed Name of Notary Public
Serial Number: _____
My Commission Expires: _____



AMENDED AND RESTATED DECLARATION OF CONDOMINIUM

FOR

SORRENTO AT THE COLONY, A CONDOMINIUM

Roetzel & Andress, LPA
850 Park Shore Drive, Suite 300, Naples, Florida 34103

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NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE DECLARATION OF CONDOMINIUM FOR PRESENT TEXT SEE EXISTING DECLARATION OF CONDOMINIUM

AMENDED AND RESTATED DECLARATION OF CONDOMINIUM

FOR

SORRENTO AT THE COLONY, A CONDOMINIUM

KNOW ALL MEN BY THESE PRESENTS:

That heretofore, the original Declaration of Condominium for Sorrento at the Colony, a Condominium, (the "Condominium") was recorded in Official Record Book 3416, at Page 2672, et. seq., of the Public Records of Lee County, Florida. That Declaration of Condominium, as it has previously been amended, is hereby further amended and restated.

1. **SUBMISSION TO CONDOMINIUM OWNERSHIP:** This Amended and Restated Declaration of Condominium (the "Declaration") is made by The Sorrento at the Colony Condominium Association, Inc., a Florida corporation not for profit. The land subject to this Declaration and the improvements located thereon have already been submitted to condominium ownership and use pursuant to the Condominium Act (as defined below). No additional property is being submitted to condominium ownership by this Declaration. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners of Condominium Parcels. The acquisition of title to a Unit or any other interest in the Condominium Property, or the lease, occupancy, or use of any portion of a Unit or the Condominium Property, constitutes an acceptance and ratification of all provisions of this Declaration as amended from time to time, and an agreement to be bound by its terms.
2. **NAME AND ADDRESS:** The name of the Condominium is Sorrento at the Colony, a Condominium, and its street address is 23650 Via Veneto, #104, Bonita Springs, FL 34134.
3. **DESCRIPTION OF CONDOMINIUM PROPERTY:** The land submitted to the condominium form of ownership by the original Declaration as amended (the "Land") is legally described in Exhibit No. "A" attached hereto.
4. **DEFINITIONS:** The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes (the "Condominium Act"), unless the context otherwise requires.
 - 4.1 **"Assessment"** means a share of the funds required for the payment of Common Expenses which from time to time is assessed against the Units.
 - 4.2 **"Association"** means The Sorrento at the Colony Condominium Association, Inc., a Florida corporation not for profit, the legal entity responsible for the operation of the Condominium.

4.3 “Association Property” means all property, real or personal, owned or leased by the Association for the use and benefit of the Unit Owners.

4.4 “Board of Directors” or “Board” means the representative body which is responsible for the administration of the Association’s affairs, and is the same body that is sometimes referred to in the Condominium Act as the “Board of Administration”.

4.5 “Common Elements” means the portions of the Condominium Property not included within the Units.

4.6 “Common Expenses” means all expenses properly incurred by the Association in the performance of its duties, including expenses specified in Section 718.115 of the Condominium Act.

4.7 “Common Surplus” means the amount of all receipts or revenues, including Assessments, rents, or profits, collected by the Association which exceeds Common Expenses.

4.8 “Condominium Documents” means and includes this Declaration, all recorded exhibits hereto and any unrecorded Rules and Regulations, all as amended from time to time. The exhibits attached to this Declaration are as follows:

- A. Legal Description, Survey/Plot Plan and Floor Plans Exhibit “A”
- B. Amended and Restated Articles of Incorporation Exhibit “B”
- C. Amended and Restated Bylaws Exhibit “C”
- D. Undivided Share Common Expenses, Ownership of Common Elements and Common Surplus Exhibit “D”
- E. Rules and Regulations Exhibit “E”

4.8.1 “Condominium Property” means the Land and personal property that were subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

4.9 “Family” or “Single Family” shall refer to any one of the following:

- A. One person (as used in this Declaration, the term “person” or “natural person” shall mean a real person as opposed to an artificial entity such as a corporation, partnership or trust).
- B. 2 or more persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage, adoption or legal custody to each of the others.
- C. Not more than 2 persons not related by blood, marriage, adoption or legal custody, who reside together as a single housekeeping unit, along with their children, if any.

4.10 “Fixtures” means those items of tangible personal property which by being physically annexed or constructively affixed to the Unit have become accessory to it and part and parcel of it, including but not limited to, interior partitions, walls, appliances which have been built in or permanently

affixed, and plumbing fixtures in kitchens and bathrooms. Fixtures do not include floor, wall or ceiling coverings.

4.11 “Guest” means any person who is not the Unit Owner or a Lessee or a member of the Unit Owner’s or Lessee’s Family, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the Unit Owner or other permitted Occupant, without the payment of consideration.

4.12 “Institutional Mortgagee” means the mortgagee (or its assignee) of a first mortgage against a Condominium Parcel, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Condominium Parcel which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America, or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns. An “Institutional Mortgagee” is a first mortgage held by the Institutional Mortgagee.

4.13 “Lease” means the grant by a Unit Owner of a temporary right of use of the Owner’s Unit for valuable consideration. “Lessee” means the person(s) whom the Unit Owner has granted a temporary right of use of the Owner’s Unit for valuable consideration.

4.14 “Limited Common Elements” means and includes those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units and as shown on the Condominium Plat or otherwise specified in this Declaration. References herein to Common Elements shall include all Limited Common Elements unless the context would prohibit it or it is otherwise expressly provided.

4.15 “Occupy” when used in connection with a Unit, means the act of staying overnight in a Unit. “Occupant” is a person who occupies a Unit.

4.16 “Primary Occupant” means a natural person designated to occupy a Unit when title to the Unit is held in the name of 2 or more persons who are not husband and wife, or by a trustee, corporation, partnership or other entity which is not a natural person, as required by Section 14 herein.

4.17 “Rules and Regulations” means those rules and regulations promulgated by the Board of Directors, subject to any limits set forth in this Declaration. The current Rules and Regulations are attached hereto as Exhibit “E”.

4.18 “Unit” means and refers to that portion of the Condominium Property which is subject to exclusive ownership and is referred herein to each of the separate and identified Units delineated in Exhibit “A”.

4.19 “Unit Owner” or “Owner” means and refers to the record owner of legal title to a Unit, except that for the purpose of interpreting use and occupancy restrictions related to Units, in cases where a Primary Occupant has been designated for a Unit because of its ownership, the word “Unit Owner” or “Owner” refers to the Primary Occupant and not the Unit Owner.

4.20 "Voting Interest" means and refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are entitled to one vote in Association matters. There are 72 Units and therefore there are a total of 72 Voting Interests.

5. **DESCRIPTION OF IMPROVEMENTS: SURVEY AND PLANS:**

5.1 Survey and Plot Plans. Attached hereto as Exhibit "A" are a survey of the Land and plot plans ("Condominium Plat"), which graphically describe the improvements in which Units are located, and which show all the Units including their identification numbers, locations and approximate dimensions and the Common Elements and Limited Common Elements. Each Unit is designated by a 3-digit or 4-digit identifying number. Penthouse Units have a designation of PH before the identifying number. Each Unit includes that part of the building that lies within the following boundaries:

5.1.1 Upper and Lower Boundaries. The upper and lower boundaries of the Unit are the following boundaries, extended to their planar intersections with the perimeter boundaries:

(1) Upper Boundaries. The upper boundary is the finished and unfinished lower surface of the ceiling.

(2) Lower Boundaries. The horizontal plane of the finished and unfinished upper surface of the concrete floor of the Unit.

5.1.2 Perimeter Boundaries. The perimeter boundaries of the Unit are the vertical planes of the finished and unfinished exterior surface of the perimeter walls bounding the Unit, as shown on the Condominium Plat, extended to their planar intersections with each other and with the upper and lower boundaries.

5.1.3 Apertures. Where there are apertures in any boundary, including, but not limited to, windows and doors, the Unit boundaries shall extend to the interior unfinished surfaces of such apertures, including all frameworks thereof.

5.1.4 Additional Items Included within the Units. All of the following items are included with each Unit (some of which may not necessarily have been provided to Unit Owners by the developer of the Condominium):

(1) All non-load bearing walls and partitions, doors, door frames, door hardware and window panes;

(2) All kitchen equipment and fixtures, including, without limitation, ovens, refrigerators, freezers, sinks, ranges, cabinets, dishwashers, exhaust fans and waste disposal units;

(3) All bathroom, lavatory and plumbing fixtures and equipment, including, without limitation, sinks, tubs, showers, toilets, vanities, exhaust fans and medicine cabinets;

(4) All electrical and lighting fixtures, including, without limitation, outlets, switches, lamps, bulbs, outlet boxes, switch boxes, telephone outlets, circuit breakers and circuit breaker panels;

(5) All clothes washers, clothes dryers, water heaters, heating equipment and air conditioning equipment which serve each Unit; and

(6) All piping, ducts, wiring, cables and conduits of any kind or type serving only the particular Unit.

5.1.5 Exceptions. As to matters not specifically covered in this Section 5.1, or in any case of conflict or ambiguity, the Condominium Plat attached hereto as Exhibit "A" shall control in determining the boundaries of a Unit.

6. **CONDOMINIUM PARCELS: APPURTENANCES AND USE:**

6.1 Appurtenances to Each Unit. The Owner of each Unit shall have certain rights and own a certain interest in the Condominium Property, including without limitation the following:

6.1.1 Ownership. Ownership of the Unit together with an undivided share in the land and other Common Elements as specifically set forth in Exhibit "D" (Undivided Share in Common Expenses, Ownership of Common Elements and Common Surplus) attached hereto.

6.1.2 Membership. Membership in the Association is acquired pursuant to the provisions of the Amended and Restated Articles of Incorporation and the Amended and Restated Bylaws of the Association (the "Articles" and "Bylaws", respectively).

6.1.3 Right to Use Common Elements. The exclusive right to use the Unit and Limited Common Elements reserved for the Unit, and the non-exclusive right to use the Common Elements.

6.1.4 Easements. An exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

6.1.5 Other Appurtenances. Other appurtenances that may be provided in this Declaration and its exhibits and the Condominium Act.

Each Unit and its appurtenances constitutes a "Condominium Parcel".

6.2 Use and Possession. A Unit Owner is entitled to exclusive use and possession of his Unit. He is entitled to use the Common Elements in accordance with the purposes for which they are intended, but no use of the Unit or the Common Elements may unreasonably interfere with the rights of other Unit Owners or other persons having rights to use the Condominium Property. No Unit may be subdivided, and no fractional portion may be sold, leased or otherwise transferred. The use, occupancy, structural alteration, transfer, exterior appearance of the Units, and the appearance of the Common Elements and Limited Common Elements, shall be governed by the Condominium Documents.

7. **COMMON ELEMENTS: EASEMENTS:**

7.1 Definition. The term "Common Elements" includes, without limitation, the following:

7.1.1 Land. The land upon which the improvements are located.

7.1.2 Building. All portions of the building and other improvements not included within the Units are Common Elements, except for certain portions of the Common Elements which are designated as Limited Common Elements.

7.1.3 Easements. Easements through Units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to other Units and the Common Elements, and an easement of support in every portion of a Unit which contributes to the support of a building are Common Elements.

7.1.4 Supply of Services. The property and installments required for furnishing utilities and other services to more than one Unit or to the Common Elements are Common Elements.

7.1.5 Other Common Elements. Any other parts of the Condominium Property designated as Common Elements in this Declaration, the original Declaration of Condominium or any recorded exhibit thereto or under the Condominium Act also constitute Common Elements.

7.2 Easements. Each of the following easements and easement rights are reserved through the Condominium Property and are covenants running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of these easements may be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of Unit Owners with respect to such easements.

7.2.1 Utility and other Easements. The Association has the power, without the joinder of any Unit Owner, to grant, modify or move easements such as electric, gas, cable television, telephone, water, sewer, electronic security or other utility or service easements, or relocate any existing easements, in any portion of the Common Elements or Association Property, and to grant easements or relocate any existing easements in any portion of the Common Elements or Association Property, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium, or for the general health or welfare of the Unit Owners. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the use of the Units. The Association may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred. In connection with the foregoing, bills of sale may be granted for items of personal property owned or governed by the Association. The Association also has the authority to take any other action, on behalf of itself and all Unit Owners, to satisfy the requirements of any public utility company or governmental agency to which any such utility related equipment, facilities or material are to be so transferred.

7.2.2 Encroachments. If any Unit encroaches upon any of the Common Elements or upon any other Unit for any reason other than the intentional act of the Unit Owner, or if any Common Element encroaches upon any Unit, an easement shall exist to the extent of that encroachment as long as the encroachment exists.

7.2.3 Ingress and Egress. A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their respective Guests, Family members, Lessees, licensees and invitees for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways. None of the easements specified in this paragraph shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements shall automatically be subordinate to the rights of Unit Owners with respect to such easements.

7.2.4 Easements Created and Reserved in Original Declaration. The Condominium is also subject to such other easements created and reserved in the original Declaration in addition to those easements previously recorded in the Public Records of Lee County, Florida or easements created under the Condominium Act.

7.3 Restraint Upon Separation and Partition. The undivided share of ownership in the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or separately described. As long as the Condominium exists, the Common Elements cannot be partitioned. No Unit Owner may assign, pledge or transfer his share in the funds and assets of the Association except as an appurtenance to his Unit. However, the foregoing shall not prevent the Association from pledging, assigning or otherwise encumbering Assessments as collateral for a loan.

8. LIMITED COMMON ELEMENTS:

8.1 Description of Limited Common Elements. Certain Common Elements have been reserved for the use of a particular Unit or Units, to the exclusion of the other Units. The Limited Common Elements and the Units to which their exclusive use is appurtenant, are as described in this Declaration and its recorded exhibits. The following Common Elements are hereby designated as Limited Common Elements:

8.1.1 Under-Building Parking Spaces. There have been designated in Exhibit "A" attached hereto certain under-building parking spaces as Limited Common Elements. All numbered parking spaces shown in Exhibit "A" are Limited Common Elements. These parking spaces were initially assigned to the exclusive use of specific Units by the developer of the Condominium. The maintenance, repair and replacement of the parking spaces shall be the responsibility of the Association, but all expenses of maintenance shall be paid by Owners of Units to which the parking spaces are appurtenant. The share of maintenance to be paid by the Owner of each such Unit shall be a fraction, the numerator of which is the number of parking spaces assigned to the Unit, and the denominator of which is the total number of parking spaces assigned.

8.1.2 Air Conditioning and Heating Equipment. Except as otherwise set forth in Section 11.1 below, all equipment, fixtures and installations located outside of a Unit, which furnish air conditioning or heating exclusively to that Unit, shall be Limited Common Elements, and shall be maintained, repaired and replaced by and solely at the expense of the Owner of the Unit.

8.1.3 Screened Balconies or Open Terraces. Any screened balcony or open terrace attached to and exclusively serving a Unit shall be a Limited Common Element. The Unit Owner shall be responsible for: the day-to-day maintenance, care and preservation of the interior surface of the floor; the wiring, electrical outlet(s) and fixture(s) thereon; light bulbs; and tracks, rollers and other mechanics of sliding glass and screen doors. No screened balcony or open terrace may be carpeted, covered or enclosed in any way without the approval of the Association. The maintenance, repair, replacement and insurance of floor coverings shall be the Unit Owner's responsibility. The Association shall be responsible for the maintenance, repair and replacement of: railings; all screens; sliding glass and screen doors (with the exception of the tracks, rollers and other mechanics as stated above); exterior walls of the building; parapet walls; and the concrete floor and ceiling slabs and other structural components of the balconies and terraces (including painting and waterproofing).

8.1.4 Storage Lockers. Unit Owners' storage lockers located on the ground floor have been designated Limited Common Elements. Each Unit has one assigned Storage Locker. The

maintenance, repair and replacement of the storage lockers is the Association's responsibility. However, any extraordinary maintenance, repair or replacement of a storage locker which is caused by the negligence of the Unit Owner or his Family, Lessees, Guests or invitees shall be such Unit Owner's responsibility.

8.1.5 Storage Rooms. On certain floors, the electric/cable television/phone room will not be needed for such purposes and will remain empty. All such rooms which are not necessary for such purposes shall be Limited Common Elements to a Unit to which they are assigned. The assignment was made initially by the developer of the Condominium for valuable consideration. Each storage room shall be maintained, repaired and replaced by the Owner of the Unit to which it has been assigned.

8.1.6 Others. Any part of the Common Elements that is connected to or exclusively serves a single Unit, and is specifically required in Section 11 of this Declaration to be maintained, repaired or replaced by or at the expense of the Unit Owner, shall be deemed a Limited Common Element appurtenant to that Unit, whether specifically described above or not. This paragraph includes windows, window glass, screens or other transparent or translucent materials and doors, including all hardware, casings and framings therefor.

8.2 Exclusive Use; Transfer of Use Rights. The exclusive use of a Limited Common Element is an appurtenance to the Unit or Units to which it is designated or assigned. If the exclusive use of any assignable Limited Common Element was not, for any reason, assigned to the use of a specific Unit or Units, the Association may do so, or may designate another use. The right of exclusive use of each Limited Common Element passes with the Unit to which it is assigned, whether or not separately described, and cannot be separated from it; except that the use rights to a particular under-building parking space, storage locker or storage room may be exchanged between Units by written agreement between the Unit Owners desiring such exchange, with the prior approval of the Association, as follows:

A. The Unit Owners desiring to exchange such exclusive use rights shall submit a written request to the Board. If the Board approves the exchange, the Unit Owners involved shall then execute a Certificate of Transfer, which shall include the recording data identifying this Declaration, the legal descriptions for the Units and the identifying number of the Limited Common Element(s) to be exchanged. The Certificate of Transfer shall be executed by the Association and the Unit Owners with the formalities required for the execution of a deed.

B. The transfer of exclusive use rights shall be complete and effective when the Certificate is recorded in the Public Records of Lee County, Florida. The costs of preparing and recording the Certificate of Transfer shall be borne by the Unit Owners desiring the exchange or transfer.

9. **ASSOCIATION**: The operation of the Condominium is by The Sorrento at the Colony Condominium Association, Inc., a Florida corporation not for profit, which shall perform its function pursuant to the following:

9.1 Articles of Incorporation. A copy of the Amended and Restated Articles of Incorporation of the Association is attached as Exhibit "B".

9.2 Bylaws. A copy of the Amended and Restated Bylaws is attached as Exhibit "C".

9.3 Delegation of Management. The Association may contract for the management and maintenance of the Condominium Property or employ a licensed manager or management company to

assist the Association in carrying out its powers and duties by performing such functions as, but not limited to, those described in the manager's job description, such as the submission of proposals, collection of Assessments, keeping of records, enforcement of Rules and Regulations, and maintenance, repair and replacement of the Common Elements with funds made available by the Association for such purposes. The Association and its officers however shall retain at all times the powers and duties provided in the Condominium Act.

9.4 Membership. The membership of the Association shall be the record owners of legal title to the Units, as further provided in the Bylaws.

9.5 Acts of the Association. Unless the approval or affirmative vote of the Unit Owners is specifically made necessary by some provision of the Condominium Act or the Condominium Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the Unit Owners. The officers and Directors of the Association have a fiduciary relationship to the Unit Owners. A Unit Owner does not have the authority to act for the Association by reason of being a Unit Owner.

9.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the Condominium Documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the Condominium Property and Association Property. The Association may impose fees for the use of Common Elements or Association Property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory or use interests in lands or facilities, whether or not the lands or facilities are contiguous to the lands of the Condominium, for the use and enjoyment of the Unit Owners. The acquisition of additional real property by the Association shall not be deemed a material change in the appurtenances to the Units. However, agreements acquiring leaseholds, memberships or other possessory or use interests shall be considered a material alteration or substantial pursuant to Section 11.5 below.

9.7 Purchase of Units. The Association has the power to purchase Units in the Condominium and to acquire, own, lease, mortgage and convey them, such power to be exercised by the Board of Directors.

9.8 Acquisition of Property. The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as otherwise provided in Section 9.7 above, the power to acquire ownership interests in real property shall be exercised by the Board of Directors, but only after receiving approval from two-thirds (2/3) of the Voting Interests present (in person or by proxy) and voting at any annual or special Members' meeting at which a quorum has been established.

9.9 Disposition of Property. Any personal property owned by the Association may be leased, conveyed, mortgaged or otherwise encumbered by vote of the Board of Directors (including the pledge or assignment of personal property as collateral for a loan), without need for authorization by the Unit Owners. Except as provided in Section 9.7 above, any real property owned by the Association may be leased, conveyed or mortgaged by the Board of Directors, but only after receiving approval from two-thirds (2/3) of the Voting Interests present (in person or by proxy) and voting at any annual or special Members' meeting at which a quorum has been established.

9.10 Roster. The Association shall maintain a current roster of names, Unit addresses and mailing addresses of Unit Owners, based upon information supplied by the Unit Owners. The Association shall also maintain the electronic mailing addresses and the numbers designated by Unit Owners for receiving notice by electronic transmission, but only for those Unit Owners who have consented to receive Association notices by electronic mailing/transmission. The electronic mailing addresses and numbers provided by Unit Owners to receive notice by electronic transmission shall be removed from the Association's official records when consent to receive notice by electronic transmission is revoked. However, the Association is not liable for the inadvertent disclosure of the electronic mail address or the number for receiving electronic transmission of notices. In the absence of the Unit Owner's written consent, the roster shall not include any address other than as provided to fulfill the Association's notice requirements, with the exception of the Unit's address. A copy of the roster shall be made available to each Member every year.

9.11 Limitation on Liability. Notwithstanding its duty to maintain and repair the Condominium or Association Property, the Association shall not be liable to Unit Owners for injury or damage (other than the cost of maintenance and repair) which is caused by: any latent condition of the property to be maintained and repaired by the Association; or the elements, Unit Owners or other persons.

10. **ASSESSMENTS AND LIENS**: The Association has the power to levy and collect Assessments against each Unit and Unit Owner in order to provide the necessary funds for proper operation and management of the Condominium and for the operation of the Association. This power includes both "regular" Assessments for each Unit's share of the Common Expenses as set forth in the annual budget, and "special" Assessments for unusual, nonrecurring or unbudgeted Common Expenses. The Association may also levy special charges against any individual Unit for any amounts, other than for Common Expenses, which are properly chargeable against such Unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in the Bylaws, and as follows:

10.1 Common Expenses. Common Expenses include the expenses of operation, maintenance, repair, replacement and insurance of the Common Elements and Association Property, the expenses of operating the Association, and any costs of insurance acquired by the Association under the authority of Section 718.111(11) of the Condominium Act, including the costs and contingent expenses required to participate in a self-insurance fund authorized and approved pursuant to Florida Statutes Section 624.462, and any other expenses properly incurred by the Association for the Condominium, including amounts budgeted for the purpose of funding reserve accounts. The cost of water and sewer service to the Units shall be a Common Expense. If the Association contracts on a bulk basis for communications services as defined in Chapter 202, Florida Statutes, information services or Internet services, the cost of such services is a Common Expense. A contract for communications services as defined in Chapter 202, Florida Statutes, information services or Internet services, must be for at least 2 years. The Association shall collect all assessments and other sums due and payable to Pelican Landing Community Association, Inc. and The Colony at Pelican Landing Foundation, Inc., if required and according to the procedures imposed by such community associations. In that case, assessments due to such community associations shall be a Common Expense.

10.2 Share of Common Expenses. The Owner of each Unit shall be liable for a share of the Common Expenses equal to his share of ownership of the Common Elements and the Common Surplus, as set forth in Exhibit "D" attached hereto.

10.3 Ownership. Assessments and other funds collected by or on behalf of the Association become the property of the Association; no Unit Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Unit. No Unit Owner can withdraw or receive distribution of his share of the Common Surplus, except as otherwise provided herein or by law.

10.4 Who is Liable for Assessments. The Owner of each Unit, regardless of how title was acquired, is liable for all Assessments or installments thereon coming due while he is the Unit Owner. Multiple Unit Owners are jointly and severally liable. Except as provided in Section 20.3 below, whenever title to a Condominium Parcel is transferred for any reason, the new Unit Owner is jointly and severally liable with the previous Unit Owner for all Assessments which came due prior to the transfer and remain unpaid without prejudice to any right the new Unit Owner may have to recover from the previous Unit Owner any amounts paid by the new Unit Owner. When a Unit Owner conveys a Unit to a trust or other entity, the Association may condition its approval upon the transferors agreeing to remain liable to the Association for any Assessments, charges or other obligations owing to the Association as of the date of the approval, and for so long as the transferee trust or other entity may remain the title holder of the condominium Unit.

10.5 No Waiver or Excuse from Payment. The liability for Assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Elements, by abandonment of the Unit on which the Assessments are made, or by interruption in the availability of the Unit of the Common Elements for any reason whatsoever. No Unit Owner may be excused from payment of his share of the Common Expenses unless all Unit Owners are likewise proportionately excused from payment, except as otherwise provided in Section 20.3 below as to certain mortgagees.

10.6 Application of Payments; Failure to Pay; Interest. Assessments and installments thereon paid on or before 10 days after the date due shall not bear interest, but the Association may charge interest at the highest rate allowed by law, calculated from the date due until paid on all sums not timely paid. The Association may also impose a late payment fee (in addition to interest) to the extent permitted by law. Assessments and installments thereon shall become due, and the Unit Owner shall become liable for said Assessments or installments, on the date established in the Bylaws or otherwise set by the Board of Directors for payment. All payments on account shall be applied first to interest, then to late payment fees, court costs and attorneys' fees, and finally to delinquent Assessments. The foregoing is applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. No payment by check is deemed received until the check has cleared. However, when the check clears, the payment shall be credited as of the date the Association received the check.

10.7 Acceleration. If any Special Assessment or installation of a regular Assessment as to a Unit becomes more than 30 days past due, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Unit's Assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien is recorded in the Public Records of Lee County, Florida. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorneys' fees and costs as provided by law, and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent Unit Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Unit Owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclose, as required by Section 718.116 of the Condominium Act, or may be sent separately.

10.8 Liens. The Association has a lien on each Condominium Parcel securing payment of past due Assessments, including interest and attorneys' fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. Except as otherwise provided by Section 718.116 of the Condominium Act, the lien is effective from and shall relate back to the recording of the original Declaration of Condominium. However, as to first mortgages of record, the lien is effective from and after recording of a Claim of Lien in the Public Records of Lee County, Florida. The Claim of Lien must state the description of the Condominium Parcel, the name of the record Unit Owner, the amount due, the name and address of the Association, and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid Assessments that are due and that may accrue after the Claim of Lien is recorded and through the entry of a final judgment, as well as interest and all reasonable costs and attorneys' fees incurred by the Association incident to the collection process. Upon full payment, the person making the payment is entitled to a Satisfaction of Lien.

10.9 Priority of Lien. The Association's lien for unpaid Assessments shall be subordinate and inferior to the lien of a recorded first mortgage, but only to the least extent required by the Condominium Act, as amended from time to time. The Association's lien shall be superior to, and take priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded, except as otherwise expressly provided by law. Any lease of a Unit shall be subordinate and inferior to the Association's lien, regardless of when the lease was executed.

10.10 Foreclosure of Lien. Subject to compliance with the prerequisites to commencing a foreclosure action as set forth in the Condominium Act, the Association may bring an action in its name to foreclose its lien for unpaid Assessments in the manner provided in the Condominium Act, and may also bring an action to recover a money judgment for the unpaid Assessments without waiving any lien rights.

10.11 Certificate as to Assessments. Pursuant to Section 718.116(8) of the Condominium Act, within 15 days after request by a Unit Owner or his or her designee, or a Unit mortgagee or his or her designee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") signed by an Officer or agent of the Association, stating all Assessments and other moneys owed to the Association by the Unit Owner with respect to the Condominium Parcel. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby. Notwithstanding any limitation on transfer fees contained in Sec. 718.112(2)(i) of the Condominium Act, the Association or its authorized agent may charge a reasonable fee for the preparation of the certificate. The amount of the fee must be included on the certificate. The authority to charge a fee for the certificate shall be established by a written resolution adopted by the Board or provided by a written management, bookkeeping, or maintenance contract and is payable upon the preparation of the certificate. If the certificate is requested in conjunction with the sale or mortgage of a Unit but the closing does not occur and no later than thirty (30) days after the closing date for which the certificate was sought the preparer receives a written request, accompanied by reasonable documentation, that the sale did not occur from a payor that is not the Unit Owner, the fee shall be refunded to that payor within 30 days after receipt of the request. The refund is the obligation of the Unit Owner, and the Association may collect it from that Unit Owner in the same manner as an Assessment as provided in the Condominium Act. The Association or its authorized agent is not required to provide a prospective purchaser or lienholder with information about the Condominium or the Association other than information or documents required by the Condominium Act to be made available or disclosed. The Association or its authorized agent may charge a reasonable fee to a prospective purchaser, lienholder, or the Unit Owner for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than information

required by law to be made available or disclosed, if the fee does not exceed \$150.00 plus the reasonable cost of photocopying and any attorneys' fees incurred by the Association in connection with the response. The Association and its authorized agent are not liable for providing such information in good faith pursuant to a written request if the person providing the information includes a written statement in substantially the following form: "The responses herein are made in good faith and to the best of my ability as to their accuracy".

10.12 Enforcement Against Lessees. Subject to the procedures and limitations set forth in Section 718.116(11) of the Condominium Act, if a Unit is occupied by a Lessee and the Unit Owner is delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the Lessee pay to the Association the subsequent rental payments and continue to make such payments until all monetary obligations of the Unit Owner related to the Unit have been paid in full to the Association. The Lessee must pay the monetary obligations to the Association until the Association releases the Lessee or the Lessee discontinues tenancy in the Unit. The Association may issue notice and sue for eviction as if the Association were a landlord if the Lessee fails to pay a required payment to the Association after written demand has been made to the Lessee. However, the Association is not otherwise considered a landlord.

11. **MAINTENANCE: LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS:** Responsibility for the maintenance, repair and replacement of the Condominium Property, and restrictions on its alteration and improvement shall be as follows (notwithstanding anything to the contrary contained in this Declaration, responsibility for items following an insurable event is set forth in Section 15):

11.1 Association Maintenance. The Association is responsible for the protection, maintenance, repair and replacement of all Common Elements and Association Property (other than the Limited Common Elements that are required elsewhere herein to be maintained by the Unit Owner) and all load-bearing walls contained within Units, except for the finished surfaces thereof. The cost of the Association fulfilling its maintenance, repair and replacement responsibilities is a Common Expense. The Association's responsibilities include without limitation:

- A. Electrical wiring up to the circuit breaker panel in each Unit.
- B. Water pipes up to the individual Unit shut-off valve within the Unit.
- C. Cable television and telephone lines up to the wall outlets in the Unit.
- D. Air conditioning condensation drain lines, up to the point where they enter each Unit.
- E. Sewer lines, up to the point where they enter the Unit.
- F. All installations, fixtures and equipment located within one Unit, but serving another Unit, or located outside the Unit, for the furnishing of utilities to more than one Unit or the Common Elements.
- G. The exterior surface of the main entrance doors to the Units.
- H. All exterior building walls, including painting, waterproofing and caulking.

I. All screens, glass, sliding and screen glass doors and windows (with the exception of those items which are the Unit Owner's responsibility pursuant to Section 8.1.3 above).

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures or other electrical, plumbing or mechanical installations located within a Unit and serving only that Unit.

All incidental damage caused to a Unit or Limited Common Element by work performed or ordered to be performed by the Association shall be promptly repaired by the Association, which shall restore the Unit or Limited Common Element as nearly as practical to its condition before the damage. The costs up to \$5,000.00 in any fiscal year for all such repairs to a Unit and its appurtenant Limited Common Element(s) shall be a Common Expense. Any costs that exceed \$5,000.00 in any fiscal year for all such repairs to a Unit and its appurtenant Limited Common Element(s) shall be the responsibility of the Unit Owner. However, the Association shall not be responsible for incidental damage if the need for the work was caused by the negligence of a Unit Owner, his Family, Lessees, invitees or Guests.

11.2 Unit Owner Maintenance. Except as otherwise set forth in this Declaration, each Unit Owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own Unit and certain Limited Common Elements. The Unit Owner's maintenance, repair and replacement responsibilities include, without limitation, the following items:

- A. The main entrance door to the Unit and its interior surface.
- B. All other doors within or affording access to the Unit except sliding glass and screen doors.
- C. Except as set forth in Section 11.1, the electrical, mechanical and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the Unit or serving only the Unit.
- D. The circuit breaker panel and all electrical wiring going into the Unit from the panel.
- E. Appliances, water heaters and vent fans.
- F. Except as set forth in Section 11.1, air conditioning, and heating equipment, thermostats, ducts and installations serving the Unit exclusively.
- G. Carpeting and other floor coverings.
- H. Door and window hardware, locks and weather-stripping.
- I. Shower pans.
- J. Other facilities or fixtures which are located or contained entirely within the Unit and serve only the Unit.
- K. All interior, partition walls which do not form part of the boundary of the Unit.
- L. The main water supply shutoff valve for the Unit.
- M. Shutters, including hurricane shutters

11.3 Other Unit Owners Responsibilities. The Unit Owner shall have the following responsibilities:

11.3.1 Interior Decorating. Each Unit Owner is responsible for all decorating inside his own Unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.

11.3.2 Window Coverings. The covering and appearance of windows and doors whether by draperies, shades, shutters, reflective film or other items, whether installed within or outside of the Unit, which are visible from the exterior of the Unit, shall be subject to the Rules and Regulations.

11.3.3 Alterations and Additions. If a Unit Owner makes any alterations or additions to his Unit, Limited Common Elements or Common Elements, the Unit Owner and his successors in title shall be financially responsible for the maintenance, repair and replacement of such alterations or additions. The Unit Owner shall also be responsible for the cost of: repairing any damage to the Limited Common Elements and/or Common Elements resulting from such alterations or additions; and any insurance that the Unit Owner obtains, in his discretion. No Unit Owner shall make or permit the making of any structural, material alterations or substantial additions to his Unit or alterations or additions to his Limited Common Elements (including the placement of objects), or in any manner change the exterior appearance of any portion of the Condominium, without first obtaining the written approval of the Board of Directors, which approval shall be denied if the Board of Directors determines that the proposed alterations or additions would adversely affect, or in any manner be detrimental to, the Condominium in part or in whole. The installation of hurricane shutters shall be subject to regulation by the Board of Directors in accordance with the hurricane shutter specifications set forth in the Rules and Regulations. The Association shall have the ability to impose reasonable Rules and Regulations on construction within Units, including a requirement that the Unit Owner or his contractor(s) supply a compliance bond. The Board may not refuse the request of a Unit Owner for a reasonable accommodation for the attachment on the mantel or frame of the door of the Unit Owner of a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

11.3.4 Use of Licensed and Insured Contractors; Construction Lien Law. Whenever a Unit Owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the Unit, Limited Common Element or Common Elements, whether with or without Association approval, such Unit Owner shall be deemed to have warranted to the Association and its Members that his contractor(s) are properly licensed and fully insured (including workers' compensation insurance) and that the Unit Owner will be financially responsible for any resulting damage to persons or property. The Unit Owner also agrees to comply with the requirements of Chapter 713, Florida Statutes and to indemnify the Association and its Members from any construction liens which may attach to Limited Common Elements and/or Common Elements and which are attributable to work performed by or for the benefit of the Unit Owner.

11.4 Appliance Maintenance Contracts. If there shall become available to the Association a program of contract maintenance for water heaters within or serving individual Units, air-conditioning compressors and/or air handlers serving individual Units, then the Association may enter into such contractual undertakings upon approval of the Board of Directors. The expenses of such contractual undertakings to the Association shall be Common Expenses. All maintenance, repairs and replacements not covered by the contracts shall be the responsibility of the Unit Owner.

11.5 Alterations and Additions to Common Elements and Association Property. The protection, maintenance, repair, insurance and replacement of the Common Elements and Association Property is the Association's responsibility and the cost is a Common Expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the Common Elements or the Association Property costing more than \$25,000.00 in the aggregate in any fiscal year without prior approval of at least two-thirds (2/3) of the Voting Interests present (in person or by proxy) and voting at any annual or special Members' meeting at which a quorum has been established. Material alterations or substantial additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, insure, maintain, repair or replace the Common Elements or Association Property or to comply with any local, state or federal law or regulation also constitutes a material alteration or substantial addition to the Common Elements, no prior Unit Owner approval is required.

11.6 Enforcement of Maintenance. If after reasonable notice the Owner of a Unit fails to maintain the Unit or its appurtenant Limited Common Elements as required in this Declaration, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including but not limited to, entering the Unit, to the extent such entry is permitted by the Condominium Act.

11.7 Negligence; Damage Caused by Condition in Unit. The Owner of each Unit shall be liable for the expenses of any maintenance, repair or replacement of Common Elements, other Units, or personal property made necessary by his wrongful act or negligence, or by that of any member of his Family or his Guests, employees, agents, or Lessees. Each Unit Owner has a duty to maintain his Unit, any Limited Common Element appurtenant to the Unit, and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Units, the Common Elements or the property of other Unit Owners and residents. If any condition, defect or malfunction, resulting from the Unit Owner's failure to perform this duty causes damage to other Units, the Common Elements, Association Property or property within other Units, the Owner of the offending Unit shall be liable for the damage.

11.8 Association's Access to Units. Pursuant to Section 718.111(5)(a) of the Condominium Act, the Association has an irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the Common Elements or to a Unit. The Association may enter an "abandoned" (as such term is defined in Section 718.111(5)(b) of the Condominium Act) Unit to inspect the Unit and adjoining Common Elements; make repairs to the Unit or to the Common Elements serving the Unit, as needed; repair the Unit if mold or deterioration is present; turn on utilities for the Unit; or otherwise maintain, preserve, or protect the Unit and adjoining Common Elements. The Association's right of access includes, without limitation, entry for purposes of pest control and preventive maintenance of safety equipment such as fire alarms and sprinkler systems as well as the right, but not the duty, to enter under circumstances where the health or safety of residents may be endangered. The exercise of the Association's rights of access to the Unit shall be accomplished with due respect for the rights of privacy and freedom from unreasonable annoyance. Any expense incurred by the Association pursuant to Section 718.111(5)(b) of the Condominium Act is chargeable to the Unit Owner and enforceable as an Assessment pursuant to Section 718.116 of the Condominium Act, and the Association may use its lien authority provided by Section 718.116 of the Condominium Act to enforce collection of the expense. The Association may petition a court of competent jurisdiction to appoint a receiver to lease out an abandoned Unit for the benefit of the Association to offset against the rental income the Association's

costs and expenses of maintaining, preserving, and protecting the Unit and the adjoining Common Elements, including the costs of the receivership and all unpaid Assessments, interest, late fees, costs, and reasonable attorneys' fees.

11.9 Pest Control. The Association may supply pest control within Units with the cost thereof being part of the Common Expenses.

11.10 Board Approval of Alterations or Construction. In all cases in which the Board must approve construction in or alterations to a Unit or the Common Elements requested by a Unit Owner, the Unit Owner shall provide the Board with not less than 30 days written notice of the Unit Owner's intention, together with plans and specifications indicating the proposed construction. The Board shall indicate its approval or disapproval of the proposed construction in writing within 30 days of receipt of the notice and all required plans. The Board reserves the right to consult with a licensed Florida architect or professional engineer and to pass such costs on to the Unit Owner and to require that any plans and specifications be prepared by a licensed Florida architect or engineer. The Board may extend the time in which it must render its decision by an additional 30 days in the event it determines a licensed Florida architect's or professional engineer's review is necessary.

12. USE RESTRICTIONS: The use of the Condominium Property shall be in accordance with the following provisions:

12.1 Units. Units may be used for Single Family residential living and for no other purpose. No trade, business, profession or other type of commercial activity shall be conducted in or from any Unit. The use of a Unit as a public lodging establishment shall be deemed a business or commercial use. This restriction shall not be construed to prohibit any Unit Owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his Unit, or from handling his personal, business or professional telephone calls or written correspondence in and from his Unit. Such uses are expressly declared customarily incidental to residential use. The Rules and Regulations contain additional restrictions on the use of Units, including Guest occupancy and the number of persons who may occupy a Unit.

12.2 Exceptions. Upon prior written application by the Unit Owner, the Board of Directors may make limited exceptions to the Use Restrictions in this Section 12 and in the Rules and Regulations foregoing restrictions as may be deemed appropriate in the discretion of the Board, for the sole purpose of avoiding undue hardship or inequity.

12.3 Minors. All persons under eighteen (18) years of age shall be supervised as appropriate by an adult to insure that they do not become a source of unreasonable annoyance to others.

12.4 Nuisances. No Unit Owner shall use his Unit, or permit to be used, in any manner which constitutes or causes an unreasonable amount of annoyance or nuisance to others, or which would not be consistent with the maintenance of the highest standards for a first class residential condominium, nor permit the premises to be used in a disorderly or unlawful way. The use of each Unit shall be consistent with existing laws and the Condominium Documents, and the Unit Owner, his Family, Guests, Lessees, licensees and invitees shall at all times conduct themselves in a peaceful and orderly manner.

12.5 Signs. No person may post or display signs, including, but not limited to, "For Sale", "For Rent", "Open House", or other similar signs, anywhere on the Condominium Property, except with

the prior written approval of the Association and in permitted locations. The Rules and Regulations contain additional restriction on signs, Unit sales, open houses and realtors.

12.6 Pets. The Rules and Regulations contain restrictions on pets, including without limitation, permitted numbers and types of pets and removal of a pet that becomes a nuisance, creates an unreasonable disturbance or otherwise violates the Condominium Documents.

12.7 Antennas, Satellite Dishes and Flags. Antennas and satellite dishes are prohibited, except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter (b) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted, provided that the Reception Device is located so as not to be visible from outside the Unit, or is located on the balcony or terrace of the Unit. The Board may require that a Reception Device be painted in order to blend into the appearance of the rest of the building. The installation and display of flagpoles and flags shall be subject to regulation by the Board, but no Unit Owner shall be prevented from displaying a portable, removable United States flag in a respectful manner or official flag of the State of Florida in a respectful manner, or on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day, be prevented from displaying in a respectful manner a portable, removable official US Army, Navy, Air Force, Marine Corps or Coast Guard flag not larger than 4.5' x 6'.

12.8 Pelican Landing; The Colony at Pelican Landing. The Condominium Property is subject to that certain Amended and Restated Declaration and Protective Covenants for Pelican Landing recorded in O.R. Book 2198 at Pages 1873 of the Public Records of Lee County, Florida ("Community Declaration"). The overall "Pelican Landing" community in which the Condominium Property is located is operated by the Pelican Landing Community Association, Inc. ("Community Association"). The Condominium Property is also subject to that certain Declaration and General Protective Covenants for The Colony at Pelican Landing recorded in O. R. Book 2775 at Page 3845 of the Public Records of Lee County, Florida ("Foundation Declaration"). The Condominium Property is located within the "Colony at Pelican Landing" section of Pelican Landing, which in turn is operated by The Colony at Pelican Landing Foundation, Inc. ("Foundation").

13. **LEASING OF UNITS:** In order to foster a stable residential community and prevent a motel-like atmosphere, the leasing of Units by their Owners shall be restricted as provided in this section. All leases of Units must be in writing. A Unit Owner may lease only his entire Unit, and then only in accordance with this Section and the Rules and Regulations, after receiving the approval of the Association. The Lessee must be a natural person or persons and not a corporation, partnership, trust or other entity.

13.1 Procedures.

13.1.1 Notice by the Unit Owner. A Unit Owner intending to lease his Unit shall give to the Board of Directors or its designee written notice of such intention at least 15 days prior to the first day of occupancy under the lease together with the name and address of the proposed Lessee, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require. The Board may require a personal interview with the Lessee, his or her spouse or cohabitant, if any, as a pre-condition to approval. The applicant must sign for having received copies of the Rules and Regulations of the Association.

13.1.2 Board Action. After the required notice and all information or interviews requested have been provided, the Board shall have 15 days in which to approve or disapprove the proposed lease. If the Board neither approves nor disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the Lessee.

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

(1) the Unit Owner is delinquent in the payment of Assessments at the time the application is considered;

(2) the Unit Owner and/or his agent has or have a documented history of leasing the Unit without obtaining approval, or leasing to troublesome Lessees and/or refusing to control or accept responsibility for the occupancy of the Unit;

(3) the application on its face indicates that the applicant(s) intend(s) to conduct himself/themselves in a manner inconsistent with the Condominium Documents and other covenants and restrictions applicable to the Condominium;

(4) the applicant(s) has/have been convicted of or pled guilty to a felony: involving violence to persons or property; involving sale of a controlled substance; or that results in the applicant(s) being legally classified as a "sexual offender(s)";

(5) the applicant(s) and/or his or their Family members has/have a history of conduct which evidences disregard for the rights and property of others;

(6) the applicant(s) has/have evidenced an attitude of disregard for the Condominium Documents by his/their conduct in the Condominium as a Lessee, Unit Owner, Guest, Family member, licensee or invitee of a Unit Owner;

(7) the applicant(s) has/have failed to provide the notice, information, fees or security deposit required to process the application in a timely manner, or provided false information to the Association as part of the application procedure; or

(8) the lease was concluded by the parties without having sought and obtained the prior approval required herein.

13.1.4 Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board at its election may approve or disapprove the lease. Any lease entered into without approval may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the Lessee without securing consent to such eviction from the Unit Owner.

13.1.5 Applications: Assessments. Applications for authority to lease shall be made to the Board of Directors on such forms and include such terms as the Board may provide from time to time. The legal responsibility for paying Assessments may not be delegated to the Lessee.

13.1.6 Delegation of Approval Power. The Board of Directors may by resolution delegate its approval (but not its disapproval) power to an Officer, who shall execute a Certificate of Approval and deliver it to the applicant(s) and the Unit Owner. The Board of Directors may also authorize the Association's manager to execute and deliver a Certificate of Approval.

13.2 Term of Lease and Frequency of Leasing. No Unit may be leased for a term of less than 30 days nor more than 3 times per year. For purposes of this restriction, the first day of occupancy under the lease shall conclusively determine in which year the lease occurs. No lease may be for a period of more than one year, and no option for the Lessee to extend or renew the lease for any additional period shall be permitted unless approved by the Board. However, the Board may, in its discretion, approve the same lease from year to year. Subleasing and assignments of leases are permitted, provided that such transactions and the proposed sublessee(s) or assignee(s) are approved in the same manner required for leases.

13.3 Occupancy During Lease Term. No one but the Lessee, his Family members within the first degree of relationship by blood, adoption, legal custody or marriage, and their Guests, may occupy the Unit.

13.4 Occupancy in Absence of Lessee. If a Lessee absents himself from the Unit for any period of time during the lease term, his Family authorized to occupy the Unit by Section 13.3 above who are already in residence may continue to occupy the Unit and may have house Guests subject to all the restrictions in Sections 12 and 13.3 above and in the Rules and Regulations. If the Lessee and all of the Family members mentioned in the preceding sentence are absent, no other person may occupy the Unit, except the Unit Owner.

13.5 Use of Common Elements and Association Property. When a Unit is leased, a Lessee shall have all use rights in the Association Property and those Common Elements otherwise readily available for use generally by Unit Owners and the Unit Owner shall not have such rights except as a Guest. This limitation is notwithstanding any purported waiver by the Lessee of his use rights. Nothing in this subsection shall interfere with the access rights of the Unit Owner as a landlord pursuant to Part II of Chapter 83, Florida Statutes.

13.6 Regulation by Association. All of the provisions of the Condominium Documents shall be applicable and enforceable against any person occupying a Unit as a Lessee or the Lessee's Family members, Guests, licensees and invitees to the same extent as against the Unit Owner. A covenant on the part of each Lessee to abide by the Condominium Documents, designating the Association as the Unit Owner's agent with the authority to terminate any lease agreement and evict the Lessees and their Guests and Family members in the event of breach of such covenant, shall be deemed to be included in every lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

13.7 Fees and Deposits for the Lease of Units. Whenever herein the Board of Directors' approval is required to allow the lease of a Unit, the Association may charge the Unit Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a lease or sublease with the same Lessee or sublessee. The Association may also require payment of any security deposits that are authorized by the Condominium Act as amended from time to time, which security deposit shall cover damage to the Common Elements or Association Property. Handling of the security deposit and claims against the security deposit shall be in accordance with Part II of Chapter 83, Florida Statutes.

13.8 Unapproved Leases. Any lease of a Unit not approved pursuant to this Section 13 shall be void and unenforceable unless subsequently approved by the Board and shall constitute a valid basis for an eviction action.

14. **TRANSFER OF OWNERSHIP OF UNITS:** In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Units, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a Unit shall be subject to the following provisions:

14.1 Forms of Ownership:

A. A Unit may be owned by one natural person who has qualified and been approved as provided in this Section 14.

B. Co-Ownership. Co-ownership of Units is permitted. If the co-Unit Owners are to be other than husband and wife or cohabitants who live together as a single housekeeping unit (and therefore qualify as a "Family" pursuant to Section 4.9 of this Declaration), the Board shall condition its approval upon the designation by the proposed new Unit Owners of one natural person as the Primary Occupant. The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. Any subsequent change in the Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 14. No more than one such change will be approved in any 12-month period.

C. Ownership by Corporations, Partnerships, Trusts or Other Entities. A Unit may be owned in trust, or by a corporation, partnership or other entity that is not a natural person, if approved in the manner provided in this Section 14. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Unit may be used as short-term transient accommodations for several individuals or families. The approval of a trust, corporation, partnership or other entity as a Unit Owner shall be conditioned upon designation by the Unit Owner of one natural person to be the Primary Occupant. The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. Any subsequent change in the Primary Occupants shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 14. No more than one such change will be approved in any 12-month period.

D. Designation of Primary Occupant. If any Unit Owner fails to designate a Primary Occupant when required to do so, the Board of Directors may make the initial designation for the Unit Owner, and shall notify the Unit Owner in writing of its action.

E. Life Estate. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 14.2 below. In that event, the life tenant shall be the only Member, and occupancy of the Unit shall be as if the life tenant were the only Unit Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all Assessments and charges against the Unit. Any consent or approval required of Members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-Unit Owners for purposes of determining voting and occupancy rights under Section 14.1(B), above.

14.2 Transfers.

14.2.1 Sale or Gift. No Unit Owner may transfer a Unit or any ownership interest in a Unit by sale or gift (including agreement for deed) without prior written approval of the Board of Directors which shall not be unreasonably denied.

14.2.2 Devise or Inheritance. If any Unit Owner acquires his title by devise or inheritance, his right to occupy or use the Unit shall be subject to the approval of the Board of Directors under Section 14.3(A)(2) below, using the same criteria as for transfers. However, the approval shall not be denied to any devisee or heir who was the prior Unit Owner's lawful spouse at the time of death, or was related to the Unit Owner by blood, adoption or legal custody within the first degree.

14.2.3 Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the Unit before being approved by the Board of Directors under the procedures outlined in Section 14.3 below.

14.2.4 Delegation of Approval Power. The Board of Directors may by resolution delegate its approval (but not its disapproval) power to an Officer, who shall execute a Certificate of Approval in recordable form and deliver it to the purchaser or closing agent. The Board of Directors may also authorize the Association's manager to execute and deliver a Certificate of Approval in recordable form.

14.3 Procedures.

14.3.1 Notice to Association.

14.3.1.1 Sale or Gift. A Unit Owner intending to make a sale or gift of his Unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least 30 days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, an application for approval to purchase, processing fee and such other information as the Board may reasonably require.

14.3.1.2 Devise, Inheritance or Other Transfers. The transferee must notify the Board of Directors of his ownership and submit a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy or use rights until and unless approved by the Board, but may sell or lease the Unit following the procedures in this Section 14 or Section 13.

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

14.3.2 Board Action. Within 20 days after receipt of the required notice and all information or interview requested, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by an Officer in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limit set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of Approval to the transferee.

14.3.3 Disapproval With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the entire Board so votes. The following, without limitation, may be deemed to constitute good cause for disapproval (to the extent reasonably relevant to the application):

(1) the applicant(s) has/have been convicted of or pled guilty to a felony: involving violence to persons or property; involving sale of a controlled substance; or that results in the applicant(s) being legally classified as a "sexual offender(s)";

(2) the application on its face gives the Board reasonable cause to believe that the applicant(s) intend(s) to conduct himself/themselves in a manner inconsistent with the Condominium Documents and other covenants and restrictions applicable to the Condominium;

(3) the applicant(s) and/or his or their Family members has/have a history of conduct which evidences disregard for the rights and property of others;

(4) the applicant(s) has/have evidenced an attitude of disregard for the Condominium Documents by his/their conduct in the Condominium as a Lessee, Unit Owner, Guest, Family member, licensee or invitee of a Unit Owner;

(5) the applicant(s) has/have failed to provide the information or fees required to process the application in a timely manner, or provided false information to the Association as part of the application procedure; or

(6) the transaction, if a sale or gift, was concluded by the parties without having sought and obtained the prior approval required herein.

14.3.4 Disapproval Without Good Cause. The Association's approval shall not be denied unless a majority of the entire Board so votes. If the Board disapproves without good cause, then within 30 days after the Board meeting at which the disapproval took place, the Board shall deliver in writing to the Unit Owner the name of an approved purchaser (which may be the Association) who will purchase the Unit at the same price and upon substantially the same terms as in the disapproved sales contract. If no sales contract was involved, or if the Association challenges the contract price as not being a good faith purchase price, the price to be paid shall be determined by agreement, or in the absence of agreement, shall be the fair market value determined by the arithmetic average of appraisals by 2 state-certified property appraisers, one selected by the Unit Owner and the other by the Association. The cost of the appraisals shall be shared equally by the purchaser and Unit Owner. All other closing costs shall be paid or prorated in accordance with the FAR/BAR standard form of residential purchase contract. Each party shall pay his/its own attorneys' fees. The closing shall take place no later than 60 days after the date of Board disapproval or 30 days after determination of fair market value by appraisal, whichever occurs last. Failure or refusal to close by either party shall constitute a breach of contract and shall entitle the other party to seek all legal remedies.

If the Board fails to deliver the name of the approved purchaser within 30 days as required above, then the original proposed purchaser shall be deemed to be approved, despite the Board's former disapproval, and upon demand a Certificate of Approval in recordable form shall be issued to the original proposed purchaser.

14.4 Exception. The provisions of Sections 14.2 and 14.3 are not applicable to the acquisition of title to a Unit by an Institutional Mortgagee who acquires title through the Institutional Mortgage, whether by foreclosure or deed in lieu of foreclosure, nor shall the Association's approval be required for the subsequent resale or lease of the Unit by such Institutional Mortgagee.

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

14.6 Fees and Deposits Related to the Sale of Units. Whenever herein the Board's approval is required to allow the sale or other transfer of an interest in a Unit, the Association may charge the Unit Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law.

15. **INSURANCE:** In order to adequately protect the Association and its Members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

15.1 Insurance Obligations as Between Association and Unit Owners. Every property insurance policy issued to the Association, for the purpose of protecting the Condominium, must provide primary coverage for:

A. All portions of the Condominium Property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications.

B. All alterations or additions made to the Condominium Property or Association Property pursuant to Section 718.113(2) of the Condominium Act.

C. The coverage must exclude all personal property within the Unit or Limited Common Elements, and floor, wall, and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of the Unit and serve only such Unit. Such property and any insurance thereupon is the responsibility of the Unit Owner.

D. A Unit Owner's policy must conform to the requirements of s. 627.714, which provides:

(1) coverage under a Unit Owner's residential property policy must include at least \$2,000.00 in property loss assessment coverage for all Assessments made as a result of the same direct loss to the property, regardless of the number of Assessments, owned by all Members of the Association collectively, if such loss is of the type of loss covered by the Unit Owner's residential property insurance policy, to which a deductible of no more than \$250.00 per direct property loss applies. If a deductible was or will be applied to other property loss sustained by the Unit Owner resulting from the same direct loss to the property, no deductible applies to the loss assessment coverage.

(2) The maximum amount of any Unit Owner's loss assessment coverage that can be assessed for any loss shall be an amount equal to that Unit Owner's loss assessment coverage limit in effect one day before the date of the occurrence. Any changes to the limits of a Unit Owner's coverage for loss assessments made on or after the day before the date of the occurrence are not applicable to such loss.

(3) Regardless of the number of Assessments, an insurer providing loss assessment coverage to a Unit Owner is not required to pay more than an amount equal to that Unit Owner's loss assessment coverage limit as a result of the same direct loss to property.

(4) Every individual Unit Owner's residential property policy must contain a provision stating that the coverage afforded by such policy is excess coverage over the amount recoverable under any other policy covering the same property.

E. All reconstruction work after a property loss must be undertaken by the Association except as otherwise authorized in this Section 15. A Unit Owner may undertake reconstruction work on

portions of the Unit with the prior written consent of the Board of Directors. However, such work may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, or the contract that is used for that purpose. A Unit Owner must obtain all required governmental permits and approvals before commencing reconstruction.

F. Unit Owners are responsible for the cost of reconstruction of any portions of the Condominium Property for which the Unit Owner is required to carry property insurance, or for which the Unit Owner is responsible under subsection (H) below, and the cost of any such reconstruction work undertaken by the Association is chargeable to the Unit Owner and enforceable as an Assessment and may be collected in the manner provided for the collection of Assessments pursuant to Section 718.116 of the Condominium Act.

G. Any portion of the Condominium Property that must be insured by the Association against property loss pursuant to Section 15.1(A)-(C) above which is damaged by an insurable event shall be reconstructed, repaired, or replaced as necessary by the Association as a Common Expense. In the absence of an insurable event, the Association or the Unit Owners shall be responsible for the reconstruction, repair, or replacement, as determined by the provisions of this Declaration. All property insurance deductibles, uninsured losses, and other damages in excess of property insurance coverage under the property insurance policies maintained by the Association are a Common Expense, except that:

(1) A Unit Owner is responsible for the costs of repair or replacement of any portion of the Condominium Property not paid by insurance proceeds if such damage is caused by intentional conduct, negligence, or failure to comply with the terms of this Declaration or the Rules and Regulations by a Unit Owner, the members of his or her Family, Unit occupants, Lessees, Guests, or invitees, without compromise of the subrogation rights of the insurer.

(2) The provisions of paragraph (1) above regarding the financial responsibility of a Unit Owner for the costs of repairing or replacing other portions of the Condominium Property also apply to the costs of repair or replacement of personal property of other Unit Owners or the Association, as well as other property, whether real or personal, which the Unit Owners are required to insure.

(3) To the extent the cost of repair or reconstruction for which the Unit Owner is responsible under this subsection (I) is reimbursed to the Association by insurance proceeds, and the Association has collected the cost of such repair or reconstruction from the Unit Owner, the Association shall reimburse the Unit Owner without the waiver of any rights of subrogation.

(4) The Association is not obligated to pay for reconstruction or repairs of property losses as a Common Expense if the property losses were known or should have been known to a Unit Owner and were not reported to the Association until after the insurance claim of the Association for that property was settled or resolved with finality, or denied because it was untimely filed.

H. The Association is not obligated to pay for any reconstruction or repair expenses due to property loss to any improvements installed by a current or former Owner of the Unit or by the developer of the Condominium if the improvement benefits only the Unit for which it was installed and is not part of the standard improvements installed by the developer on all Units as part of original construction, whether or not such improvement is located within the Unit. This does not relieve any party of its obligations regarding recovery due under any insurance implemented specifically for such improvements.

15.2 Association Insurance: Duty and Authority to Obtain. The Association shall use its best efforts to obtain and maintain adequate property insurance to protect the Association, the Association Property, Common Elements and the Condominium Property which it is required to carry by law and under the Condominium Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Unit Owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure. Adequate property insurance must be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The replacement cost must be determined at least once every 36 months. When determining the adequate amount of property insurance coverage, the Board of Directors may consider deductibles as determined pursuant to Section 718.111 of the Condominium Act. The deductibles must be consistent with industry standards and prevailing practice for communities of similar size and age, and having similar construction and facilities in the locale where the Condominium Property is situated. The deductibles may be based upon available funds, including reserve accounts, or predetermined Assessment authority at the time the insurance is obtained. The insurance required hereunder shall afford the following protection:

15.2.1 Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "All Risk" property contract.

15.2.2 Flood. In amounts deemed adequate by the Board of Directors, but in no event less than the maximum amount as available through the National Flood Insurance Program.

15.2.3 General Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

15.2.4 Workers' Compensation. The Association shall maintain Workers' Compensation insurance on at least a minimum premium basis.

- A. Directors, Officers and Committee Members' Liability Insurance.
- B. Fidelity Bond/Insurance, as required by the Condominium Act.

15.3 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and Unit Owners.

15.4 Description of Coverage. A detailed summary of the coverages included in the master policies, and copies of the master policies, shall be available for inspection by Unit Owners or their authorized representatives upon request.

15.5 Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the Association, Unit Owners, or their respective servants, agents or Guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

15.6 Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the Unit Owners and their respective mortgagees in the following shares:

15.6.1 Common Elements. Proceeds on account of damage to Common Elements shall be held in as many individual shares as there are Units, the shares of each Unit Owner being the same as his share in the Common Elements.

15.6.2 Units. In the case of less than "very substantial" destruction (as such term is defined in Section 16.2 below), proceeds on account of damage within the Units shall be held for the Unit Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner less the deductible. For purposes of this determination, damage which is the Unit Owner's responsibility to insure shall be excluded.

15.6.3 Mortgage. If a mortgagee endorsement has been issued as to a Unit, the shares of the mortgagee and the Unit Owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against Unit or Units, unless: insurance proceeds on account of damage to that Unit are not used for repairs; the insurance proceeds exceed the actual cost of repair or restoration of the damaged building; or the Condominium is terminated. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

15.7 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Unit Owners in the following manner:

15.7.1 Cost of Repair or Reconstruction. If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being paid jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

15.7.2 Failure to Repair or Reconstruct. If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be repaired or reconstructed, the proceeds shall be distributed to the beneficial owners, with remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

15.8 Association as Agent. The Association is hereby irrevocably appointed as agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Condominium Property.

16. **RECONSTRUCTION OR REPAIR AFTER CASUALTY**: If any part of the Condominium Property is damaged by casualty, whether and how it shall be repaired, restored and rebuilt shall be determined as follows:

16.1 Damage to Units. Where loss or damage occurs within one or more Units, without damage to the Common Elements, any Association insurance proceeds received on account of the loss or

damage shall be used by the Association to repair and reconstruct those improvements in the Unit(s) with respect to which the Association is obligated to insure pursuant to the Condominium Act. Any insurance proceeds received by the Unit Owner(s) shall be used to repair and reconstruct those improvements in the Unit(s) with respect to which the Unit Owner(s) is obligated to insure pursuant to the Condominium Act.

16.2 Damage to Common Elements - Less than "Very Substantial". Where loss or damage occurs to the Common Elements or to one or more Units and the Common Elements, but the loss is less than "very substantial", as hereinafter defined, it shall be mandatory for the Association and the Unit Owners, as applicable, to repair and reconstruct the damaged improvements, and the following procedures shall apply:

A. The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair, restoration and rebuilding and shall negotiate and contract for repair and reconstruction.

B. If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the Common Elements, the Association shall promptly, upon determination of the deficiency, levy a Special Assessment against all Unit Owners in proportion to their shares in the Common Elements for the deficiency. Such Special Assessments need not be approved by the Unit Owners. The proceeds from the Special Assessment shall be added to the funds available for repair and reconstructing the property.

16.3 "Very Substantial" Damage. As used in the Declaration, the term "very substantial" damage shall mean loss or damage whereby at least 3/4 of the Units are rendered uninhabitable. Should such "very substantial" damage occur then:

A. The Board of Directors and the officers, or any of them, are authorized, regardless of any other provision of this Declaration, to take such action as may reasonably appear to be necessary under emergency conditions. This authority includes actions to protect life and property, to evacuate or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the Condominium Property or Association Property as might be reasonable under the circumstances to protect the Condominium Property or Association Property from further damage or deterioration. This authority includes the authority to expend any and all available Association funds, including reserves and to specially assess the Members for such purposes.

B. The Board of Directors shall endeavor to obtain reliable, detailed estimates of the cost of repair and reconstruction, pursuant to competitive bidding. However, the preceding sentence is not intended to limit the ability of the Association to obtain needed products and services on an emergency basis or if the business entity with which the Association desires to enter into a contract is the only source of supply within Lee County.

C. A Members' meeting shall be held not later than 60 days after the Board has obtained the estimates, to determine the opinion of the Members with reference to rebuilding or termination of the Condominium, subject to the following:

(1) If the insurance proceeds, reserves and other Association funds available for the restoration and repairs are sufficient to cover 90% of the estimated cost thereof, the Condominium shall be restored or repaired unless: at least 2/3 of the Voting Interests vote to terminate the Condominium; or the then applicable zoning or other regulatory laws will not allow reconstruction of the same number and general types of Units, in which case the Condominium shall be terminated. If the Condominium will be

restored or repaired, the Board of Directors shall levy a Special Assessment to fund the remaining 10% of the estimated cost. Such Special Assessments need not be approved by the Unit Owners.

(2) If the insurance proceeds, reserves and other Association funds available for the restoration and repairs are insufficient to cover 90% of the estimated cost thereof and a Special Assessment is required, then unless 2/3 of the Voting Interests vote in favor of such Special Assessment and against termination of the Condominium, the Condominium shall be terminated.

D. If any dispute shall arise as to whether "very substantial" damage has occurred, a determination by the Board of Directors shall be conclusive, and shall be binding upon all persons.

16.4 Application of Insurance Proceeds. It shall be presumed that the first monies disbursed for repair and restoration are from insurance proceeds; if there is a balance left in the funds held by the Association after the payment of all costs of repair and restoration, such balance shall be distributed to the Unit Owners, except as otherwise provided in Section 15.6(C) above, or applied as a credit towards future Assessments, in the Board's discretion.

16.5 Equitable Relief. In the event of damage to the Common Elements which renders any Unit uninhabitable, and the damage is not repaired or restored within a reasonable period of time under the circumstances, the Owner of the uninhabitable Unit may petition a court for equitable relief, which may include a termination of the Condominium and a partition.

16.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original building (with allowance for changes in building codes that apply to any such reconstruction or repairs and without impairing the Board of Directors' ability to substitute superior building materials, components or design), or according to different plans and specifications approved by the Board of Directors and the Owners of at least 3/4 of the Units.

17. CONDEMNATION:

17.1 Deposit of Awards with Association. The taking of all or any part of the Condominium Property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards for the taking of Common Elements may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association; and if any fail to do so, a special charge shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against any sums payable to that Unit Owner.

17.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the same manner provided for determining whether damaged property will be reconstructed and repaired after a casualty.

17.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of all awards and Special Assessments will be deemed to be Condominium Property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, but the size of the Condominium will be reduced, any property damaged by the taking will be made usable in the manner

provided below. Proceeds of awards and Special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after a casualty.

17.4 Association as Agent. The Association is hereby irrevocably appointed as each Unit Owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purposes of realizing just compensation.

17.5 Units Reduced but Habitable. If the condemnation reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

17.5.1 Restoration of Unit. The Unit shall be made habitable. If the cost of restoration exceeds the amount of the award, the additional funds required shall be paid by the Owner of the Unit.

17.5.2 Distribution of Surplus. The balance of the award, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Unit Owner and mortgagees.

17.5.3 Adjustment of Shares in Common Elements. If the floor area of a Unit is reduced by the taking, the percentage representing the share in the Common Elements appurtenant to the Unit shall be recalculated by taking the new square footage of the Unit divided by the total square footage of all Units.

17.6 Unit Made Not Habitable. If the condemnation is of an entire Unit or reduces the size of a Unit so that it cannot be made habitable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

17.6.1 Payment of Award. The fair market value of the Unit immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Unit Owner and mortgagee(s).

17.6.2 Addition to Common Elements. If possible and practical, the remaining portion of the Unit shall become a part of the Common Elements and shall be placed in condition for use by all Unit Owners in a manner approved by the Board of Directors.

17.6.3 Adjustment of Shares in Common Elements. The shares in the Common Elements appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements among the reduced number of Units. This shall be done by restating the shares of the continuing Units in the Common Elements as percentages of the total of the numbers representing the shares as they existed prior to the adjustment.

17.6.4 Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit Owner and to condition the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by Special Assessment against Units that will continue as Units after the changes in the Condominium affected by the taking. The Assessments shall be made in proportion to the shares of those Units in the Common Elements after the changes affected by the taking.

17.6.5 Appraisal. If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and the Association within 30 days after notice by either party, the value shall be determined by appraisal in accordance with the following. The Unit Owner, the Institutional Mortgagee, if any, and the Association shall each appoint one certified real property appraiser, who shall appraise the Unit and determine the fair market value by computing the arithmetic average of their appraisals of the Unit. A judgment of specific performance upon the fair market value calculated in this way may be entered in any court of competent jurisdiction. Each party shall bear the cost of his own appraiser.

17.7 Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in a manner approved by the Board of Directors. The balance of such awards, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation. If a Unit is mortgaged, the remittance shall be paid jointly to the Owner and mortgagee(s) of the Unit.

17.8 Amendment of Declaration. Any changes in Units and in the Common Elements, in the ownership of the Common Elements, and in the sharing of Common Expenses that are necessitated by condemnation shall be accomplished by amending this Declaration. Such amendment must be approved only by a majority of all Directors, and the consent and joinder of Unit Owners or mortgagees is not required for any such amendment.

18. **TERMINATION**: The Condominium may be terminated in the following manner in addition to the manner provided in the Condominium Act:

18.1 Destruction. If it is determined in the manner provided in Section 16.3 that the building shall not be repaired or restored because of "very substantial" damage, the Condominium will be terminated without agreement.

18.2 Agreement. The Condominium may be terminated at any time by written approval of a plan of termination by Owners of 90% of the Units and all Institutional Mortgagees of record.

18.3 Plan of Termination. The plan of termination must be a written document executed in the same manner as a deed by Unit Owners having the requisite percentage of Voting Interests to approve the plan, the termination trustee and Institutional Mortgagees. A copy of the proposed plan of termination shall be given to all Unit Owners, in the same manner as for notice of an annual meeting, at least 14 days prior to the meeting at which the plan of termination is to be voted upon or prior to or simultaneously with the distribution of the solicitation seeking execution of the plan of termination or written consent to or joinder in the plan. The plan of termination must be given to all Institutional Mortgagees. A Unit Owner may document assent to the plan by executing the plan or by consent to or joinder in the plan in the manner of a deed. A plan of termination and the consents or joinders of Unit Owners and, if required, consents or joinders of Institutional Mortgagees must be recorded in the Public Records of Lee County, Florida. The plan is effective only upon recordation or at a later date specified in the plan. A plan of termination is not an amendment subject to Section 718.110(4) of the Condominium Act.

18.4 Plan of Termination; Required Provisions. The plan of termination must specify:

- A. The name, address, and powers of the termination trustee.
- B. A date after which the plan of termination is void if it has not been recorded.

C. The interests of the respective Unit Owners in the Association Property, Common Surplus, and other assets of the Association, which shall be the same as the respective interests of the Unit Owners in the Common Elements immediately before the termination.

D. The interests of the respective Unit Owners in any proceeds from the sale of the Condominium Property. The plan of termination may apportion those proceeds pursuant to any method prescribed in Section 18.6. If, pursuant to the plan of termination, Condominium Property or real property owned by the Association is to be sold following termination, the plan must provide for the sale and may establish any minimum sale terms.

E. Any interests of the respective Unit Owners in insurance proceeds or condemnation proceeds that are not used for repair or reconstruction at the time of termination.

18.5 Plan of Termination; Optional Provisions; Conditional Termination.

A. The plan of termination may provide that each Unit Owner retains the exclusive right of possession to the portion of the real estate that formerly constituted the Unit, in which case the plan must specify the conditions of possession.

B. In a conditional termination, the plan must specify the conditions for termination. A conditional plan does not vest title in the termination trustee until the plan and a certificate executed by the Association with the formalities of a deed, confirming that the conditions in the conditional plan have been satisfied or waived by the requisite percentage of the Voting Interests, have been recorded.

18.6 Allocation of Proceeds of Sale of Condominium Property.

A. The plan of termination must first apportion the proceeds with respect to the Common Elements based upon each Unit's share of ownership of the Common Elements.

B. The portion of proceeds allocated to the Units shall be further apportioned among the individual Units. The apportionment is deemed fair and reasonable if it is so determined by the Unit Owners, who may approve the plan of termination by any of the following methods:

(1) The respective values of the Units based on the fair-market values of the Units immediately before the termination, as determined by one or more independent appraisers selected by the Association or termination trustee;

(2) The respective values of the Units based on the most recent market value of the Units before the termination, as provided in the Lee County Property Appraiser's records; or

(3) The respective interests of the Units in the Common Elements specified in this Declaration immediately before the termination.

C. The methods of apportionment in (B) above do not prohibit any other method of apportioning the proceeds of sale allocated to the Units agreed upon in the plan of termination. The portion of the proceeds allocated to the Common Elements shall be apportioned among the Units based upon their respective interests in the Common Elements.

D. Liens that encumber a Unit shall be transferred to the proceeds of sale of the Condominium Property and the proceeds of sale or other distribution of Association Property, Common Surplus, or other Association assets attributable to such Unit in their same priority. The proceeds of any

sale of Condominium Property pursuant to a plan of termination may not be deemed to be Common Surplus or Association Property.

18.7 Termination Trustee. The Association shall serve as termination trustee unless another person is appointed in the plan of termination. If the Association is unable, unwilling, or fails to act as trustee, any Unit Owner may petition the court to appoint a trustee. Upon the date of the recording or at a later date specified in the plan, title to the Condominium Property vests in the trustee. Unless prohibited by the plan, the termination trustee shall be vested with the powers given to the Board of Directors pursuant to this Declaration, the Bylaws and the Condominium Act. If the Association is not the termination trustee, the trustee's powers shall be coextensive with those of the Association to the extent not prohibited in the plan of termination or the order of appointment. If the Association is not the termination trustee, the Association shall transfer any Association Property to the trustee. If the Association is dissolved, the trustee shall also have such other powers necessary to conclude the affairs of the Association.

18.8 Title Vested in Termination Trustee. If termination is pursuant to a plan of termination under Section 18.2, the Unit Owners' rights and title as tenants in common in undivided interests in the Condominium Property vest in the termination trustee when the plan is recorded or at a later date specified in the plan. The Unit Owners thereafter become the beneficiaries of the proceeds realized from the plan of termination. The termination trustee may deal with the Condominium Property or any interest therein if the plan confers on the trustee the authority to protect, conserve, manage, sell, or dispose of the Condominium Property. The trustee, on behalf of the Unit Owners, may contract for the sale of real property, but the contract is not binding on the Unit Owners until the plan is approved pursuant to Section 18.2.

18.9 Powers in Connection with Termination. The approval of the plan of termination does not terminate the Association. It shall continue in existence following approval of the plan of termination with all powers and duties it had before approval of the plan. Notwithstanding any provision to the contrary in this Declaration or the Bylaws, after approval of the plan the Board of Directors shall:

- A. Employ Directors, agents, attorneys, and other professionals to liquidate or conclude its affairs.
- B. Conduct the affairs of the Association as necessary for the liquidation or termination.
- C. Carry out contracts and collect, pay, and settle debts and claims for and against the Association.
- D. Defend suits brought against the Association.
- E. Sue in the name of the Association for all sums due or owed to the Association or to recover any of its property.
- F. Perform any act necessary to maintain, repair, or demolish unsafe or uninhabitable improvements or other Condominium Property in compliance with applicable codes.
- G. Sell at public or private sale or exchange, convey, or otherwise dispose of assets of the Association for an amount deemed to be in the best interests of the Association, and execute bills of sale and deeds of conveyance in the name of the Association.

H. Collect and receive rents, profits, accounts receivable, income, Assessments, Special Assessments, or insurance proceeds for the Association.

I. Contract and do anything in the name of the Association which is proper or convenient to terminate the affairs of the Association.

18.10 Natural Disasters. If, after a natural disaster, the identity of the Directors or their right to hold office is in doubt, if they are deceased or unable to act, if they fail or refuse to act, or if they cannot be located, any interested person may petition the Circuit Court to determine the identity of the Directors or, if found to be in the best interests of the Unit Owners, to appoint a receiver to conclude the affairs of the Association after a hearing following notice to such persons as the court directs. Lienholders shall be given notice of the petition and have the right to propose persons for the consideration by the court as receiver. If a receiver is appointed, the court shall direct the receiver to provide to all Unit Owners written notice of his or her appointment as receiver. Such notice shall be mailed or delivered within 10 days after the appointment. Notice by mail to a Unit Owner shall be sent to the address used by the Lee County Property Appraiser for notice to the Unit Owner. The receiver shall have all powers given to the Board of Directors pursuant to this Declaration, the Bylaws and Section 718.117(6) of the Condominium Act, and any other powers that are necessary to conclude the affairs of the Association and are set forth in the order of appointment. The appointment of the receiver is subject to the bonding requirements of such order. The order shall also provide for the payment of a reasonable fee to the receiver from the sources identified in the order, which may include rents, profits, incomes, Assessments, or Special Assessments collected from the Condominium Property.

18.11 Reports and Replacement of Receiver. The Association, receiver, or termination trustee shall prepare reports each quarter following the approval of the plan of termination setting forth the status and progress of the termination, costs and fees incurred, the date the termination is expected to be completed, and the current financial condition of the Association, receivership, or trusteeship and provide copies of the report by regular mail to the Unit Owners and lienors at the mailing address provided to the Association by the Unit Owners and the lienors. The Unit Owners of an Association in termination may recall or remove members of the Board of Directors with or without cause at any time as provided in s. 718.112(2)(j) of the Condominium Act. The lienors of an Association in termination representing at least 50% of the outstanding amount of liens may petition the court for the appointment of a termination trustee, which shall be granted upon good cause shown.

18.12 Notice. Within 30 days after a plan of termination has been recorded, the termination trustee shall deliver by certified mail, return receipt requested, notice to all Unit Owners, lienors of the Condominium Property, and lienors of all Units at their last known addresses that a plan of termination has been recorded. The notice must include the book and page number of the Public Records of Lee County, Florida in which the plan was recorded, notice that a copy of the plan shall be furnished upon written request, and notice that the Unit Owner or lienor has the right to contest the fairness of the plan. The trustee, within 90 days after the effective date of the plan, shall provide to the Division of Florida Condominiums, Timeshares and Mobile Homes ("Division") a certified copy of the recorded plan, the date the plan was recorded, and the recording information for the plan of termination.

18.13 Right to Contest. A Unit Owner or lienor may contest a plan of termination by initiating a summary procedure pursuant to Section 51.011, Florida Statutes, within 90 days after the date the plan is recorded. A Unit Owner or lienor who does not contest the plan within the 90 day period is barred from asserting or prosecuting a claim against the Association, the termination trustee, any Unit Owner, or any successor in interest to the Condominium Property. In an action contesting a plan of termination, the

person contesting the plan has the burden of pleading and proving that the apportionment of the proceeds from the sale among the Unit Owners was not fair and reasonable. The apportionment of sale proceeds is presumed fair and reasonable if it was determined pursuant to the methods prescribed in Section 718.117(12) of the Condominium Act. The court shall determine the rights and interests of the parties and order the plan of termination to be implemented if it is fair and reasonable. If the court determines that the plan of termination is not fair and reasonable, the court may void the plan or may modify the plan to apportion the proceeds in a fair and reasonable manner pursuant to Section 718.117 of the Condominium Act based upon the proceedings and order the modified plan of termination to be implemented. In such action, the prevailing party shall recover reasonable attorneys' fees and costs.

18.14 Distribution.

A. Following termination of the Condominium, the Condominium Property, Association Property, Common Surplus, and other assets of the Association shall be held by the termination trustee, as trustee for Unit Owners and holders of liens on the Units, in their order of priority.

B. Not less than thirty 30 days before the first distribution, the termination trustee shall deliver by certified mail, return receipt requested, a notice of the estimated distribution to all Unit Owners, lienors of the Condominium Property, and lienors of each Unit at their last known addresses stating a good faith estimate of the amount of the distributions to each class and the procedures and deadline for notifying the termination trustee of any objections to the amount. The deadline must be at least 15 days after the date the notice was mailed. The notice may be sent with or after the notice required by Section 718.117(15) of the Condominium Act. If a Unit Owner or lienor files a timely objection with the termination trustee, the trustee need not distribute the funds and property allocated to the respective Unit Owner or lienor until the trustee has had a reasonable time to determine the validity of the adverse claim. In the alternative, the trustee may interplead the Unit Owner, lienor, and any other person claiming an interest in the Unit and deposit the funds allocated to the Unit in the court registry, at which time the Condominium Property, Association Property, Common Surplus, and other assets of the Association are free of all claims and liens of the parties to the suit. In an interpleader action, the trustee and prevailing party may recover reasonable attorneys' fees and costs.

C. The proceeds from any sale of Condominium Property or Association Property and any remaining Condominium Property or Association Property, Common Surplus, and other assets shall be distributed in the following priority:

(1) to pay the reasonable termination trustee's fees and costs and accounting fees and costs;

(2) to lienholders of liens recorded prior to the recording of the original Declaration;

(3) to purchase-money lienholders on Units to the extent necessary to satisfy their liens; however, the distribution may not exceed a Unit Owner's share of the proceeds.

(4) to lienholders of liens of the Association which have been consented to Section 718.121(1) of the Condominium Act.

(5) to creditors of the Association, as their interests appear.

(6) to Unit Owners, the proceeds of any sale of Condominium Property subject to satisfaction of liens on each Unit in their order of priority, in shares specified in the plan of termination, unless objected to by a Unit Owner or lienor as provided in paragraph (B) above.

(7) to Unit Owners, the remaining Condominium Property, subject to satisfaction of liens on each Unit in their order of priority, in shares specified in the plan of termination, unless objected to by a Unit Owner or a lienor as provided in paragraph (B) above.

(8) to Unit Owners, the proceeds of any sale of Association Property, the remaining Association Property, Common Surplus, and other assets of the Association, subject to satisfaction of liens on each Unit in their order of priority, in shares specified in the plan of termination, unless objected to by a Unit Owner or a lienor as provided in paragraph (B) above.

D. After determining that all known debts and liabilities of the Association have been paid or adequately provided for, the termination trustee shall distribute the remaining assets pursuant to the plan of termination. If the termination is by court proceeding or subject to court supervision, the distribution may not be made until any period for the presentation of claims ordered by the court has elapsed.

E. Assets held by the Association upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur, shall be returned, transferred, or conveyed in accordance with the condition. The remaining Association assets shall be distributed pursuant to paragraph (C) above.

F. Distribution may be made in money, property, or securities and in installments or as a lump sum, if it can be done fairly and ratably and in conformity with the plan of termination. Distribution shall be made as soon as is reasonably consistent with the beneficial liquidation of the assets.

18.15 Association Status. The termination of the Condominium does not change the corporate status of the Association. The Association shall continue to exist to conclude its affairs, prosecute and defend actions by or against it, collect and discharge obligations, dispose of and convey its property, and collect and divide its assets, but not to act except as necessary to conclude its affairs.

18.16 Creation of Another Condominium. The termination of the Condominium does not bar the filing of a declaration of condominium or an amended and restated declaration of condominium by the termination trustee affecting any portion of the same property.

19. **ENFORCEMENT:**

19.1 Duty to Comply; Right to Sue. Each Unit Owner, his Family members, Lessees, Guests and invitees, and the Association are governed by and must comply with the provisions of the Condominium Act and the Condominium Documents, which shall be deemed expressly incorporated into any lease of a Unit. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Unit Owner against:

- A. The Association;
- B. A Unit Owner;
- C. Anyone who occupies or is a Lessee, Guest or invitee in a Unit; or
- D. Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

19.2 Waiver of Rights. The failure of the Association or any Member to enforce a right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or Member to enforce such right, provision, covenant or condition in the future. A provision of the Condominium Act may not be waived by a Unit Owner if the waiver would adversely affect the rights of the Unit Owner or defeat the purpose of the provision, except that Unit Owners or Directors may waive notice of specific meetings as provided in the Bylaws. Actions arising under this Section 19 or the Condominium Act may not be deemed to be actions for specific performance.

19.3 Attorneys' Fees. In any legal proceeding arising out of an alleged failure of a Unit Owner, Family member, Guest, Lessee or other invitee, or the Association to comply with the requirements of the Condominium Act and/or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorneys' fees as may be awarded by the court.

19.4 No Election of Remedies. All rights, remedies and privileges granted to the Association or Unit Owners under the law and the Condominium Documents shall be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising any other rights, remedies, or privileges that may be available.

20. RIGHTS OF MORTGAGEES:

20.1 Approvals. Written consent of the Institutional Mortgagee of a Unit shall be required for any amendment to the Declaration which would decrease the Unit's share of ownership of the Common Elements, except as otherwise provided in Section 17.

20.2 Notice of Casualty or Condemnation. In the event of condemnation, eminent domain proceeding, or very substantial damage to, or destruction of, any Unit or any part of the Common Elements, the Institutional Mortgagee of an affected Unit shall be entitled to notice.

20.3 Mortgage Foreclosure. If an Institutional Mortgagee acquires title to a Condominium Parcel as a result of foreclosure of the Institutional Mortgagee, or as the result of a deed given in lieu of foreclosure, the Institutional Mortgagee shall be liable for the share of Common Expenses or Assessments attributable to the Condominium Parcel, which came due prior to the Institutional Mortgagee's acquisition of title, to the fullest extent provided by the Condominium Act, as the same may be amended from time to time. Any unpaid share of Common Expenses for which such acquirer is exempt from liability becomes a Common Expense collectible from all Unit Owners. No party who acquires title to a Condominium Parcel by foreclosure, or by a deed in lieu of foreclosure, may be excused from the payment of any Assessments coming due during the period of such ownership.

20.4 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any Unit, the Association, on behalf of one or more Unit Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the Unit at the foreclosure sale. Any mortgagee shall have an unrestricted, absolute right to accept title to the Unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the Unit at the foreclosure sale.

20.5 Right to Inspect Books. The Association shall make available to Institutional Mortgagees requesting same current copies of the Condominium Documents and the books, records and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be provided at the expense of the person requesting them.

20.6 Financial Statement. Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statement of the Association for the immediately preceding fiscal year.

20.7 Lender's Notices. Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

A. Any 60 day or longer delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds an Institutional Mortgage.

B. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

C. Any proposed action that requires the consent of a specified percentage of mortgage holders.

Whenever the prior written consent of a mortgagee or lienholder is required in the Condominium Documents, the prior written consent shall not be unreasonably withheld.

20.8 Institutional Mortgagee Priority Over Insurance Proceeds and Condemnation Awards. Notwithstanding any language contained in this Declaration to the contrary, no Unit Owner and no other party shall have priority over any rights of any Institutional Mortgagee pursuant to its Institutional Mortgage in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or takings of Units and/or any portion of the Common Elements and no amendment to this Section 20.8 shall be made without the prior written consent of all Institutional Mortgagees.

20.9 Valid Lien. No breach of any of the covenants, conditions and restrictions contained in this Declaration, nor the enforcement of any lien provisions herein, shall render invalid the lien of an Institutional Mortgagee on any Unit.

21. **AMENDMENT OF DECLARATION:** Amendments to this Declaration shall be proposed and adopted in the following manner:

21.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors, or by written petition to the Board signed by at least 1/4 of the Voting Interests.

21.2 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can be given.

21.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Condominium Documents, this Declaration may be amended if the proposed amendment is approved by at least 2/3 of the Voting Interests present (in person or by proxy) and voting at any annual or special Members' meeting at which a quorum has been established, provided that notice of the proposed

amendment has been given to the Members in accordance with the Condominium Act and the Bylaws. The Condominium Documents shall be deemed amended by virtue of revisions to statutes and regulations which control over conflicting provisions of the Condominium Documents. The Board of Directors shall have the authority to amend the Condominium Documents in order to conform the provisions thereof with such revisions to statutes and regulations. In addition, the Board of Directors may amend the Condominium Documents to correct scrivener's errors or omissions, and amend and restate the Condominium Documents in order to consolidate into one document amendments previously adopted by the Members or the Board. Amendments adopted by the Board shall occur at a duly noticed Board meeting (with adoption of the amendments set forth on the agenda). The Board shall supply the Members with a copy of the adopted amendments.

21.4 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by the President or Vice President of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

21.5 Proviso. Any amendment which changes the configuration or size of any Unit in any material fashion, materially alters or modifies the appurtenances to the Unit, or changes the proportion or percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Surplus, must be approved by at least 2/3 of the Voting Interests, the Owner of the Unit and his Institutional Mortgagee, if any. This proviso does not apply to changes caused by condemnation or a taking by eminent domain as provided in Section 17. No amendment shall operate to unlawfully discriminate against any Unit Owner nor against any class of Unit Owners.

22. MISCELLANEOUS:

22.1 Severability. The invalidity or unenforceability in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any recorded exhibit to this Declaration, shall not affect the remaining portions.

22.2 Applicable Statutes. The validity, application and construction of this Declaration and its recorded exhibits shall be governed by the Laws of Florida, particularly the Florida Condominium Act, as it exists on the date hereof.

22.3 Conflicts. If there is a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act shall control. If there is a conflict between this Declaration and the Article of Incorporation or Bylaws, the Declaration shall control. If there is a conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.

22.4 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable.

22.5 Exhibits. There is hereby incorporated within this Declaration any materials contained in the exhibits hereto which, under the Condominium Act, are required to be part of the Declaration.

22.6 Singular, Plural and Gender. Whenever the context so requires, the use of the plural shall include the singular and the plural, and the use of any gender shall be deemed to include all genders.

22.7 Headings. The heading used in the Condominium Documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of the Condominium Documents.



OR BK 03416 PG 2709

EXHIBIT "A"

DESCRIPTION OF LANDS
SUBMITTED TO CONDOMINIUM
SORRENTO AT THE COLONY, A CONDOMINIUM

ALL THAT PART OF SECTION 8, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

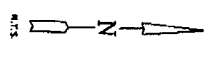
COMMENCING AT THE PCP IN THE CENTER OF THE CUL-DE-SAC OF PELICAN COLONY BOULEVARD AS SHOWN IN THE PLAT OF PELICAN LANDING UNIT TWENTY SEVEN PART ONE AND AS RECORDED IN PLAT BOOK 61 PAGES 8 AND 9 PUBLIC RECORDS OF LEE COUNTY FLORIDA; THENCE NORTH 20° 17' 38" WEST A DISTANCE OF 97.70 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 300.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 17° 05' 58" AN ARC DISTANCE OF 89.53 FEET; THENCE NORTH 3° 11' 40" WEST A DISTANCE OF 173.79 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 600.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 17° 52' 22" AN ARC DISTANCE OF 187.16 FEET; THENCE ALONG A RADIAL LINE OF SAID CURVE SOUTH 68° 55' 58" WEST A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE SOUTH 68° 25' 16" WEST A DISTANCE OF 11.57 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 40.0 FEET; THENCE WESTERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 79° 10' 41" AN ARC DISTANCE OF 52.28 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 60.00 FEET; THENCE NORTHWESTERLY, WESTERLY, SOUTHWESTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 141° 26' 48" AN ARC DISTANCE OF 148.12 FEET; THENCE SOUTH 6° 09' 12" WEST A DISTANCE OF 23.34 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 95.67 FEET; THENCE SOUTHERLY, SOUTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 76° 33' 41" AN ARC DISTANCE OF 127.84 FEET; THENCE SOUTH 26° 18' 07" WEST A DISTANCE OF 191.66 FEET; THENCE NORTH 83° 49' 05" WEST A DISTANCE OF 358.40 FEET; THENCE NORTH 2° 51' 45" EAST A DISTANCE OF 34.65 FEET; THENCE NORTH 4° 07' 09" WEST A DISTANCE OF 77.64 FEET; THENCE NORTH 36° 26' 04" EAST A DISTANCE OF 235.22 FEET; THENCE NORTH 25° 41' 54" EAST A DISTANCE OF 32.82 FEET; THENCE NORTH 18° 21' 26" EAST A DISTANCE OF 31.23 FEET; THENCE NORTH 45° 51' 01" EAST A DISTANCE OF 25.44 FEET; THENCE NORTH 61° 09' 13" EAST A DISTANCE OF 27.84 FEET; THENCE NORTH 36° 26' 04" EAST A DISTANCE OF 22.75 FEET; THENCE SOUTH 88° 44' 28" EAST A DISTANCE OF 286.70 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY AND WHOSE RADIUS POINT BEARS NORTH 41° 50' 28" EAST A DISTANCE OF 62.00 FEET; THENCE SOUTHEASTERLY, EASTERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 80° 39' 23" AN ARC DISTANCE OF 87.28 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 126.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 24° 54' 19" AN ARC DISTANCE OF 54.77 FEET; THENCE NORTH 81° 48' 20" EAST A DISTANCE OF 32.96 FEET; THENCE SOUTH 8° 11' 40" EAST A DISTANCE OF 56.17 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 540.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14° 01' 36" AN ARC DISTANCE OF 132.20 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 560.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 1° 09' 14" AN ARC DISTANCE OF 11.28 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

CONTAINING 4.440 ACRES OF LAND MORE OR LESS;
SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

Main Office: 7400 Tamiami Trail N., Suite 200, Naples, Florida 34108 • (941) 597-3111 • FAX: (941) 566-2203
Lee County: 1625 Hendry St., Suite 101, Fort Myers, Florida 33901 • (941) 334-1173 • FAX: (941) 334-1175

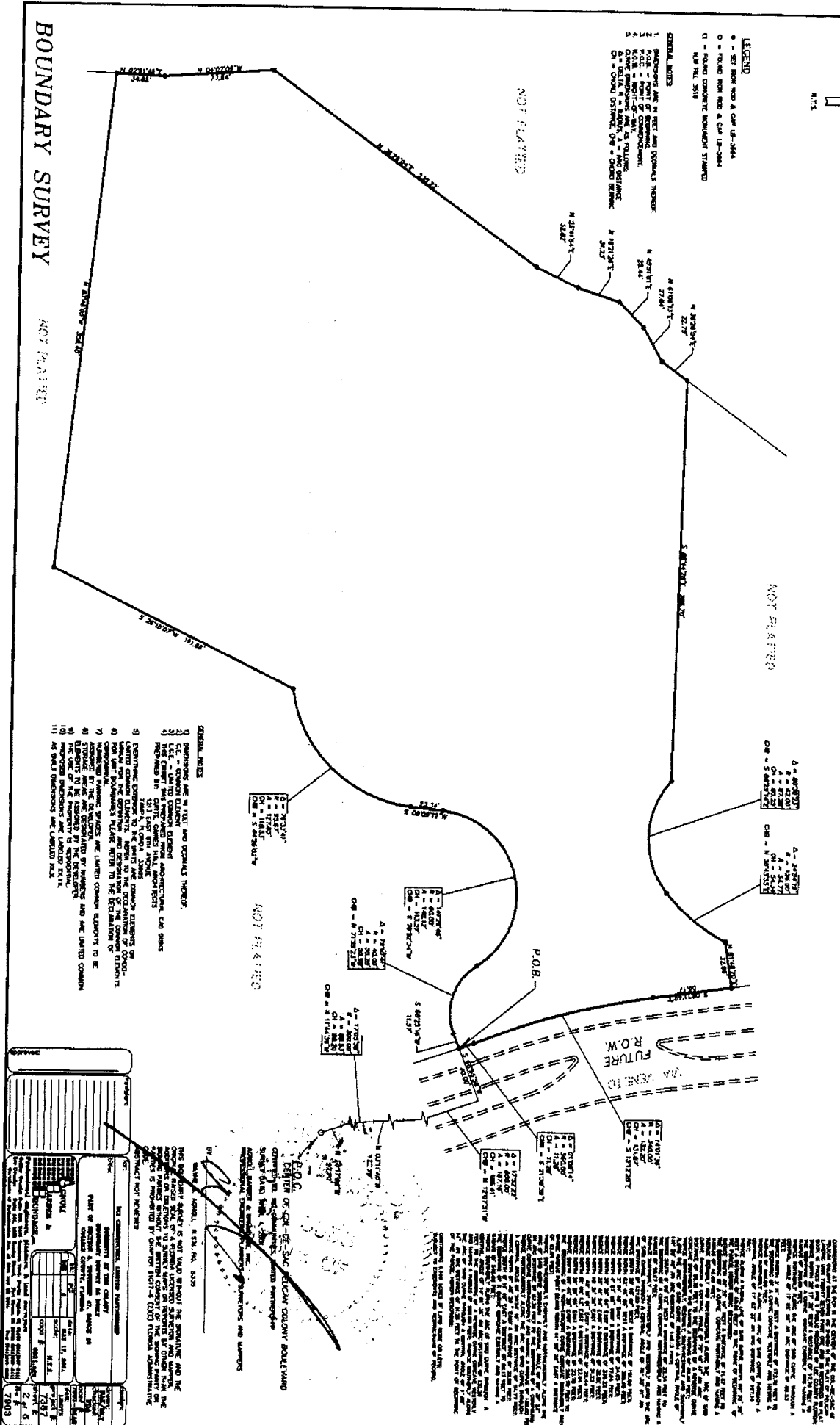
SORRENTO AT THE COLONY, A CONDOMINIUM

CONDOMINIUM PLAT BOOK _____ PAGE _____
EXHIBIT B



- LEGEND**
- - SET ROW AND CURB L&P-3444
 - - FOUND ROW AND CURB L&P-3444
 - - FOUND CONCRETE MONUMENT STAMPED
 - M.P. FILE 2018

- GENERAL NOTES**
1. DIMENSIONS ARE OF NET AND GROSS'S HEIGHT
 2. PALE - POINT OF COMMENCEMENT
 3. PALE - POINT OF COMMENCEMENT
 4. DIMENSIONS ARE AS SHOWN
 5. FOUND CONCRETE MONUMENT STAMPED
 6. FOUND CONCRETE MONUMENT STAMPED



- GENERAL NOTES**
- 1) DIMENSIONS ARE OF NET AND GROSS'S HEIGHTS.
 - 2) C.E. - COMMON ELEMENTS
 - 3) C.E. - COMMON ELEMENTS
 - 4) C.E. - COMMON ELEMENTS
 - 5) C.E. - COMMON ELEMENTS
 - 6) C.E. - COMMON ELEMENTS
 - 7) C.E. - COMMON ELEMENTS
 - 8) C.E. - COMMON ELEMENTS
 - 9) C.E. - COMMON ELEMENTS
 - 10) C.E. - COMMON ELEMENTS
 - 11) C.E. - COMMON ELEMENTS

<p>THIS DOCUMENT IS NOT VALID UNLESS THE SIGNATURE AND THE DATE OF THE SIGNATURE ARE THE SAME AS THE SIGNATURE AND DATE OF THE SIGNATURE ON THE ORIGINAL DOCUMENT.</p>	
<p>DATE OF RECORDING</p>	<p>RECORDING OFFICE</p>
<p>DATE OF RECORDING</p>	<p>RECORDING OFFICE</p>
<p>DATE OF RECORDING</p>	<p>RECORDING OFFICE</p>

NOTICE TO CONVEYANCE

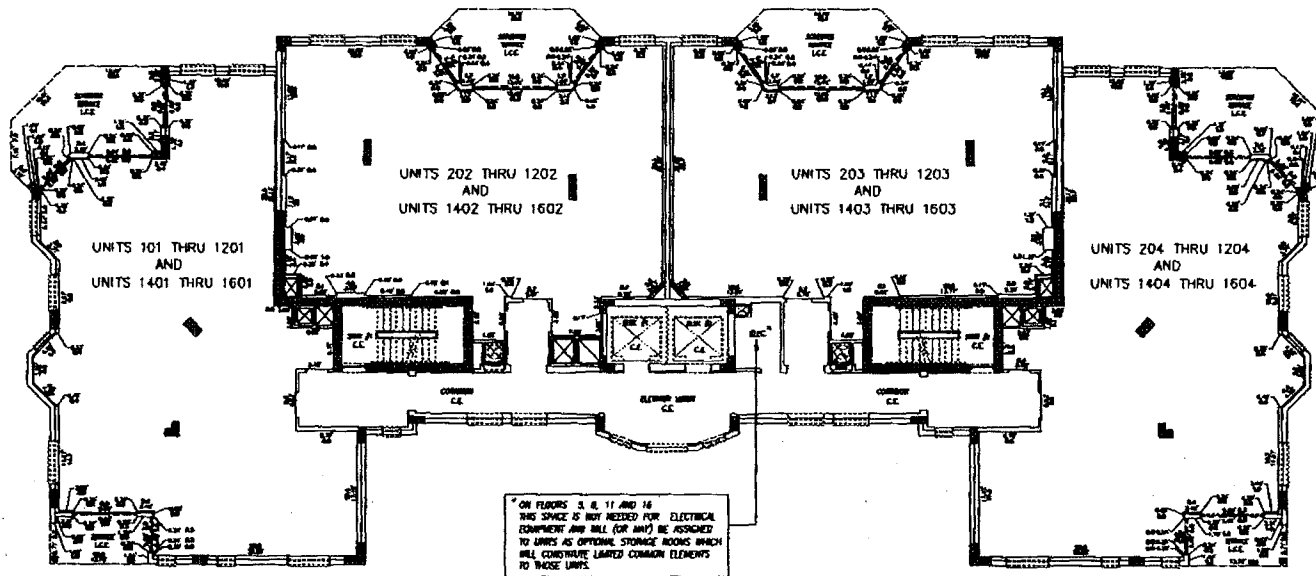
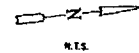
THE SIGNATURE AND DATE OF THE SIGNATURE ON THIS DOCUMENT MUST BE THE SAME AS THE SIGNATURE AND DATE OF THE SIGNATURE ON THE ORIGINAL DOCUMENT.

DATE OF RECORDING: _____

RECORDING OFFICE: _____

SORRENTO AT THE COLONY, A CONDOMINIUM

EXHIBIT B



* ON FLOORS 3, 8, 11 AND 16 THIS SPACE IS NOT NEEDED FOR ELECTRICAL EQUIPMENT AND SHALL (OR MAY) BE ASSIGNED TO UNITS AS OPTIONAL STORAGE ROOMS WHICH WILL CONSTITUTE LIMITED COMMON ELEMENTS TO THOSE UNITS.

SURVEYOR'S NOTE:

THE PURPOSE OF THIS SURVEY IS TO MEASURE AND PREPARE FINAL CONDOMINIUM EXHIBITS FOR THE SORRENTO BUILDING ONLY. SOME MEASUREMENTS ARE NOT SHOWN DUE TO INTERIOR WALL STRUCTURE OF THE UNITS.

GENERAL NOTES

- 1) DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
- 2) C.E. = COMMON ELEMENT
- 3) L.C.E. = LIMITED COMMON ELEMENT
- 4) THIS EXHIBIT WAS PREPARED FROM ARCHITECTURAL CAD DISKS PREPARED BY: CURTIS GARNES HALL ARCHITECTS 1213 EAST 8TH AVENUE TAMPA, FLORIDA 33605
- 5) EVERYTHING EXTERIOR TO THE UNITS ARE COMMON ELEMENTS OR LIMITED COMMON ELEMENTS. REFER TO THE DECLARATION OF CONDOMINIUM FOR THE DEFINITION AND DESIGNATION OF THE COMMON ELEMENTS FOR UNIT BOUNDARIES PLEASE REFER TO THE DECLARATION OF CONDOMINIUM.
- 6) NUMBERED PARKING SPACES ARE LIMITED COMMON ELEMENTS TO BE ASSIGNED BY THE DEVELOPER.
- 7) STORAGE AREAS ARE DESIGNATED BY NUMBERS AND ARE LIMITED COMMON ELEMENTS TO BE ASSIGNED BY THE DEVELOPER.
- 8) THE USE OF THE PROPERTY IS RESIDENTIAL.
- 9) PROPOSED DIMENSIONS ARE LABELED XX.XX.
- 10) AS BUILT DIMENSIONS ARE LABELED XX.X.
- 11) AS BUILT DIMENSIONS ARE LABELED XX.X.

ABBREVIATIONS

- A/C = AIR CONDITION
- MECH = MECHANICAL
- ELEV = ELEVATOR
- WC = WASH CLOSET
- STOR = STORAGE
- JAN = JANITOR CLOSET
- MARKET = MARKET
- UNIT MECH L.C.E. = UNIT MECHANICAL ROOM
- MECH C.E. = MECHANICAL ROOM
- SC = STRUCTURAL COLUMN C.E.
- IS = STRUCTURAL I-BEAM C.E.
- SI = STRUCTURAL COLUMN C.E.
- CH = CHIMNEY
- ELEC = ELECTRICAL

217.8	NONHABITABLE ROOF SLAB		
218.00			
207.2	21st FLOOR	PH-2101, PH-2102 AND PH-2103	0.87'
187.4			10.00'
187.67	20th FLOOR	PH-2001, PH-2002 AND PH-2003	
187.8			
188.07	19th FLOOR	PH-1901, PH-1902 AND PH-1903	
178.7			
178.33	18th FLOOR	PH-1801, PH-1802 AND PH-1803	
168.9			
168.67	17th FLOOR	PH-1701, PH-1702 AND PH-1703	
148.8			
138.09	16th FLOOR	UNITS 1601, 1602, 1603 AND 1604	
148.1			
148.33	15th FLOOR	UNITS 1501, 1502, 1503 AND 1504	
138.8			
138.67	14th FLOOR	UNITS 1401, 1402, 1403 AND 1404	
128.8			
128.08	13th FLOOR	UNITS 1301, 1302, 1303 AND 1304	
118.2			
118.33	12th FLOOR	UNITS 1201, 1202, 1203 AND 1204	
118.8			
118.67	11th FLOOR	UNITS 1101, 1102, 1103 AND 1104	
108.8			
108.67	10th FLOOR	UNITS 1001, 1002, 1003 AND 1004	
98.8			
98.67	9th FLOOR	UNITS 901, 902, 903 AND 904	
88.8			
88.67	8th FLOOR	UNITS 801, 802, 803 AND 804	
78.8			
78.00	7th FLOOR	UNITS 701, 702, 703 AND 704	
68.8			
68.33	6th FLOOR	UNITS 601, 602, 603 AND 604	
58.8			
58.67	5th FLOOR	UNITS 501, 502, 503 AND 504	
48.8			
48.00	4th FLOOR	UNITS 401, 402, 403 AND 404	
38.8			
38.33	3rd FLOOR	UNITS 301, 302, 303 AND 304	
28.8			
28.33	2nd FLOOR	UNITS 201, 202, 203 AND 204	
18.8			
18.67	1st FLOOR	LOBBY - MANAGER AND GUEST STAIRS, STAIRS, AMENITIES, UNIT 101	0.67' (TYP 2ND FLOOR THRU 20TH FLOOR)
12.00	GARAGE FLOOR - LOBBY / STORAGE / PARKING		
11.7	11.67 GARAGE FLOOR - LOWEST PARKING AREA		

NOTE: SECTIONAL DIMENSIONS SHOWN HEREIN ARE MEASURED FLOOR TO FLOOR

TYPICAL FLOOR

<p>WCI COMMUNITIES, LIMITED PARTNERSHIP</p> <p>1200 EAST 8TH AVENUE, SUITE 200 TAMPA, FLORIDA 33605</p> <p>PHONE: 813-281-1111 FAX: 813-281-1112</p> <p>WWW.WCI.COM</p>		<p>DATE: MAY 17, 2001</p> <p>BY: R.T.S.</p> <p>PROJECT: 7387</p> <p>SHEET: 5 of 6</p> <p>7803</p>
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EXHIBIT “ B ”

**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE ARTICLES OF INCORPORATION.
FOR PRESENT TEXT SEE EXISTING ARTICLES OF INCORPORATION**

**AMENDED AND RESTATED ARTICLES OF INCORPORATION
THE SORRENTO AT THE COLONY CONDOMINIUM ASSOCIATION, INC.**

Pursuant to Chapter 617, Florida Statutes, the Articles of Incorporation for The Sorrento at the Colony Condominium Association, Inc., a Florida corporation not for profit, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Chapter 617, Florida Statutes, and there is no discrepancy between the Association’s Articles of Incorporation as heretofore amended and the provisions of these Amended and Restated Articles, other than the inclusion of amendments adopted pursuant to Chapter 617, Florida Statutes and the omission of matters of historical interest. The definitions set forth in Section 4 of the Declaration shall apply to terms used herein. The Amended and Restated Articles of Incorporation shall henceforth be as follows:

ARTICLE I

NAME: The name of the Association is The Sorrento at the Colony Condominium Association, Inc., and its address is 23650 Via Veneto, #104, Bonita Springs, FL 34134.

ARTICLE II

PURPOSE AND POWERS: The purpose for which the Association is organized is to provide an entity pursuant to the Condominium Act for the operation of Sorrento at the Colony, a Condominium, located in Lee County, Florida.

The Association is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any Member, Director or Officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit under the laws of the State of Florida, except as limited or modified by the Condominium Documents or the Condominium Act; and it shall have all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Condominium Documents as they may hereafter be amended, including but not limited to the following:

- (A) To make and collect Assessments against Members of the Association to defray the costs, expenses and losses of the Association, and to use the funds in the exercise of its powers and duties.
- (B) To protect, maintain, repair, replace and operate the Condominium Property.
- (C) To purchase insurance upon the Condominium Property for the protection of the Association and its Members.
- (D) To reconstruct improvements after casualty, and to make improvements of the Condominium Property, as well as to purchase items of furniture, furnishings, fixtures and equipment.

- (E) To make, amend and enforce Rules and Regulations, subject to any limits set forth in the Condominium Documents.
- (F) To approve or disapprove the transfer, leasing and occupancy of Units, as provided in the Declaration.
- (G) To enforce the provisions of the Condominium Act and the Condominium Documents.
- (H) To contract for the management and maintenance of the Condominium Property and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by law or by the Condominium Documents to be exercised by the Board of Directors or the membership of the Association.
- (I) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Association.
- (J) To enter into agreements, or acquire leaseholds, memberships, and other possessory, ownership or use interests in lands or facilities. It has this power whether or not the lands or facilities are contiguous to the lands of the Condominium, if they are intended to provide enjoyment, recreation, or other use or benefit to the Owners.
- (K) To borrow money as necessary to perform its other functions hereunder.
- (L) To sue and be sued.

All funds and the title to all property acquired by the Association shall be held for the benefit of the Members in accordance with the provisions of the Condominium Documents.

ARTICLE III

MEMBERSHIP:

- (A) The Members of the Association shall be the record Owners of legal title to the Units in the Condominium, as further provided in the Bylaws.
- (B) The share of a Member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to his Unit, but nothing shall prevent the Association from pledging, assigning or otherwise encumbering its Assessments as collateral for a loan.
- (C) The Owners of each Unit, collectively, shall be entitled to one vote in Association matters. The manner of exercising voting rights shall be as set forth in the Bylaws.

ARTICLE IV

TERM: The term of the Association shall be perpetual.

ARTICLE V

BYLAWS: The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VI

DIRECTORS AND OFFICERS:

- (A) The affairs of the Association shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but in no event less than three (3) Directors.
- (B) Directors of the Association shall be elected by the Members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.
- (C) The business of the Association shall be conducted by the Officers designated in the Bylaws. The Officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the Members, and they shall serve at the pleasure of the Board.

ARTICLE VII

AMENDMENTS: Amendments to these Articles shall be proposed and adopted in the following manner:

- (A) Proposal and Adoption. An amendment to these Articles may be proposed by the Board of Directors. Except as otherwise provided by law, a proposed amendment must be approved by at least two-thirds (2/3) of the Voting Interests present (in person or by proxy) and voting at any annual or special Members' meeting at which a quorum has been established, provided that notice of the proposed amendment has been given to the Members in accordance with the Condominium Act and the Bylaws. These Articles shall be deemed amended by virtue of revisions to statutes and regulations which control over conflicting provisions of these Articles. The Board of Directors shall have the authority to amend these Articles in order to conform the provisions thereof with such revisions to statutes and regulations. In addition, the Board of Directors may amend these Articles to correct scrivener's errors or omissions, and amend and restate these Articles in order to consolidate into one document amendments previously adopted by the members or the Board of Directors. Amendments adopted by the Board of Directors shall occur at a duly noticed Board of Directors meeting (with adoption of the amendments set forth on the agenda).
- (B) Effective Date. An amendment shall become effective upon filing with the Florida

Department of State and recording a Certificate of Amendment in the Public Records of Lee County, Florida, with the formalities required by the Condominium Act.

ARTICLE VIII

INDEMNIFICATION: To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorneys' fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

(A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.

(B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.

(C) A transaction from which the Director or officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

EXHIBIT " C "

AMENDED AND RESTATED BYLAWS

OF

THE SORRENTO AT THE COLONY CONDOMINIUM ASSOCIATION, INC.

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FOR
AMENDED AND RESTATED BYLAWS
OF
THE SORRENTO AT THE COLONY CONDOMINIUM ASSOCIATION, INC.

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NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE BYLAWS. FOR PRESENT TEXT SEE EXISTING BYLAWS.

**AMENDED AND RESTATED BYLAWS OF
THE SORRENTO AT THE COLONY CONDOMINIUM ASSOCIATION, INC.**

1. **GENERAL.** These are the Amended and Restated Bylaws of The Sorrento at the Colony Condominium Association, Inc., hereinafter the "Association", a Florida corporation not for profit organized under the laws of Florida for the purpose of operating the Condominium pursuant to the Condominium Act. All prior Bylaws are hereby revoked and superseded in their entirety.

1.1 **Principal Office.** The principal office of the Association is 23650 Via Veneto, #104, Bonita Springs, FL 34134.

1.2 **Seal.** The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not for profit". The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 **Definitions.** The definitions set forth in Section 4 of the Declaration (or the Condominium Act, if in conflict with the definition in the Declaration or such term is not defined in the Declaration) shall apply to terms used in these Bylaws.

2. **MEMBERS.**

2.1 **Qualifications.** Membership in the Association shall be established as set forth in the Articles of Incorporation. Membership shall become effective upon the occurrence of the last to occur of the following events.

(A) Recording in the Public Records of a deed or other instrument evidencing legal title to a Unit.

(B) Approval by the Board of Directors as provided for in the Declaration of Condominium.

(C) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

(D) Delivery to the Association, if required, of a written designation of the Primary Occupant.

The failure to comply with the prerequisites set forth in (B)-(D) above shall not release the Unit Owner from the obligation to comply with the Condominium Documents, but shall otherwise preclude such

Unit Owner from obtaining the benefits of membership, including, without limitation, the right to receive notices and the right to vote on Association matters.

2.2 Voting Interests. The Members of the Association are entitled to one vote for each Unit owned by them. The total number of possible votes is equal to the total number of Units in the Condominium. Therefore, as provided for in Section 4.20 of the Declaration, the term "Voting Interest" has the same meaning as "Unit" and the term "Voting Interests" has the same meaning as "Units" for purposes of determining the number of Units that must approve certain actions as provided in the Condominium Documents and the Condominium Act. The vote of a Unit is not divisible. If a Unit is owned by one person, his or her right to vote shall be established by the record title to the Unit. If a Unit is owned jointly by 2 or more persons, that Unit's vote may be cast by any one of the record Unit Owners. If 2 or more Owners of a Unit do not agree among themselves as to how their one vote shall be cast, no vote for that Unit shall be counted. If the Unit Owner is not a natural person, the vote of that Unit shall be cast by the Unit's Primary Occupant designated as set forth in Section 14.1 of the Declaration.

2.3 Approval or Disapproval of Matters. Whenever the decision or approval of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, such decision may be expressed by any person authorized to cast the vote of such Unit at an Association meeting as stated in Section 2.2 above, unless the joinder of all record Unit Owners is specifically required.

2.4 Change of Membership. Following written approval of the Association, a change of membership in the Association shall be established by the new Member's membership becoming effective as provided in 2.1 above. At that time the membership of the prior Member shall be terminated automatically.

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

3. MEMBERS' MEETINGS.

3.1 Annual Meeting. An annual meeting shall be held in Lee County, Florida each year at a day, time and place designated by the Board of Directors. The purpose of the annual meeting is to conduct the election of Directors and for any purpose as may be transacted by the Members. During the annual meeting the ballots cast in the annual election of Directors shall be counted and results announced.

3.2 Special Members' Meetings. Special Members' meetings must be held whenever called by the President or by a majority of the Directors, and may also be called by written petition of at least 25% of the Voting Interests. The substantive business to be voted on at any special or regular Members' meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings; Waiver of Notice; Participation in Meetings. Notice of all Members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each Member at the address which appears on the books of the Association (which shall be the address last furnished to the Association by the Unit Owner), or may be furnished by hand-delivery, or by electronic transmission in the manner set forth in Section 617.0141,

Florida Statutes, to the extent that a Member has consented to receive notices by electronic transmission and has not revoked such consent. Any such consent to receiving electronic transmissions shall be deemed revoked if: the Association is unable to deliver by electronic transmission 2 consecutive notices given by the Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. Notice of a meeting called to recall a member or members of the Board of Directors pursuant to Section 718.112(2)(j) of the Condominium Act shall not be given by electronic transmission. The Member is responsible for providing the Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a Member has provided the Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the Member has revoked his consent. However, the Association is not liable for an erroneous disclosure of an electronic mail address or facsimile number. The notice of meeting must be mailed, hand-delivered, or electronically transmitted at least 14 continuous days before the meeting. An affidavit of the Officer or other person making such mailing shall be retained in the Association records as proof of mailing. If ownership of a Unit is transferred after notice has been mailed, no separate notice to the new Unit Owner is required. A Member may waive notice of any meeting at any time, but only by written waiver. However, attendance at any meeting by a Member constitutes waiver of notice by that Member unless the Member objects to the lack of notice at the beginning of the meeting. Members have the right to participate in all Members' meetings with reference to all designated agenda items. A Member may tape record or videotape a Members' meeting subject to any applicable Rules and Regulations.

3.4 Notice of Annual Meeting. Notice of the annual meeting shall be posted in a conspicuous location at the Condominium Property for at least 14 continuous days before the annual meeting. In lieu of or in addition to the physical posting of meeting notices, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least 4 times every broadcast hour of each day that a posted notice is otherwise required under these Bylaws and the Condominium Act. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda.

3.5 Quorum. A quorum at meetings of the Members shall be attained by the presence, either in person or by proxy, of at least 50% of the Voting Interests.

3.6 Vote Required. The acts approved by a majority of the votes cast, in person or by proxy, at a duly called meeting of the Members at which a quorum has been attained shall be binding upon all Unit Owners for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the Condominium Documents.

3.7 Proxy Voting. To the extent lawful, any person entitled to attend and vote at a Members' meeting may establish his presence and cast his vote by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. A proxy is not valid longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the Unit, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment

thereof. Holders of proxies need not be Members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. Except as specifically otherwise provided herein, Members may not vote by general proxy, but may vote by limited proxy. Limited proxies and general proxies may be used to establish a quorum. Limited proxies and general proxies may not be used in the election of Directors. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given. Limited proxies shall be used for any matter for which the Condominium Documents or the Condominium Act requires or permits a vote of the Members and for which a general proxy is not permitted, including, without limitation, votes taken to: waive or reduce reserves; waive financial statement requirements, and amend the Condominium Documents. Notwithstanding the foregoing, Members may vote in person at Members' meetings. A Voting Interest or consent right allocated to a Unit owned by the Association may not be exercised or considered for any purpose, whether for a quorum, an election, or otherwise.

3.8 Adjourned Meetings. Any duly called meeting of the Members may be adjourned to be reconvened at a specific later time by vote of the majority of the Voting Interests present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall not be necessary to give notice to all Members of the time and place of its continuance if such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.9 Order of Business/Agenda. The order of business and agenda at Members' meetings shall be substantially as follows:

- (A) Call to order by the President or other designated Chairman of the meeting
- (B) (Annual meeting) Collection of election ballots not yet cast and closing of the polls; or announcement of names of candidates who will take office upon adjournment of the annual meeting
- (C) Call of the roll or certification of a quorum
- (D) Proof of Notice of Meeting (and posting, if applicable)
- (E) Reading or disposal of any unapproved minutes
- (F) Reports of Officers, if any
- (G) Reports of Committees, if any
- (H) Unfinished Business (with the items to be considered specifically listed in the agenda).
- (I) New Business (with the items to be voted on specifically listed in the agenda and in the limited proxy)
- (J) Adjournment

3.10 Minutes. Minutes of all meetings of Members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by Members or their authorized representatives and Directors at reasonable times and for a period of 7 years after the meeting. Minutes must be reduced to written form within 30 days after the meeting at which they were taken.

3.11 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meeting when not in conflict with Florida law or the Condominium Documents. The Chairman of the meeting may appoint a Parliamentarian whose decision on questions of parliamentary

procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

3.12 Action by Members Without Meeting. Any action required or permitted to be taken at a meeting of the Members may be taken by mail without a meeting if written consents, setting forth the action to be taken, are signed by the Members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all Members entitled to vote on such action were present and voted. Action by Members without a meeting shall be undertaken in the manner required by Chapter 617, Florida Statutes. Nothing in this paragraph shall be construed in derogation of Members' rights to call a special Members' meeting, as provided for elsewhere in these Bylaws.

4. **BOARD OF DIRECTORS.** The administration of the affairs of the Association shall be by the Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Condominium Documents, shall be exercised by the Board of Directors, subject to approval or consent of the Members only when such is specifically required by the Condominium Act or the Condominium Documents.

4.1 Number and Terms of Service. The affairs of the Association shall be managed by a Board of Directors of 5 Directors. Directors shall be elected for 2 year terms. Terms are staggered, with the terms of 3 Directors expiring in even numbered years and the terms of 2 Directors expiring in odd numbered years. A Director's term will end at the annual election at which his term expires, unless he or she sooner resigns, or is recalled as provided in 4.4 below. Directors shall be elected by the Members as described in Section 4.3 below, or in the case of a vacancy, as provided in Section 4.4 below.

4.2 Qualifications. Each Director must be a Member or a Primary Occupant (in the case of Units required to designate a Primary Occupant pursuant to the Declaration), or the spouse of a Member or Primary Occupant. In addition, co-Owners of a Unit may not serve as Directors at the same time unless they own more than one Unit or unless there are not enough eligible candidates to fill the vacancies on the Board of Directors at the time of the vacancy. A person who has been suspended or removed by the Division of Florida Condominiums, Timeshares and Mobile Homes ("Division"), or who is delinquent in the payment of any monetary obligation due to the Association, is not eligible to be a candidate for Board membership and may not be listed on the ballot. A person who has been convicted of any felony in Florida or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in the State of Florida, is not eligible for Board of Directors membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the Board of Directors. The validity of an action by the Board of Directors is not affected if it is later determined that a member of the Board of Directors is ineligible for Board of Directors membership due to having been convicted of a felony. A Director more than 90 days delinquent in the payment of any monetary obligation due the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to Florida law and any applicable Division rules. A Director charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property must be removed from office, creating a vacancy in the office to be filled according to Florida law until the end of the period of the suspension or the end of the Director's term of office, whichever occurs first. While such Director has such criminal charge pending, he or she may not be appointed or elected to a position as a Director. However, if the charges are resolved without a finding of guilt, the Director shall be reinstated for the remainder of his or her term of office, if any.

4.3 Nomination and Elections. On the day of each annual meeting the Members shall elect by secret written ballot as many Directors as there are regular terms of Directors expiring. The Board of Directors may not appoint a committee for the purpose of nominating candidates for the election of Directors. However, the Board of Directors may appoint a search committee to encourage qualified persons to become candidates. The First Notice of each annual election shall be mailed, hand-delivered or electronically transmitted to all Unit Owners at least 60 days in advance. Any Unit Owner or other eligible person desiring to be a candidate for the Board must give written notice of his or her intent to be a candidate to the Association at least 40 days before a scheduled election. Notice shall be deemed effective when received by the Association. A person must be eligible to be a candidate to serve on the Board of Directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the Board of Directors. Any person indicating his or her desire to qualify as a candidate may also return a separate information sheet, no larger than 8 1/2 inches by 11 inches, which describes the candidate's background, education and qualifications for office, and any other information deemed relevant by the candidate, which information sheet must be furnished by the candidate at least 35 days prior to the election. The Association has no liability for the contents of the information sheets prepared by the candidates. The Association shall mail, hand-deliver or electronically transmit a Second Notice of the election, together with the candidate information sheets and ballot which shall list all candidates in alphabetical order by surname, at least 14 days in advance of the election; provided, however, that if the number of candidates does not exceed the number of vacancies, then no election shall be required, and the candidates become members of the Board of Directors effective upon the adjournment of the annual meeting. Directors shall be elected by a plurality of the ballots cast. In the event of a tie, the Association shall proceed with a runoff election pursuant to rules adopted by the Division. At least 20% of the Members must cast a ballot in order to have a valid election of Directors. A Member shall not permit any other person to vote his ballot, and any ballots improperly cast are invalid. Notwithstanding the foregoing, a Member who needs assistance in casting the ballot by reason of blindness, disability, or inability to read or write, may obtain such assistance. In the election of Directors, there shall be appurtenant to each Unit as many votes for Directors as there are Directors to be elected, but no Unit may cast more than one vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Notices, candidate information sheets and ballots may be given by electronic transmission (to those Members who have so consented), pursuant to rules adopted by the Division. Within ninety 90 days after being elected or appointed, each newly elected or appointed Director shall certify in writing to the Secretary that he or she has read the Declaration of Condominium, Articles of Incorporation, Bylaws and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the Members. In lieu of this written certification, within 90 days after being elected or appointed, the newly elected or appointed Director may submit a certificate of having satisfactorily completed the educational curriculum administered by a Division-approved condominium education provider within one year before or 90 days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the Director serves on the Board of Directors without interruption. A Director who fails to timely file the written certification or educational certificate is suspended from service on the Board of Directors until he or she complies with the requirements set forth above. The Board of Directors may temporarily fill the vacancy during the period of suspension. The Secretary shall cause the Association to retain a Director's written certification or educational certificate for inspection by the Members for 5 years after a Director's election or the duration of the Director's uninterrupted tenure, whichever is longer. Failure to have such written certification or educational certification on file does not affect the validity of any Board action.

4.4 Vacancies on the Board of Directors. If the office of any Director becomes vacant for any reason other than removal by the Members, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor to fill the remaining unexpired term. If for any reason there shall arise circumstances in which no Directors are serving and the entire Board of Directors is vacant, the Members shall elect successors by written ballot in the same manner as provided generally for regular annual elections, except that the election need not take place on the date of the annual meeting. Alternatively, a Unit Owner may seek the appointment of a receiver pursuant to Section 718.1124 of the Condominium Act.

4.5 Recall of Directors. Any or all Directors who were elected by the Members may be removed ("recalled") with or without cause by a majority vote of the entire membership, either by a written petition, or at any meeting called for that purpose, in the manner required by the Condominium Act.

4.5.1 Recall of Directors by Meeting. A special meeting of the Members to recall a member or members of the Board of Directors may be called by at least 10% of the Voting Interests, giving notice of the meeting as required for any other Members' meeting, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for the purpose of a recall. If the recall is approved by a majority of the entire membership by a vote at a meeting, the recall will be effective as provided below. The Board of Directors shall duly notice and hold a Board of Directors meeting within 5 full business days of the adjournment of the Members' recall meeting. At the Board of Directors meeting, the Board of Directors shall either certify the recall, in which case such Director or Directors shall be recalled effective immediately and shall turn over to the Board of Directors within 5 full business days any and all Association records and property in their possession, or shall proceed as set forth in Section 4.5.3 below.

4.5.2 Recall of Directors by Written Agreement. If the proposed recall is by a written agreement by a majority of the entire membership, the written agreement or a copy thereof shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48, Florida Statutes and the Florida Rules of Civil Procedure. The Board of Directors shall duly notice and hold a Board of Directors meeting within 5 full business days after receipt of the written agreement. At the meeting, the Board of Directors shall either certify the written agreement to recall a member or members of the Board of Directors, in which case such Director or Directors shall be recalled effective immediately and shall turn over to the Board of Directors within 5 full business days any and all Association records and property in their possession, or shall proceed as set forth in Section 4.5.3 below.

4.5.3 Recall Arbitration. If the Board of Directors determines not to certify the recall, the Board of Directors shall, within 5 full business days after its meeting, file with the Division a Petition for Arbitration pursuant to the procedures set forth in Section 718.1255 of the Condominium Act. For the purposes of this section, the Members who voted at the meeting or who executed the written agreement shall constitute one party under the Petition for Arbitration. If the Arbitrator certifies the recall as to any Director or Directors, the recall will be effective upon mailing of the final order of arbitration to the Association. If the Association fails to comply with the Arbitrator's order, the Division may take action pursuant to Section 718.501 of the Condominium Act. Any Director or Directors so recalled shall deliver to the Board of Directors any and all Association records in their possession within 5 full business days of the effective date of the recall.

4.5.4 Failure of Board of Directors to Hold Board of Directors Meeting. If the Board of Directors fails to duly notice and hold a Board of Directors meeting within 5 full business days of service of

a written recall agreement or within 5 full business days of the adjournment of the Members' recall meeting, the recall shall be deemed effective and the Directors so recalled shall immediately turn over to the Board of Directors any and all Association records and property in their possession.

If the Board fails to duly notice and hold the required meeting or fails to file the required Petition for Arbitration, the Unit Owners' representative may file a Petition for Arbitration pursuant to Section 718.1255 of the Condominium Act challenging the Board's failure to act. The Petition for Arbitration must be filed within 60 days after the expiration of the applicable 5 full business day period. The review of a Petition for Arbitration in that case shall be limited to the sufficiency of service on the Board and the facial validity of the written agreement of ballots filed. A Director who has been recalled may file a Petition for Arbitration pursuant to Section 718.1255 of the Condominium Act challenging the validity of the recall. The Petition for Arbitration must be filed within 60 days after the recall is deemed certified. The Association and the Unit Owners' representative shall be named as the respondents.

4.5.5 Filling Vacancies Caused by Recall. If a vacancy occurs on the Board of Directors as a result of a recall or removal and less than a majority of the Directors are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors. If vacancies occur on the Board of Directors as a result of a recall and a majority or more of the Directors are removed, the vacancies shall be filled in accordance with administrative rules of the Division.

4.5.6 Administrative Rules of the Division. The recall of one or more Directors shall occur in accordance with Rules 61B-23.0027 and 23.0028, Florida Administrative Code.

4.6 Resignation of Directors. Any Director may resign at any time by sending a written notice of such resignation to the Secretary of the Association. Unless otherwise specified therein, such resignation shall take effect upon receipt by the Secretary.

4.7 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within 10 days after the election for purposes of electing Officers and such other business as is customarily conducted at an organizational meeting. The organizational meeting may occur immediately following the election, in which case notice of the organizational meeting may be provided by the existing Board of Directors as a notation in the Second Notice of election. If the notice of the organizational meeting is not provided and posted as part of the Second Notice of election, notice of the organizational meeting must be posted conspicuously on the Condominium Property for at least 48 continuous hours in advance of the meeting.

4.8 Other Meetings. Meetings of the Board of Directors may be held at such time and place in Lee County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone, telegram or other form of electronic transmission at least 48 hours prior to the day named for such meeting. If notice is transmitted by facsimile, notice shall be effective if correctly directed to a number at which the Director has consented to receive notice. If notice is transmitted by electronic mail, notice shall be effective if correctly directed to an email address at which the Director has consented to receive notice.

4.9 Notice to Unit Owners. All meetings of the Board of Directors are open to Unit Owners and notices of all Board of Directors meetings shall be posted conspicuously on the Condominium Property for at least 48 continuous hours before each Board of Directors meeting, except in an emergency. Notice of all Board of Directors meetings must specifically identify all agenda items. Any item not included on the

agenda may be taken up on an emergency basis by at least a majority plus one of the members of the Board of Directors. Such emergency action must be noticed and ratified at the next regular meeting of the Board of Directors. If 20% of the Voting Interests petition the Board of Directors to address an item of business, the Board of Directors at its next regular Board of Directors meeting or at a special meeting of the Board of Directors, but not later than 60 days after the receipt of the petition, shall place the item on the agenda. Notice of any Board of Directors meeting at which a non-emergency Special Assessment will be considered shall conform to the requirements set forth in Section 6.6 below. Notice of any Board of Directors meeting at which an amendment to Rules and Regulations concerning the use of a Unit will be considered must be mailed, hand-delivered, or electronically transmitted (in the latter case, to those Unit Owners who have so consented) to all Unit Owners and posted conspicuously on the Condominium Property at least 14 days before the meeting. Notice of any Board of Directors meeting at which a budget will be adopted or amended shall conform to the requirements of Section 6.2 below. The rights of Unit Owners to attend Board of Directors meetings includes the right to speak with reference to all designated agenda items, subject to the Rules and Regulations of the Association as to the manner of doing so. Evidence of compliance with the notice and posting requirements set forth in this Section 4.9 and elsewhere in the Condominium Documents (including, without limitation, Sections 6.2 and 6.6 of these Bylaws) may be made by an affidavit executed by the person giving notice and posting same, and filed with the Association's official records. Notwithstanding anything to the contrary contained in the Condominium Documents, meetings of the Board of Directors or a committee with the Association's attorney with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice, and meetings held for the purpose of discussing personnel matters, shall not be open to the Unit Owners. Notices of Board of Directors meetings may be given by electronic transmission (to those Members who have so consented) in lieu of mail or hand-delivery, when the latter 2 methods are otherwise required pursuant to the Condominium Act. In lieu of or in addition to the physical posting of notices of any meeting of the Board of Directors on the Condominium Property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least 4 times every broadcast hour of each day that a posted notice is otherwise required under these Bylaws and the Condominium Act. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Tape recording and videotaping of Board of Directors meetings shall be governed by the Rules and Regulations.

4.10 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.11 Quorum of Directors. A quorum at a Board of Directors meeting shall exist when at least a majority of all Directors are present at a duly called meeting. A Board or committee member's participation in a meeting via telephone, real-time videoconferencing, or similar real-time electronic or video communication counts toward a quorum, and such member may vote as if physically present. A speaker must be used so that the conversation of such members may be heard by the Board or committee members attending in person as well as by any Unit Owners present at a meeting. Directors may not vote or participate by proxy at Board of Directors meetings. Directors may not vote by secret ballot at Board of Directors meetings, except that Officers may be elected by secret ballot. Directors may use e-mail as a means of communication but may not cast a vote on an Association matter via e-mail.

4.12 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Condominium Documents or by Florida law. A Director who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless he or she votes against such action or abstains from voting. A Director who abstains from voting shall be deemed to have taken no position with regard to the action. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

4.13 Adjourned Meetings. The majority of the Directors present at any meeting of the Board of Directors, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. Notice of the rescheduled or reconvened meeting shall be provided in the manner set forth in Section 4.8 above. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting as originally called.

4.14 The Presiding Officer. The President of the Association, or in his or her absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by a majority of the Directors participating in the meeting.

4.15 Compensation of Directors and Officers. Directors and Officers shall not receive compensation for their services as such unless compensation is approved by two-thirds (2/3) of the Voting Interests present (in person or by proxy) and voting at any annual or special Members' meeting at which a quorum has been established. Nothing herein shall preclude the Board of Directors from contracting with a Director or Officer as an employee of the Association, on a competitive bid basis for a specific job to be supplied by such Director or Officer. Directors and Officers may be reimbursed for all actual and proper out-of-pocket expenses, as determined by the Board of Directors, relating to the proper discharge of their respective duties. As to any contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association, or entity in which one or more of its Directors are Directors or Officers or are financially interested, the Association shall comply with Section 11.1 below.

4.16 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board of Directors deems necessary and convenient for the efficient and effective operation of the Condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Meetings of a committee which advises the Board of Directors on the proposed annual budget, or a committee which has authority to take final action on behalf of the Board of Directors, shall be open to attendance by any Unit Owner, and notice of such committee meetings shall be posted in the same manner as required in Section 4.9 above for Board of Directors meetings, including by broadcast on closed-circuit cable television system serving the Association. All other committees shall not be subject to the requirements of Section 718.112(2)(c) of the Condominium Act, as set forth in Section 4.9 of these Bylaws, but may voluntarily post notices of their meetings and open such meetings to attendance by the Unit Owners.

4.17 Order of Business/Agenda. The order of business and agenda at all regular meetings of the Board of Directors shall be as follows:

- (A) Call to Order.
- (B) Call of the Roll or certification of quorum.
- (C) Proof of Notice and Posting.

- (D) Reading or disposal of any unapproved minutes.
- (E) Reports of Officers and manager, if any.
- (F) Reports of committees, if any.
- (G) Unfinished business (with the items to be considered specifically listed in the agenda).
- (H) New business (with the items to be considered specifically listed in the agenda).
- (I) Adjournment.

4.18 Emergency Powers. In accordance with Section 718.1265 of the Condominium Act, the Board of Directors, in response to damage caused by an event for which a state of emergency is declared pursuant to Section 252.36, Florida Statutes, in the locale in which the Condominium is located, may, but is not required to, exercise the following powers:

(A) Conduct Board of Directors meetings and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, United States mail, the Internet, public service announcements, and conspicuous posting on the Condominium Property or any other means the Board of Directors deems reasonable under the circumstances. Notice of Board of Directors decisions may be communicated in the same manner.

(B) Cancel and reschedule any Association meeting.

(C) Name as assistant Officers persons who are not Directors, which assistant Officers shall have the same authority as the executive Officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any Officer of the Association.

(D) Relocate the Association's principal office or designate alternative principal offices.

(E) Enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

(F) Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, shutting down or off electricity, water, sewer, security systems or air conditioners.

(G) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine any portion of the Condominium Property unavailable for entry or occupancy by Unit Owners, Family members, Lessees, Guests, agents, or invitees to protect the health, safety, or welfare of such persons.

(H) Require the evacuation of the Condominium Property in the event of a mandatory evacuation order in the locale in which the Condominium is located. Should any Unit Owner or other occupant fail or refuse to evacuate the Condominium Property where the Board of Directors has required evacuation, the Association shall be immune from liability or injury to persons or property arising from such failure or refusal.

(I) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine whether the Condominium Property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the Declaration.

(J) Mitigate further damage, including taking action to contract for the removal of debris

and to prevent or mitigate the spread of fungus, including, but not limited to, mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the Condominium Property, even if the Unit Owner is obligated by the Declaration or law to insure or replace those fixtures and to remove personal property from a Unit.

(K) Contract, on behalf of any Unit Owner(s) for items or services for which the Unit Owner(s) are otherwise individually responsible, but which are necessary to prevent further damage to the Condominium Property. In such event, the Unit Owner(s) on whose behalf the Board of Directors has contracted are responsible for reimbursing the Association for the actual costs of the items or services, and the Association may use its lien authority provided by Section 718.116 of the Condominium Act to enforce collection of the charges. Without limitation, such items or services may include the drying of Units, the boarding of broken windows or doors, and the replacement of damaged air conditioners or air handlers to provide climate control in the Units or other portions of the property.

(L) Levy Special Assessments without a vote of the Unit Owners.

(M) Without Unit Owners' approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating funds are insufficient. This paragraph does not limit the general authority of the Association to borrow money.

The special powers authorized in this Section 4.18 shall be limited to that time reasonably necessary to protect the health, safety, and welfare of the Association and the Unit Owners and the Unit Owners' Family members, Lessees, Guests, agents, or invitees and shall be reasonably necessary to mitigate further damage and make emergency repairs.

5. OFFICERS.

5.1 Officers and Elections. The Officers of the Association shall be a President and Vice-President, who must be Directors, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors. Any Officer may be removed with or without cause by a majority of the entire Board of Directors. Any person except the President may hold more than one office. The Board of Directors may, from time to time, appoint such other Officers, and designate their powers and duties, as the Board of Directors shall find to be required to manage the affairs of the Association. If the Board of Directors so determines, there may be more than one Vice-President. An Officer more than 90 days delinquent in the payment of any monetary obligation owed to the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to Florida law. An Officer charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property must be removed from office, creating a vacancy in the office to be filled according to Florida law until the end of the period of the suspension or the end of the Officer's term of office, whichever occurs first. While such Officer has such criminal charge pending, he or she may not be appointed or elected to a position as an Officer. However, if the charges are resolved without a finding of guilt, the Officer shall be reinstated for the remainder of his or her term of office, if any.

5.2 President. The President shall be the chief executive officer of the Association; he or she shall preside at all meetings of the Members and Directors, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board of Directors are carried into effect. He or she shall execute bonds, mortgages and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other Officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President. They shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the Members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. He or she shall give, or cause to be given, notice of all meetings of the Members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or the President. He or she shall keep in safe custody the seal of the Association and, when authorized by the Board of Directors, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Condominium Documents. Any of the foregoing duties may be performed by an Assistant Secretary, if any has been designated.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He or she shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board of Directors, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

6. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its funds in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board of Directors. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board of Directors. The Board of Directors may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities and other similar investment vehicles. All Association funds shall be maintained separately in the Association's name. A manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes, or an agent, employee, Officer, or Director of the Association, shall not commingle any Association funds with his or her funds or with the funds of any other condominium association or the funds of a community association as defined in Section 468.431, Florida Statutes.

6.2 Budget. The Board of Directors shall adopt a budget of estimated revenues and expenses for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board of Directors at which the budget will be adopted shall be mailed, hand-delivered or electronically transmitted (to those Unit Owners who have so consented) to the Owner of each Unit not less than 14 days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications in the form and manner required by Sections 718.112(2)(f) and 718.504 (21) of the Condominium Act, as the same may be amended from time to time. The Board of Directors shall follow the same procedures outlined above in the event that it wishes to amend an already approved budget for the remainder of the fiscal year.

6.2.1 Member Rejection of Budget. If an annual budget adopted by the Board of Directors requires an Assessment against the Unit Owners in any fiscal year exceeding 115% of the Assessment for the previous fiscal year, the Board of Directors shall conduct a special Members' meeting to consider a substitute budget if the Board of Directors receives, within 21 days after adoption of the annual budget, a written request for a special Members' meeting from at least 10% of the Voting Interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the Board of Directors shall provide each Unit Owner a notice of the meeting. Unit Owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all Voting Interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the Board of Directors shall take effect as scheduled. Provisions for reasonable reserves for repair or replacement of the Condominium Property, anticipated expenses which the Board of Directors does not expect to be incurred on a regular of annual basis or Assessments for betterments to the Condominium Property shall be excluded from the computation in determining whether Assessments exceed 115% of Assessments for the prior fiscal year.

6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, each proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by Section 718.112(2)(f) of the Condominium Act. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance or replacement cost, and for any other item located in the Common Elements or Association Property for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve Assessments annually to take into account any changes in estimates of costs or changes in the useful life of a reserve item caused by capital expenditure or deferred maintenance. These reserves shall be funded unless the Members determine by a majority vote at a duly called meeting of the Members, to fund no reserves or less reserves than required by Section 718.112(2)(f) of the Condominium Act. The Board of Directors may schedule its budget meeting to occur immediately after the adjournment of a membership meeting held for purposes of voting on reserve funding for the subsequent fiscal year. Reserves funded under this Section 6.3, and all interest earned on such reserves, shall not be commingled with operating funds (unless combined for investment purposes), and may be used only for the purposes for which they were reserved, unless their use for other purposes is approved in advance by a majority vote at a Members' meeting called for that purpose. Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended shall contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot: **WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.** Operating and reserve funds may be invested in combined accounts, but such funds shall be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds. Operating and reserve funds may be combined in the quarterly Assessment paid by Unit Owners, provided that the operating and reserve funds are segregated within 30 days after receipt (unless combined for investment purposes).

6.4 Contingency Funds. The Board of Directors may establish one or more "contingency funds" for contingencies and operating expenses. The purpose of these contingency funds is to provide financial stability and to avoid the need for Special Assessments on a frequent basis. The amounts proposed

to be so funded shall be shown in the proposed annual budget as a line item in the operating portion of the budget. These funds may be spent for any purpose approved by the Board. Contingency funds that are not restricted as to use are not reserves.

6.5 Assessments. Regular annual Assessments based on the adopted budget shall be paid either monthly or quarterly, as determined by the Board. Failure to send or receive notice of Assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the first installment of the previous fiscal year and shall be continued at such rate until a budget is adopted and pro rata Assessments are calculated, at which time any overage or shortage shall be added or subtracted from each Unit's next due installment.

6.6 Special Assessments. Special Assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special Assessments are due on the day specified in the resolution of the Board of Directors approving such Special Assessments. Written notice of any Board of Directors meeting at which a non-emergency Special Assessment will be considered, must be mailed, hand-delivered, or electronically transmitted (in the latter case, to those Unit Owners who have so consented) to all Unit Owners and posted conspicuously on the Condominium Property at least 14 days in advance, which notice shall state that Special Assessments will be considered and the nature, estimated cost, and description of the purpose(s) for such Special Assessments, as required by Section 718.112(2)(c) of the Condominium Act. The notice to Unit Owners that any Special Assessment has been levied must contain a statement of the purpose(s) of the Special Assessment, and the funds collected must be spent for the stated purpose(s), as required by Section 718.116(10) of the Condominium Act. If any funds remain upon completion of the purpose(s) such excess funds may, at the discretion of the Board of Directors, either be returned to the Unit Owners or applied as a credit towards future Assessments.

6.7 Fidelity Bonds. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse Association funds. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time, or the maximum amount required by law. The term "persons who control or disburse Association funds", includes, but is not limited to those individuals authorized to sign checks and the President, Secretary and Treasurer of the Association. The Association shall bear the cost of bonding.

6.8 Financial Report. Within 90 days after the end of the fiscal year, the Association shall prepare and complete, or cause to be prepared and completed by a third party, an audit for the preceding fiscal year (provided that the Association's total annual revenue is \$500,000.00 or more). Within 21 days after the audit is completed or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall mail or hand deliver to each Owner a copy of the audit or a notice that a copy of the audit will be mailed or hand delivered to the Owner, without charge, upon receipt of a written request from the Owner. The Association may prepare or cause to be prepared a review, compilation or financial report in lieu of an audit of the Association's finances, only if approved by a majority of the Voting Interests present (in person or by proxy) and voting at a Members' meeting at which a quorum has been established. Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken, except that the approval may also be effective for the following fiscal year. The Association may not waive the financial reporting requirements of Section 718.111(13) of the Condominium Act for more than three (3) consecutive years.

6.9 Fiscal Year. The fiscal year shall be January 1-December 31, unless modified by the Board of Directors in accordance with IRS regulations.

7. **RULES AND REGULATIONS: USE RESTRICTIONS.** The Board of Directors may, from time to time, adopt and amend Rules and Regulations. Copies of such Rules and Regulations shall be furnished to each Unit Owner. Rules and Regulations created and imposed by the Board of Directors must be rationally related to a legitimate Association purpose. The Rules and Regulations may not conflict with the rights of Unit Owners as provided in the Declaration or reasonably inferable therefrom, nor may they conflict with the Condominium Act.

8. **COMPLIANCE AND DEFAULT: REMEDIES.** In addition to the remedies provided elsewhere in the Condominium Documents, the following provisions shall apply:

8.1 Fines and Suspensions.

(A) The Association may suspend, for a reasonable period of time, the right of a Unit Owner, or a Unit Owner's tenant, Guest, or invitee, to use the Common Elements, common facilities, or any other Association Property for failure to comply with any provision of the Condominium Documents. This paragraph does not apply to Limited Common Elements intended to be used only by that Unit, Common Elements needed to access the Unit, utility services provided to the Unit, parking spaces, or elevators. The Board of Directors may levy reasonable fines for the failure of the Owner of the Unit, or its occupant, licensee or invitee to comply with any provision of the Condominium Documents. The fines shall be in an amount deemed necessary by the Board of Directors to deter future violations. Unless the Condominium Act is amended: (i) a fine may not exceed \$100.00 per violation (except that a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing); (ii) a fine may not in the aggregate exceed \$1,000.00; and (iii) a fine may not become a lien against a Unit.

(B) A fine may not be levied and a suspension may not be imposed pursuant to subsection (A) above unless the Association provides at least 14 days written notice and an opportunity for hearing to the Unit Owner and, if applicable, its occupant, licensee or invitee. The hearing must be held before a committee of other Unit Owners who are neither Directors nor persons residing in a Director's household. If the committee does not agree, the fine or suspension may not be imposed.

(C) The Association may suspend the voting rights of a Unit or Member due to non-payment of any monetary obligation due to the Association which is more than 90 days delinquent. The suspension ends upon full payment of all obligations currently due or overdue the Association. A Voting Interest or consent right allocated to a Unit or Member which has been suspended by the Association may not be counted towards the total number of Voting Interests necessary to constitute a quorum, the number of Voting Interests required to conduct an election, or the number of Voting Interests required to approve an action under the Condominium Act or pursuant to the Condominium Documents.

(D) If a Unit Owner is more than 90 days delinquent in paying a monetary obligation due to the Association, the Association may suspend the right of the Unit Owner or the Unit's occupant, licensee, or invitee to use Common Elements, common facilities, or any other Association Property until the monetary obligation is paid in full. This subsection does not apply to Limited Common Elements intended to be used only by that Unit, Common Elements needed to access the Unit, utility services provided to the Unit, parking spaces, or elevators.

(E) All suspensions imposed pursuant to subsections (C) and (D) above must be approved at a properly noticed meeting of the Board of Directors. Upon approval, the Association must notify the Unit Owner, and, if applicable, the Unit's occupant, licensee or invitee by mail or hand-delivery.

8.2 Mandatory Non-Binding Arbitration. In the event of any "dispute", as defined in Section 718.1255 of the Condominium Act, between a Unit Owner and the Association, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division prior to filing suit in Lee County over the disputed matters. As set forth in the Condominium Act, the term "dispute" does not include any disagreement that primarily involves title to any Unit or Common Element; the interpretation of enforcement of any warranty; the levy of a fee or Assessment, or the collection of an Assessment levied against a party; the eviction or other removal of a Lessee from a Unit; alleged breaches of fiduciary duty by one or more Directors; or claims for damages to a Unit based upon the alleged failure of the Association to maintain the Common Elements or Condominium Property.

8.3 Availability of Remedies. Each Member, for himself or herself, his or her heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all Members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the Condominium Property and Association Property free from unreasonable restraint and annoyance.

9. AMENDMENT OF BYLAWS. Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Proposal. Amendments to these Bylaws may be proposed by the Board of Directors or by written petition to the Board of Directors signed by at least 25% of the Voting Interests.

9.2 Procedure. Upon any amendment being proposed as provided above, the proposed amendment shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can still be given. The text of the proposed amendment shall accompany the notice of meeting or a notice that a vote will occur by written consents in lieu of a meeting. A proposed amendment shall contain the full text of the language with proposed new words in the text underlined and words to be deleted lined through with hyphens, unless the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment. In the latter case, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Bylaws. See Bylaws, Section ___ for present text."

9.3 Vote Required. Except as otherwise provided by law, or by specific provision of these Bylaws, a proposed amendment to these Bylaws shall be adopted if it is approved by at least two-thirds (2/3) of the Voting Interests present (in person or by proxy) and voting at any annual or special Members' meeting at which a quorum has been established, provided that notice of the proposed amendment has been given to the Members in accordance with the Condominium Act and these Bylaws. These Bylaws shall be deemed amended by virtue of revisions to statutes and regulations which control over conflicting provisions of these Bylaws. The Board of Directors shall have the authority to amend these Bylaws in order to conform the provisions thereof with such revisions to statutes and regulations. In addition, the Board of Directors may amend these Bylaws to correct scrivener's errors or omissions, and amend and restate these Bylaws in order to consolidate into one document amendments previously adopted by the Members or the Board of Directors. Amendments adopted by the Board of Directors shall occur at a duly noticed Board of

Directors meeting (with adoption of the amendments set forth on the agenda).

9.4. Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

10. OFFICIAL RECORDS.

10.1 Maintenance of Official Records. The Association shall maintain all of the following items, if applicable, that are required to be maintained as "official records" pursuant to Section 718.111(12) of the Condominium Act:

(A) A copy of the plans, permits, warranties, and other items provided by the developer of the Condominium pursuant to Section 718.301(4) of the Condominium Act.

(B) A copy of the recorded Declaration and Bylaws; a certified copy of the Articles of Incorporation; and a copy of all amendments to the foregoing documents.

(C) A copy of the current Rules and Regulations.

(D) A book or books that contain the minutes of all meetings of the Members and the Board of Directors, which minutes must be retained for a period of at least 7 years.

(E) A current roster of all Unit Owners and their mailing addresses, Unit identifications, and, if known, telephone numbers. The Association shall also maintain the electronic mailing addresses and facsimile numbers of Unit Owners consenting to receive notice by electronic transmission. The electronic mailing addresses and facsimile numbers are not accessible to Unit Owners if consent to receive notice by electronic transmission is not provided. However, the Association is not liable for an inadvertent disclosure of the electronic mail address or facsimile number for receiving electronic transmission of notices.

(F) All Association insurance policies, which shall be retained for a period of at least 7 years.

(G) A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility, which must be retained for a period of at least 7 years.

(H) Bills of sale or transfer for all Association owned property, which shall be retained indefinitely.

(I) Accounting records, which shall be maintained for a period of at least 7 years. The accounting records must include, but are not limited to:

(1) Accurate, itemized and detailed records of all receipts and expenditures.

(2) A current account and a monthly, bimonthly or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each Assessment, the

amount paid on the account, and the balance due.

(3) All Association audits, reviews, accounting statements, and financial reports.

(4) All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the Association.

Any person who knowingly or intentionally defaces or destroys such accounting records, or who knowingly or intentionally fails to create or maintain such records with the intent of causing harm to the Association or one or more of its Members, is personally subject to a civil penalty pursuant to Section 718.501(1)(d) of the Condominium Act.

(J) Ballots, sign-in sheets, voting proxies, and all other papers relating to voting by Unit Owners, which must be maintained for one year from the date of the election, vote, or meeting to which the document relates.

(K) A copy of the current Question and Answer Sheet as described in Section 718.504 of the Condominium Act.

(L) All other Association records not specifically included in the foregoing list which are related to the Association's operations, which shall be retained for a period of at least 7 years.

Except as otherwise provided above and by the Condominium Act, all official records must be retained for at least 7 years. The Association may elect to maintain records in excess of the time periods required by the Condominium Act if deemed desirable by the Board of Directors.

10.2 Access to Official Records. The Association's official records are open to inspection by any Member or the authorized representative of such Member at all reasonable times within 45 miles of the Condominium Property or within Lee County within 5 working days after receipt of a written request by the Board of Directors or its designee. The Association may comply with this requirement by having a copy of the official records available for inspection or copying on the Condominium Property or Association Property, or the Association may offer the option of making the official records available electronically via the Internet or by allowing the official records to be viewed in electronic format on a computer screen and printed upon request. The Association is not responsible for the use or misuse of the information provided to a Member or his or her authorized representative pursuant to the compliance requirements of the Condominium Act unless the Association has an affirmative obligation not to disclose such information pursuant to the Condominium Act. The right to inspect the records includes the right to make or obtain copies, at the expense, if any, of the Member. The Board of Directors may adopt reasonable Rules and Regulations regarding the frequency, time, location, notice and manner of record inspections and copying. The Association's failure to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the Association willfully failed to comply with this Section. A Unit Owner who is denied access to official records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this Section. The failure to permit inspection of the official records entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records, who, directly or indirectly, knowingly denied access to the records for inspection. The Association shall maintain on the Condominium Property an adequate number of copies of the Condominium Documents, as well as the Question and Answer sheet and year-end financial information required by Section 718.112 of the Condominium Act to ensure their availability to Unit Owners and

prospective purchasers. The Association may charge its actual costs for preparing and furnishing these documents to those requesting the same. The Association shall allow a Member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the Association providing the Member or his or her authorized representative with a copy of such records. The Association may not charge for the use of a portable device.

10.3 Official Records Exempt from Inspection and Copying. The following records shall not be accessible to Unit Owners:

(A) Any record protected by the lawyer-client privilege as described in Section 90.502, Florida Statutes; and any record protected by the work-product privilege, including any record prepared by an Association attorney or prepared at the attorney's express direction; which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such civil or criminal litigation or proceedings until the conclusion of the litigation or proceedings.

(B) Information obtained by the Association in connection with the approval of the lease, sale or other transfer of a Unit.

(C) Personnel records of Association or management company employees, including, but not limited to, disciplinary, payroll, health and insurance records. For purposes of this subsection (C), the term "personnel records" does not include written employment agreements with an Association employee or management company, or budgetary or financial records that indicate the compensation paid to an Association employee.

(D) Medical records of Unit Owners.

(E) Social security numbers, driver's license numbers, credit card numbers, electronic mail addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses of a Unit Owner other than as provided to fulfill the Association's notice requirements, and other personal identifying information of any person, excluding the person's name, Unit designation, mailing address, property address, and any address, e-mail address or facsimile number provided to the Association to fulfill the Association's notice requirements. Notwithstanding the restrictions in this subsection (E), the Association may print and distribute to Unit Owners a directory containing the name, parcel address and telephone numbers of each Unit Owner. However, a Unit Owner may exclude his or her telephone number from the directory by so requesting in writing to the Association. A Unit Owner may consent in writing to the disclosure of other contact information described in this subsection (E). The Association is not liable for the inadvertent disclosure of information that is protected under this subsection (E) if the information is included in an official record of the Association and is voluntarily provided by a Unit Owner and not requested by the Association.

(F) Electronic security measures that are used by the Association to safeguard data, including passwords.

(G) The software and operating system used by the Association which allow the manipulation of data, even if the Unit Owner owns a copy of the same software used by the Association. The data is part of the official records of the Association.

11. COMPETITIVE BIDDING.

11.1 Requirements. All contracts as further described below or any contract that is not to be fully performed within one year after the making thereof, for the purchase, lease, or renting of materials or equipment to be used by the Association in accomplishing its purposes under the Condominium Act, and all contracts for the provision of services, shall be in writing. If a contract for the purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the Association in the aggregate that exceeds 5% of the total annual budget of the Association, including reserves, the Association shall obtain competitive bids for the materials, equipment, or services. Nothing contained herein shall be construed to require the Association to accept the lowest bid. As to any contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association, or entity in which one or more of its Directors are directors or Officers or are financially interested:

(A) The Association shall comply with the requirements of Section 617.0832, Florida Statutes.

(B) The disclosures required by Section 617.0832, Florida Statutes shall be entered into the written minutes of the meeting.

(C) Approval of the contract or other transaction shall require an affirmative vote of two-thirds of the Directors present.

(D) At the next regular or special meeting of the Members, the existence of the contract or other transaction shall be disclosed to the Members. Upon motion of any Member, the contract or transaction shall be brought up for a vote and may be canceled by a majority vote of the Members present. Should the Members cancel the contract, the Association shall only be liable for the reasonable value of goods and services provided up to the time of cancellation and shall not be liable for any termination fee, liquidated damages, or other form of penalty for such cancellation.

11.2 Exceptions. Notwithstanding the foregoing, contracts with employees of the Association, and contracts for an attorney, accountant, architect, community association manager, engineering and landscape architect services are not subject to the provisions of Section 11.1 above.

11.3 Emergency. Nothing contained in Section 11.1 above is intended to limit the ability of the Association to obtain needed products and services in an emergency.

11.4 Sole Source of Supply. Section 11.1 above shall not apply if the business entity with which the Association desires to enter into a contract is the only source of supply within Lee County.

12. MISCELLANEOUS.

12.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

12.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

12.3 Conflict. If there is a conflict between any provision of these Bylaws and the Condominium Act, the Condominium Act shall control. If there is a conflict with respect to the interpretation of these Bylaws and the Declaration of Condominium or Articles of Incorporation, the provisions of the Declaration and of the Articles of Incorporation shall prevail over the provisions of these Bylaws.

12.4 Certificate of Compliance. In accordance with Section 718.112(2)(l) of the Condominium Act, a Certificate of Compliance from a licensed electrical contractor or electrician may be accepted by the Board of Directors as evidence of compliance of the Units to the applicable fire and life safety code.

EXHIBIT " D "

OR BK 03416 PG 2751

SORRENTO AT THE COLONY, A CONDOMINIUM

PERCENTAGES OF OWNERSHIP

The unit owners shall own the following percentages of the common elements and common surplus, and shall be obligated for the same percentages of the common expenses - which percentages have been calculated upon the square footage of each type of unit in relation to the total square footage of all units in the condominium.

Unit types 01, 02, 03 and 04 are the last two digits in the individual unit identification numbers appearing on Exhibit "B", the Condominium Plot Plan.

<u>No. of Units</u>	<u>Unit Type</u>	<u>Unit Percentage</u>	<u>Total Percentages</u>
15	01	1.405633	21.084499%
14	02	1.193495	16.707384%
14	03	1.166571	16.332000%
14	04	1.405633	19.678866%
5	PH 01	1.709007	8.545034%
5	PH 02	1.821436	9.107182%
5	PH 03	1.709007	<u>8.545034%</u>
			100.000000%

INSTR # 2014000180316, Doc Type RES, Pages 14, Recorded 09/02/2014 at 08:39 AM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee \$120.50 Deputy Clerk ALUCKEY

EXHIBIT " E "

CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the duly elected and acting President of The Sorrento at the Colony Condominium Association, Inc., a Florida corporation not for profit, does hereby certify that at duly called meetings of the Board of Directors held on July 17, 2014 and August 7, 2014, where a quorum was present, after due notice, the Board of Directors adopted the Rules and Regulations attached hereto as Exhibit "A". The attached Rules and Regulations are intended to supersede all prior Rules and Regulations in their entirety. The Declaration of Condominium for Sorrento at the Colony, a Condominium, was recorded in O.R. Book 3416 at Page 2672 Public Records, Lee County, Florida.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand and the seal of the corporation.

THE SORRENTO AT THE COLONY
CONDOMINIUM ASSOCIATION, INC.
(SEAL)

Kerry A. Perry

Witness

Print Name: Kerry A. Perry

Witness Brenda S Scordo

Print Name: Brenda Scordo

STATE OF ~~FLORIDA~~ New Hampshire
COUNTY OF ~~LEE~~ Merrimack

By: Carole Maeder

Carole Maeder, President

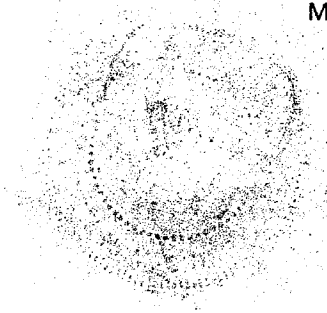
The foregoing instrument was acknowledged before me this 20 day of August, 2014, by Carole Maeder, as President of The Sorrento at the Colony Condominium Association, Inc., the corporation described in the foregoing instrument, who is personally known to me or who has produced CL Drivers License as identification and who took an oath, and acknowledged executing the same under authority vested in her by said corporation.

Tina C. Delby-Heath
Notary Public

TINA C. DELBY-HEATH, Notary Public
My Commission Expires October 7, 2014

Printed Name of Notary Public
My Commission Expires:

After recording, return to:
Steven M. Falk, Esq.
Roetzel & Anderson
850 Park Shore Drive,
Naples, FL 34103
(239) 649-6200



*Sorrento at The Colony
Condominium Association, Inc*

**RULES AND
REGULATIONS**
EXHIBIT "E"

Rev: July 17, 2014 and August 7, 2014

EXHIBIT " A "

SORRENTO AT THE COLONY, A CONDOMINIUM
EXHIBIT "E"
RULES AND REGULATIONS

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SORRENTO AT THE COLONY, A CONDOMINIUM

EXHIBIT "E"

RULES AND REGULATIONS

INTRODUCTION

The purpose of these Rules and Regulations is to maintain Sorrento as a pleasant and quality Residential community. These Rules and Regulations are also located on the Sorrento at The Colony Website, www.sorrentoatthecolony.org.

These Rules and Regulations shall apply equally to Owners, their families, guests, staff, invitees and lessees.

The Board of Directors of the Association may impose a fine for each violation of these Rules and Regulations or of the Condominium Documents.

These Rules and Regulations do not purport to constitute all of the restrictions affecting the Condominium Property. Reference should be made to the Condominium and Master Associations' documents.

A. GENERAL RULES

1. Smoking

Sorrento is a non-smoking building. Smoking is prohibited in all common elements of the Sorrento property, including but not necessarily limited to the pool area, social room, billiard room, exercise room, hallways, guest suites, garage, lobby, etc. Smoking is allowed in the privacy of the owners/tenants' units. Unit owners/tenants and their guests can smoke on their balconies but must dispose of the cigarette, cigar, etc. within their own unit and not discard them over the balcony rail. This would constitute a fire hazard.

2. Vehicles

Passenger automobiles, sport/utility vehicles, mini-trucks, pick-up trucks, vans, golf carts, and motorcycles (used for personal transportation and not commercially) that do not exceed the size of one parking space may be parked in the areas provided for that purpose. Certain Limited Common Element parking spaces are assigned, and no Owner or occupant may park more than one (1) vehicle in the limited common element space.

- a. Commercial vehicles, trucks, campers, motor homes, trailers, boats and boat trailers are prohibited on the Condominium Property.
- b. Bicycles and mopeds shall be parked only in the bike storage areas or as may otherwise be designated by the Board of Directors.
- c. Vehicle maintenance, except car washing and polishing in the designated area, is not permitted on the Condominium property.
- d. All vehicles must be currently licensed and no inoperable or unsightly vehicles may be kept on Condominium property.

- e. Commercial vehicles, including delivery vehicles and moving vans, are allowed to park in designated areas only while engaged in the performance of installation, repairs and/or deliveries on behalf of the Association or its unit owners, tenants and guests.
- f. Keys must be left with the Manager for all vehicles left on the Condominium property when the Owner(s) are not in residence.

3. Recreational Facilities

Recreational facilities will be used in such a manner as to respect the rights of others and the Board of Directors may regulate duration of use and hours of opening and closing and schedule their use.

4. Building – exterior and common elements

- a. No exterior radio, television, or data reception antenna or any exterior wiring for any purpose may be installed without the written consent of the Board of Directors.
- b. To maintain harmony of exterior appearance, no one shall make any changes to, place anything upon, affix anything to or exhibit anything from any part of the Condominium or Association property visible from the exterior of the building or from the Common Elements without the prior written consent of the Board of Directors.
 - i. All curtains, shades, drapes and blinds shall be white or off-white in color or lined with material of these colors.
 - ii. Balcony tile and floor covering material must be approved by the Board of Directors.
- c. All Common Elements inside and outside the buildings will be used for their designated purposes only, and nothing belonging to the Owners, their family, their tenants or their guests shall be kept therein or thereon without the approval of the Board of Directors. Such areas shall at all times be kept free of obstruction. Owners are financially responsible to the Association for damage to the Common Elements caused by themselves, their tenants, their guests or their family members.
- d. Lawns, shrubbery or other exterior plantings shall not be altered, moved, or added to without permission of the Association.
- e. Laundry, bathing apparel, beach and pool accessories shall not be maintained outside of the Units or Limited Common Elements (balconies and terraces), and such apparel and accessories shall not be exposed to view.
- f. No nuisance of any type or kind shall be maintained upon the Condominium property.
- g. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the building or contents thereof without the prior written consent of the Board of Directors. No owner shall permit anything to be done or kept in his/her Unit or in the Common Elements which will result in the cancellation of insurance on the building or contents thereof or which would be in violation of any law or building code.

5. Pets

- a. One (1) dog, no more than 15 inches tall at the shoulder at maturity, or two (2) cats, or one dog and one cat shall be permitted.
- b. Pit bull breed dogs, snakes or other reptiles, spiders or livestock of any description are not allowed.
- c. An owner or tenant may keep a pet that is otherwise prohibited, but only to the extent required under Florida or Federal law.
- d. Other non-exotic, quiet and inoffensive household pets, not kept or raised for commercial purposes, such as birds (excluding parrots) and tropical fish may be allowed at the discretion of the Board of Directors under conditions established by the Board of Directors.
- e. Pets, as noted in 5a., 5c., and 5d. above are permitted upon the following conditions:
 - i. All pets must be registered, including a photo of the pet, with the Manager's Office.

- ii. For 5d. above, the pet owner must submit a written request to the Board of Directors describing the pet or pets in question.
- iii. No pets shall be permitted in the pool area, leashed or unleashed.
- iv. Pets are not allowed in any common area of the building other than the elevator lobbies, the ground floor entrances and exits, and the garage. The common elements include: the pool area, terrace level grass area, social room, billiards room, guest rooms and fitness room. In addition, Owners must not linger in the ground lobby area with pets.
- v. Someone with a pet does not necessarily have the right of way; he or she must yield to those without a pet. Example:
 - (1) When entering an elevator with a pet, one must ask occupants if they would prefer to ride without the pet. If they do, the pet walker must leave the elevator and wait for the next one.
 - (2) A person with a pet who is the first in the elevator does not have to exit the elevator if approached by someone who does not wish to ride with a pet. The latter person must wait for the next elevator.
- vi. Pets shall be under hand-held leash while using or playing on Sorrento common area property.
- vii. Messes made by pets must be removed by Owners or handlers immediately. The Board of Directors shall designate the portions of the property which shall be used to accommodate the reasonable requirements of owners who keep pets.
- viii. If a pet becomes aggressive, it is the responsibility of its Owner to ensure the pet does not bother any other resident or pet. It may be necessary to move a pet to an area where there is no other pet or resident present. A pet Owner is responsible for the pet's behavior, and must be in control of it at all times. Pets that are vicious and threaten or bite anyone or another pet must be removed from the Condominium property within three (3) days after delivery of a letter from the Manager or his/her agent. Penalties for failure to remove a pet within three (3) days are at the discretion of the Board of Directors.
- ix. Pets that are noisy, a nuisance or otherwise unpleasant will not be permitted in the Condominium. In the event that a pet has become a nuisance or creates an unreasonable disturbance, written notice shall be given to the Owner or other person responsible for the pet. The Owner or other person responsible for the pet must correct the unacceptable behavior within two (2) weeks. If not corrected, the pet must be removed from the Condominium property within three (3) days after delivery of a second written notice of unacceptable pet behavior from the Manager or his/her agent.
- x. Tenants are allowed to have pets under the same limitations and restrictions as Owners.
- xi. Guests are not permitted to have pets.

6. Guests and renters/lessees

- a. All persons occupying Units other than the owners shall be registered with the Manager or other designate of the Association at or before the time of their occupancy of the Unit. This includes renters but excludes house guests when the Owner is in residence.
- b. No Unit may be permanently occupied by more persons than the number of bedrooms times two, nor may more persons, including guests, occupy a Unit overnight than the number of bedrooms times two, plus two.

7. Trash

Disposition of garbage and trash shall be only by use of receptacles approved by the Association or by use of garbage disposal units. Specifically, trash placed in the trash chutes must be disposed of as noted on the instructions of the trash chute. Food and vegetable scraps are to be disposed of in the individual residence in the garbage disposals. Bulky items and recyclables must be carried down to the trash room on the lower garage level.

8. Keys

The Association shall retain a pass key to the Units, and the Owner shall provide the Association with a new or extra key whenever locks are changed or added for the use of the Association pursuant to its statutory right of access to the Units. Duplication of Owners' keys to Common Element facilities is restricted in the interest of security. Such keys shall be duplicated only with the assistance of the Manager. Changing of locks must be done through the Association.

9. Children

Children shall be under the direct control of a responsible adult. Children under the age of 12 may not use the pool unless accompanied by an adult, nor shall they be permitted to run or act boisterously on the Condominium property especially in the garage. The use of skateboards and loud or obnoxious toys is prohibited. Children may be removed from the Common Elements for misbehavior by or on the instructions of the Manager.

10. Noise

Loud and disturbing noises are prohibited. All radios, cell phones, televisions, compact disc players, stereos, singing and playing of musical instruments, etc. shall be regulated to sound levels that will not disturb others. No vocal or instrumental practice is permitted after 10:00 PM or before 9:00 AM. To prevent scraping of furniture on tile, marble, stone or hardwood floors, felt pads must be put on the bottom of furniture legs excluding those with rollers.

11. Deliveries

Deliveries (including move-in/out) must be coordinated with the Manager prior to delivery date. Deliveries may be scheduled Monday through Friday, between 8:00 AM and 4:00 PM. After hours deliveries are only at the discretion of the Manager. Carriers are limited to 40 foot trailers maximum. Deliveries must be made to the designated access door into the building. Moving vans and trucks used for this purpose shall only remain on Condominium property when actually in use.

12. Office Hours

The Manager's office is open Monday through Friday, excluding designated holidays. Hours of operation are posted in a prominent location.

13. Prohibited Practices

Illegal and discriminatory practices are prohibited.

14. Private Work by Staff

The Condominium and management staff are not permitted to do private work for pay for Owners or their families, tenants or guests while on duty. If both parties are agreeable, staff may assist such

persons privately when off duty. Conversely, if the staff has excess time, they are encouraged to provide minor assistance to Owners as part of the Condominium Assessments.

B. POOL, SOCIAL ROOM, FITNESS CENTER AND GRILLS

1. Pool

- a. No glass of any kind shall be permitted in the pool area. Any liquid refreshments consumed near the pool area shall be in paper, plastic or metal containers.
- b. Children shall be under the direct control of a responsible adult. Children under the age of 12 may not use the pool unless accompanied by an adult, nor shall they be permitted to run or act boisterously on the Condominium property.
- c. Children must be properly attired when using the pool, i.e. waterproof diapers.
- d. No large inflatable pool devices are to be used in the pool.
- e. Proper attire (swimsuit cover-up, shoes or sandals) must be worn in all interior common elements.
- f. Swimming is not permitted outside of posted pool hours, as mandated by Florida law.

2. Social Room

- a. The social room is available for individual Owners at no charge. Reservation for using the social room must be made through the Manager's office. Requests for reservations will be handled on a first come, first serve basis. Cancellation notice must be given to the office forty-eight (48) hours in advance of reservation date.
- b. Owners must clean the social room within twenty-four (24) hours of their use of the room, preferably the same day especially on weekends. If the room is not properly cleaned, the Owners will be charged the cost of clean-up.
- c. Owners must report any damage to the Manager.

3. Fitness Center

No person under the age of 16 may use the fitness center unless accompanied by a supervising adult. Exercise equipment in the fitness center must be cleaned with sanitizing wipes and returned to its proper location after use.

4. Grills

- a. Use of barbeque grills shall only be allowed in areas designated as safe and appropriate by the Board of Directors.
- b. No cooking or other use of barbeque grills of any kind is allowed on balconies.

C. GUEST SUITES

1. Guest suites are part of the Common Elements and are for the use and the convenience of Owners and their guests while the host Owner is in residence. The guest suites are not for extended use or for public use. The maximum number of guests per suite is four (4).
2. Reservations must be made through the office of the Manager, who will assist in authorizing access for your guest(s) into Pelican Landing.
3. Requests for reservations will be handled on a first-come, first serve basis; however, both suites may not be reserved by one Owner, unless no other requests are received for the same dates. Also, to assure that all Owners have fair and equitable access to the suites for their guests, any one Owner is limited to two (2) consecutive uses, and a maximum of three (3) uses per calendar year, unless the Manager determines that demand for the guest suites allows otherwise to best accommodate the needs of all Owners. The guest suites may not be booked more than two (2) months (60 days) in advance.

4. The maximum stay for guests is seven (7) days, unless an extension has been specifically authorized by the Manager.
5. The guest suite use fee will be the current rate as determined by the Board of Directors, plus applicable taxes.
6. Notice of cancellation must be made to the Manager at least forty-eight (48) hours in advance of the reservation date. If such cancellation notice is not received forty-eight (48) hours in advance, there will be an appropriate charge, as determined by the Board of Directors, billed to the Owner's account, not to exceed the guest suite rental fee, unless the Manager is still able to rent the suite.
7. Guests may register and pick up keys at the Sorrento office after 3:00 PM. Check-out time is 12:00 noon. A registration form will be available in the office at the time of check-in and requests the guest's name, address, telephone number and vehicle registration information.
8. Maid service will be provided daily unless otherwise requested. There is no maid service on Saturday or Sunday.
9. Long distance telephone calls from the guest suite telephone may only be made by credit card or by reversing the charges.
10. The host Owner will be responsible for any damage to the guest suite or to other Association property caused by the guest, as well as for the guest's compliance with all applicable Condominium Rules and Regulations. A summary of the Rules and Regulations will be available in the guest suite.
11. After the guest's departure, a billing statement will be forwarded to the host Owner.
12. The guest suites are part of the Common Elements of the Association and therefore subject to Florida law which prohibits smoking in the interiors of these areas.

D. LEASES

1. Units may not be rented for periods of less than thirty (30) consecutive days or more than three (3) times a year.
2. The tenants and guests (except when Owners are in residence) must sign a dated document to be prepared by the Manager and approved by the Board of Directors in which the tenants and guests:
 - a. Acknowledge receipt of a copy of the Condominium Documents and Rules and Regulations,
 - b. Confirm that they have read the Condominium Documents and Rules and Regulations,
 - c. State that they understand the Condominium Documents and Rules and Regulations and have no questions about them, and
 - d. Agree to abide by each provision of the Condominium Documents and Rules and Regulations.
3. No Unit may be permanently occupied by more persons than the number of bedrooms times two, nor may more persons, including guests, occupy a Unit overnight than the number of bedrooms times two, plus two.
4. The Sorrento's Declaration of Condominium, section 14, LEASING OF UNITS, provides full detail of the procedure required in the leasing of Units. This procedure includes:
 - a. An Owner must provide the Board of Directors with completed Leasing Application forms, a copy of the proposed lease, and a check made payable to the Sorrento Condominium Association in the amount as approved by the Board of Directors (not to exceed the maximum amount permitted by law) at least fifteen (15) days prior to the proposed transaction.
 - b. The Board of Directors shall approve or disapprove the proposed lease within fifteen (15) days. Proper notice will be sent to the Unit owner.

E. UNIT SALES AND REALTORS

1. The Unit owner must provide the Manager's office with the realtor's contact information and a copy of the completed Brokerage Relationship Disclosure Form. Pelican Landing Association also requires registration of unit listings with their administrative office.
2. No signs or banners shall be placed on, or exhibited from, any unit, Common Element or Limited Common Element without the prior written approval of the Association.
3. Open Houses:
 - a. The Sorrento property Manager must be advised of the open house dates and hours on the Wednesday preceding.
 - b. The realtor must be on site and in the Unit at the Sorrento during the scheduled open house hours.
 - c. An information marquee must be placed inside the lobby entrance (but visible from the outside) indicating the Unit number(s) of the Unit(s) being shown for the open house and the realtor(s) phone number(s).
 - d. The realtor must meet the client(s) in the lobby and must accompany them to and from the Unit(s) to be shown. Clients are not allowed on any floors or common elements unaccompanied.
 - e. Realtors are reminded that during Hurricane Season the Board of Directors require all fans and furniture from unprotected lanais and porches be kept inside of the Unit. Any furniture moved to these areas for showings must be returned inside.
 - f. Water is turned off to unoccupied Units. Public restrooms are located on the lobby level outside of the exercise room.
4. The Sorrento Association's approval is required to allow the sale. The purchaser must complete and submit to the Manager an "Application for Approval to Purchase" (forms available in the Manager's office), accompanied by a processing fee in the amount as approved by the Board of Directors (not to exceed the maximum amount permitted by law), and a copy of the executed purchase contract. Within fifteen (15) days from the receipt of the application, the Board of Directors shall approve or disapprove the sale. If the sale is approved, the approval will be stated in a Certificate of Approval executed by an Officer of the Association in recordable form and delivered to the purchaser.
 - a. Applications to purchase a Unit received from an existing Sorrento Unit owner must be accompanied by a transfer fee as approved by the Board of Directors in lieu of the application fee.

F. HURRICANE SHUTTERS

1. Hurricane Shutters have been designed and specified by the developer for all balconies appurtenant to condominium residences. These shutters meet or exceed standards set forth in the Standard Building Code (applicable to the county) for buildings in the coastal zone and in excess of 60 feet in height and are the only approved application for hurricane protection. A copy of these specifications is maintained by the Manager. Non-balcony Condominium residence windows are a special architect approved laminated glass and have been designed and installed to meet or exceed the wind load and windborne debris impact standards of the hurricane shutters. Consequently, such windows in the Condominium residences, as built, meet or exceed the requirements of the applicable building code for hurricane protection. For this reason and for the purpose of preserving the aesthetic appearance of the building, hurricane shutters shall not be installed on non-balcony windows in the Condominium residences. If such non-balcony windows in the Condominium residences are replaced, they must be replaced with laminated architectural glass equal to or exceeding the specifications of the original glass and compliant with the applicable building code.

2. The materials, equipment, installation and construction used shall conform in all respects to the requirements of construction established by Lee County related to hurricane shutter wind load requirements. A building permit must be issued by Lee County and must be obtained prior to the beginning of shutter installation.
3. Hurricane shutters are required to meet approved specifications as referenced in Section 08667 Roll-away Storm and Security Shutter Product Specifications Engineering by D.L. Fowler, Professional Engineer, FL License No. PE005458, submitted to the developer (WCI) and the building structural engineer (Walter P. Moore & Associates). The specifications, along with approved engineering drawings, are on file at the Sorrento Association Office.
 - a. Type of Shutter approved:
 - i. Rolldown - Balconies facing West
 - ii. Accordion – 01 and 04 balconies facing East
 - b. Color and composition approved: Rolldown
 - i. Shutters shall be white PVC or aluminum to match existing. (note: purpose is to permit aluminum along with PVC shutters to be installed by owners/contractors).
 - ii. Framing shall be bronze to match existing balcony railings.
 - c. Color approved: Accordion
 - i. Shutters shall be bronze to match existing balcony railings.
 - ii. Framing shall be bronze to match existing balcony railings.
4. The installation of hurricane shutters and like kind replacements thereof is prohibited, except as approved by the Sorrento Board of Directors.
5. Any Unit owner desiring to install hurricane shutters shall apply to the Association by completing a "Unit Owner Application for Hurricane Shutter Installation" (form available in the Manager's office).

G. DECORATORS, CONTRACTORS AND SUB-CONTRACTORS

1. Repair, construction, decorating or re-modeling work shall be done only Monday through Friday from 8:00 AM and 4:00 PM, and all parties must comply with the rules set forth herein.
2. Major construction projects within Units that are reasonably expected to cause undue burden or noise to residents of other Units may be performed only at times approved by the Board of Directors and in coordination with the Manager. Such work generally is prohibited during the period from December 15 through March 15.

The following list identifies some, though not necessarily all, of the types of activities generally permitted during the restricted time period: painting; wall papering; cabinet re-facing; and installation of appliances, plumbing fixtures, and window treatments; and matters constituting an emergency or otherwise requiring immediate attention. Specifically, the installation of hurricane shutters also is permitted during this time because of safety considerations.

The following list identifies some, though not necessarily all, of the types of activities generally prohibited during the restricted time period: demolition of walls; replacement of cabinets; and installation of tile, carpet or hardwood flooring.
3. All construction tentatively planned for the period from December 15 through March 15 must be reviewed and pre-approved by the Manager prior to contracting to ensure it will not cause undue burden and noise.
4. The Unit owner must pre-register with the Manager and provide the name, address, telephone number and email or fax number of the Unit owner's representative who will be overseeing the work being done in the unit whether it be the interior decorator, the general contractor, or the Unit owner.

5. Unit owners must ensure that their representative is available for questions and consultations during the work process.
6. The contractor and all sub-contractors must have Type "B" licenses in Lee County and submit proof of same for the Manager's file.
7. Prior to authorization for access, the contractors and all sub-contractors must produce from their insurance carriers a Certificate of Insurance of general liability of no less than \$250,000 per occurrence and no less than \$500,000 aggregate and provide proof of Worker's Compensation coverage for the Manager's file.
8. All vehicles and construction personnel are allowed to enter the building only at locations approved by the Board of Directors. They will register at the office, unless the Manager makes other arrangements.
9. Workers will be allowed to unload their materials and equipment in the north parking area. A passenger elevator will be designated for use as a service elevator for purposes of transporting materials.
10. After unloading, workers must park their vehicles in the designated outside service parking or other areas as specified by the Manager or staff.
11. Work preparations will not be allowed in the garage, i.e. mixing of paints, mud, grout, etc.
12. The trash chute is not to be used, nor is any trash to be left in units or hallways. The Manager or staff will provide information on disposal of trash.
13. All trash and debris shall be hauled away by the workers on a daily basis unless a dumpster is specifically designated for their use.
14. Grout, paint, wall mud or any other material may not be poured down building drains, sinks, toilets or bathtubs. Check with the Manager or staff for location of cleaning area.
15. Sub-contractors must supply their own carts and are not to use carts owned by the Association.
16. Breaks and lunches, if taken inside the building, should be confined to the Owner's unit.
17. No radios will be allowed in the building unless used with headphones.
18. Access to the individual Units must be coordinated through the Owner, decorator or other designee.
19. Do not tamper with or hang extension cords from any of the sprinkler heads.
20. Unit smoke alarms are to be left in place. They are to be properly protected during interior finish work which generates heavy airborne particles, i.e. sanding and painting.
21. Workers are not to wander around in areas other than the specific area or Unit they are assigned to.
22. Flooring:
Each Unit owner who elects to install in any portion of his Unit hard surface flooring materials (i.e. tile, marble, wood) shall first be required to install an approved sound underlayment material equivalent to ¼ inch of cork and perimeter sound isolation material installed in accordance with the procedures set forth by the Board of Directors which are available from the Manager. Each Unit owner is required to submit for approval to the Manager the proposed hard surface floor underlayment material. Written approval for the proposed materials is required prior to installation of hard surface flooring, and then the installed sound proofing must be inspected and approved prior to installation of the hard flooring. Installation procedures shall meet or exceed the specifications set forth by the Board of Directors. A copy of these procedures is available in the Manager's office.
23. Unit owners are responsible for his/her decorators, contractors and sub-contractors' actions and inactions while on the Sorrento premises in The Colony and in Pelican Landing. Decorators, contractors, and sub-contractors are on the premises at their own risk and agree to indemnify and hold harmless the Condominium Association, Master Associations and WCI Communities for any

- liability or damages which might arise in connection with their activities on the premises in The Colony or in Pelican Landing.
24. Should a decorator, contractor or sub-contractor discover a defect in the Unit, he or she must notify the Manager immediately so the defect may be verified and corrected prior to doing any work which might be impacted by the defect.
 25. Smoking, while discouraged, will only be allowed in the individual Units with the Owner's permission.
 26. Activities will be monitored during the day. Non-compliance may result in the contractor or his firm being barred from the building. The Manager should be contacted if there are any questions.

H. RULES FOR COMMITTEES AND OTHER MEETINGS

1. Committees

- a. Committees shall be appointed annually by the Board of Directors and supplemented as necessary from a list of volunteers.
- b. The Chair of the Committee shall be elected by a majority vote of the Committee members at a meeting where a quorum is present.
- c. The Committee shall elect or appoint a Secretary.
- d. Both the Chair and the Secretary shall serve, if willing, until the next Committee is appointed by the Board of Directors.
- e. Where one or more co-owners of a Unit are appointed to the same Committee, the following rules shall be in effect:
 - i. The presence of one, any, or all co-owners of a Unit shall count as one person for purposes of determining a quorum, and
 - ii. All co-owners of a Unit shall be entitled to one vote collectively on any issue before the Committee.

2. Owners' Right to Participate

Owners' rights in regard to participation in meetings of the Board of Directors or any Committee authorized to take action on behalf of the Board of Directors are as follows:

a. The Right to Speak

- i. To the maximum extent practical, the posted Board meeting agenda for each meeting shall list the substance of the matters and actions to be considered by the Board of Directors.
- ii. Roberts Rules of Order (latest edition) shall govern the conduct of the Association meeting when not in conflict with the Declaration of Condominium, the Articles of Incorporation or the By-laws.
- iii. After each motion is made and seconded by the Board members, the meeting Chair will permit Owner participation regarding the motion on the floor, which time may be limited depending on the complexity and effect on the Association.
- iv. Owner participation will not be permitted after reports of Officers or Committees unless a motion is made to act upon the report, or the Chair determines that it is appropriate or is in the best interest of the Association.
- v. An Owner wishing to speak must first raise his or her hand and wait to be recognized by the Chair.
- vi. While an Owner is speaking, he or she must address only the Chair, no one else is permitted to speak at this time.

- vii. An Owner may speak only once for not more than three (3) minutes and only on the subject or motion on the floor.
- viii. The Chair may by asking if there be any objection and hearing none, permit an Owner to speak for longer than three (3) minutes or to speak more than once on the same subject. The objection, if any, may be that of a Board member only, and, if there is an objection, then the question will be decided by a vote of the Board of Directors.
- ix. The Chair will have the sole authority and responsibility to see that all Owner participation is relevant to the subject or motion on the floor.

b. The Right to Video or Audiotape

- i. The audio and video equipment and devices which Owners are authorized to utilize at any such meeting must not produce distracting sound or light emissions.
- ii. Audio or video equipment shall be assembled and placed in position in advance of the commencement of the meeting in a location that is acceptable to the Board of Directors or the Committee.
- iii. Anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording.
- iv. At least 24 hours advance written notice shall be given to the Board of Directors by any Owner desiring to utilize any audio and/or video equipment to record a meeting.

c. Notices

- i. All notices of Membership, Directors and Committee meetings at which Owners are entitled to participate will be posted in a conspicuous location.