

Prepared by and return to:
Jessica R. Palombi, Esq.
780 Fifth Ave. S., Ste. 200
Naples, FL 34102

CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the duly and acting President of **Napa Ridge Homeowners Association, Inc.**, a Florida corporation not for profit, hereby certifies that at the Annual Meeting of the members held on February 26, 2016, where a quorum was present, after due notice, the resolutions set forth below were approved by the vote indicated for the purposes of amending the Declaration of Neighborhood Covenants, Conditions, and Restrictions for Lot 3, the Vineyards Tract One- F Unit One As Recorded in Plat Book 14, Page 96 and 97 Public Records of Collier County, Florida, commonly referred to as Napa Ridge, the Bylaws, and the Articles of Incorporation. The Declaration, Bylaws, and Articles of Incorporation being recorded on May 31, 1988, at O.R. Book 1353, Page 1321, *et. seq.*, Public Records of Collier County, Florida.

1. The following amendments were approved by the requisite vote of the membership:

RESOLVED: That sections of the Declaration of Condominium, Bylaws, and Articles of Incorporation of Marbella of Naples Condominium Association, Inc., received the requisite approval required under each document and be and are hereby amended and the amendment is adopted in the form attached hereto as Exhibit "A", and made a part hereof.

Date: May ____, 2016

NAPA RIDGE HOMEOWNERS ASSOCIATION, INC.

Diane R. Loo

Witness

Print Name: Diane Prussco

[Signature]

Witness

Print Name: Brian Mansour

John P. McCormick

By: JOHN P. MCCORMICK

Its: PRESIDENT

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 2 day of May, 2016, by John McCormick, President of Napa Ridge Homeowner's Association, on behalf of the Association. The President is personally known to me or has produced _____ as identification.

Jessica R. Palombi

Notary Public

Printed Name:

My Commission Expires:



JESSICA R PALOMBI
MY COMMISSION # EE 848428
EXPIRES: November 1, 2016
Bonded Thru Budget Notary Services

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

**AMENDED AND RESTATED DECLARATION
OF
NEIGHBORHOOD COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR LOT 3, THE VINEYARDS TRACT ONE – F UNIT ONE
AS RECORDED IN PLAT BOOK 14, PAGES 96 AND 97,
PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA**

COMMONLY KNOWN AND REFERRED TO AS NAPA RIDGE

KNOW ALL MEN BY THESE PRESENTS that on May 31, 1988 the original Declaration was recorded in Official Record Book 1353, Page 1321 *et seq.* of the Public Records of Collier County, Florida. That Declaration, as it has previously been amended, is hereby further amended and is restated in its entirety.

The land subject to this Declaration (hereinafter the "Property") is more particularly and legally described in Plat Book 15, Pages 91 and 92, a copy being attached hereto as Exhibit "A".

No additional land is being added by this instrument and no land is being removed by this instrument. The covenants, conditions 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. The acquisition of title to a Lot or any other Ownership interest in the Property, or the lease, occupancy or use of any portion of a Lot or the 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.

All property within Napa Ridge shall be held, transferred, sold, conveyed, and occupied subject to the Declaration of Master Covenants, Conditions, and Restrictions for the Vineyards recorded at Official Records Book 1284, Pages 1938 *et seq.* as the same may be amended from time to time ("Master Declaration"). The provisions of this Declaration shall be in addition to the provisions of the Master Declaration.

1. DEFINITIONS. The following words and terms used in this Declaration or any of the governing documents (unless the context shall clearly indicate otherwise) shall have the following meanings:

1.1 **"Architectural Review Board" or "ARB"** means the committee established pursuant to Section 6 of this Declaration to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Section 6.

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1.2 **"Assessments"** means a share of the funds required for the payment of common expenses and individual expenses which from time to time are assessed by the Homeowners' Association against an Owner, including, but not limited to:

1.2.1 **"Regular Assessments" or "Base Assessments"** means assessments levied for the payment of Operating Expenses as more particularly described in Section 3.4 hereof;

1.2.2 **"Special Assessments"** means those assessments levied by the Homeowners' Association applicable to that year only, for reconstruction, unexpected repair or replacement of a capital improvement as approved by the Board, including the necessary fixtures and personal property related thereto, or for any other expenditure approved by the Board; and

1.2.3 **"Individual Assessments"** means assessments levied against a specific property or properties as more particularly described in Section 3.5 hereof.

1.3 **"Articles" and "Bylaws"** as used herein, means the Articles of Incorporation and the Bylaws of Napa Ridge Homeowners Association, Inc., as amended from time to time. A copy of the Amended and Restated Articles of Incorporation and Bylaws are attached hereto as Exhibits "B" and "C" respectively.

1.4 **"Board"** means the Board of Directors responsible for the administration of Napa Ridge Homeowners' Association, Inc.

1.5 **"Common Areas"** means all real property including any improvements and fixtures thereon, owned, leased or the use of which has been granted or dedicated to the Homeowners' Association for the common use and enjoyment of its members. Common Areas shall mean all real property located within the Neighborhood, except all Lots. Common Area shall mean and refer to all recreational areas, swimming pools, tennis courts, streets, roads, drainage areas and lakes which are not owned by individual Lot Owners.

1.6 **"Common Expenses"** means the expenses incurred by the Homeowners' Association in the course of performing its duties under the governing documents and the law. Common expenses of the Homeowners' Association include the costs of operating the Homeowners' Association, the costs of administration, maintenance, operation, repair and replacement of the Common Areas, other expenses declared by the governing documents to be common expenses, and any other valid expenses or debts of the common property as a whole of the Homeowners' Association which are assessed against the members.

1.7 **"Common Surplus"** means the excess of all receipts of the Homeowners' Association, including but not limited to assessments, rents, profits and revenues over the common expenses.

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1.8 **"Declaration"** means this Declaration as amended from time to time.

1.9 **"Family" or "Single Family"** shall refer to any one of the following:

(A) One natural person.

(B) Two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage or adoption to each of the others.

(C) Two or more natural persons meeting the requirements of (B) above, except that there is among them one person who is not related to some or all of the others.

1.10 **"Governing Documents"** means and includes this Declaration, the Articles and Bylaws, and all recorded exhibits thereto, as amended from time to time, and the Rules and Regulations.

1.11 **"Guest"** means any person who is not the Owner or a lessee of a Home or a member of the Owner's or lessee's family, who is physically present in, or occupies a Home on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

1.12 **"Home"** means a residential dwelling in Napa Ridge intended for residential use which is constructed on a Lot.

1.13 **"Homeowners' Association"** means Napa Ridge Homeowners' Association, Inc., a Florida corporation not for profit, which is responsible for the maintenance and operation of the Common Areas and amenities and for enforcing the governing documents of the Association.

1.14 **"Homeowners' Association Property"** means all supplies, furniture, equipment and any other personal property owned by the Homeowners' Association for the purpose of carrying out the duties of the Homeowners' Association, the Board, the officers or other agents acting on behalf of the Board or Homeowners' Association.

1.15 **"Lease"** means the grant by a residential Owner of a temporary right of use of the Owner's Home or Lot with or without valuable consideration.

1.16 **"Lot"** means any plot of land located within the Neighborhood and designated as a "Lot" on the Plat of the Neighborhood and intended for residential use, but shall not include the common Areas as hereinafter defined.

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1.17 **"Maintenance", "Repair" and "Replacement"** Maintenance means the upkeep, cleaning or preservation of the condition of the Property. Repair means to mend, remedy, or restore to a sound or good state after decay, injury, dilapidation or partial destruction. Replace means to place again; restore to a former condition after destruction.

1.18 **"Master Association"** means and refers to The Vineyards Master Association, Inc.

1.19 **"Members"** means and refers to those persons who are entitled to membership in the Homeowners' Association as provided in its Articles of Incorporation and Bylaws.

1.20 **"Occupy"** when used in connection with a Home, means the act of staying overnight in a Home. **"Occupant"** is a person who occupies a Home.

1.21 **"Officer"** means the President, Vice President, Secretary, Treasurer or other office filled by the Board of Directors in accordance with the Bylaws.

1.22 **"Owner"** means the record Owner of legal title to a Lot.

1.23 **"Primary Occupant"** means the natural person approved for occupancy of a Home when title to the Lot is held in the name of two or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person. When used in reference to a Lot owned in one of the forms listed above, the term "primary occupant" shall be synonymous with the term "Owner".

1.24 **"Property" or "Community"** means all the real property which is subject to this Declaration.

1.25 **"Rules and Regulations"** means the administrative rules and regulations governing the use, maintenance, management and control of the Common Elements, the Lots and the operation of the Homeowners' Association as adopted by the Board of Directors pursuant to the Bylaws.

1.26 **"Structure"** means that which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground. The term shall be construed as if followed by the words "or part thereof". The term includes, without limitation swimming pools, fences, flagpoles, antennas, playground equipment, and storage sheds.

1.27 **"Voting Interests"** means the voting rights distributed to the Homeowners' Association members pursuant to the Bylaws.

2. **HOMEOWNERS' ASSOCIATION.**

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2.1 Membership. Every Owner of a Lot shall be a member of the Homeowners' Association, and by acceptance of a deed or other instrument evidencing his Ownership interest, each Owner accepts his membership in the Homeowners' Association, acknowledges the authority of the Homeowners' Association as herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles and Bylaws, and the Rules and Regulations of the Homeowners' Association, as amended from time to time. The Homeowners' Association shall contain twenty-nine (29) Lots.

2.2 Voting Rights. Voting rights are set forth in the Bylaws of the Homeowners' Association.

2.3 Articles of Incorporation. A copy of the Amended and Restated Articles of Incorporation of the Homeowners' Association is attached to this Declaration as Exhibit "B".

2.4 Bylaws. A copy of the Amended and Restated Bylaws of the Homeowners' Association is attached to this Declaration as Exhibit "C".

2.5 Delegation of Management. The Homeowners' Association may contract for the management and maintenance of those portions of the Property it is required or permitted to maintain, and may authorize a licensed and insured management agent to assist the Homeowners' Association in carrying out its powers and duties by performing functions which may include, but are not limited to, the submission of proposals, collection of assessments, keeping of records, enforcement of rules and maintenance, repair and replacement of the Common Areas with funds made available by the Homeowners' Association for such purposes, and such other responsibilities as determined by the Board of Directors.

2.6 Acts of the Homeowners' Association. Unless the approval or affirmative vote of the Lot Owners is specifically made necessary by some provision of the law or the governing documents, all approvals or actions permitted or required to be given or taken by the Homeowners' Association may be given or taken by its Board of Directors, without a vote of the Owners. The officers and Directors of the Homeowners' Association have a fiduciary relationship to the Owners. An Owner does not have the authority to act for or bind the Homeowners' Association by reason of being a Lot Owner.

2.7 Powers and Duties. The powers and duties of the Homeowners' Association include those set forth in Chapters 617 and 720, Florida Statutes, and in the governing documents. The Homeowners' 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 Homeowners' Association include, but are not limited to, the maintenance, management, and operation of the Common Areas. The Homeowners' Association has the power to enter into agreements to acquire leaseholds, memberships and other Ownership, possessory, easement or use interests in lands or facilities for the use and enjoyment of the Owners. The Homeowners' Association also has the power to adopt reasonable rules and regulations to govern the Homeowners' Association provided such rules and

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regulations do not conflict with any other governing document.

2.8 Official Records. The Homeowners' Association shall maintain its official records as required by law. The records shall be open to inspection by members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

2.9 Purchase of Homes and Lots. The Homeowners' Association has the power to purchase Homes and Lots in the community in connection with the foreclosure of a Homeowners' Association lien for assessments, charges or fines or any other foreclosure of an interest that affects the Homeowners' Association's lien and to hold, lease, mortgage, encumber or convey them with such power to be exercised by the Board of Directors without prior approval of the members.

2.10 Interests in Real Property. The Homeowners' 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 2.9 above and 3.7 below, the power to acquire, encumber or convey Ownership interests in real property, including recreational facilities, whether or not contiguous with the property, shall be exercised by the Board of Directors only after approval by at least a majority of the voting interests of the Homeowners' Association.

2.11 Disposition of Personal Property. Any personal property owned by the Homeowners' Association, may be sold, or otherwise encumbered or disposed of by the affirmative vote of a majority of the entire Board of Directors, without need for authorization by the Owners.

2.12 Roster. The Homeowners' Association shall maintain a current roster of names and mailing addresses of Lot Owners, based upon information supplied by the Owners. Owners are responsible for notifying the Homeowners' Association of any change in their mailing address. All such notices shall be in writing. A copy of the roster shall be made available to any member upon request.

2.13 Alterations, Improvements, Additions. The Homeowners' Association, by action of its Board, may make minor and insubstantial alterations and improvements, which alterations and improvements may also be deemed material, to the Homeowners' Association property having a cost not in excess of Twenty-Five Thousand Dollars (\$25,000) or ten percent (10%) of the budget, whichever is less. All other alterations and improvements must first be approved by a majority of the members represented in person or by proxy at a meeting called and held in accordance with the Bylaws. No alteration or improvement may be made to the Homeowners' Association property which materially and adversely affects the rights of the Owner of any Lot to the enjoyment of his Lot or the Homeowners' Association Property unless the Owner and all mortgagees holding recorded mortgages on such Lot consent thereto in writing.

3. ASSESSMENTS. The provisions of this section shall govern assessments payable by all

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Owners of Lots, for the common expenses of the Homeowners' Association not directly attributable to one of the Lots. It shall also govern assessments payable by single Lots as "Individual Assessments" for expenses directly attributable to one of the Lots.

3.1 Covenant to Pay Assessments. Each Owner of a Lot by the act of becoming an Owner covenants and agrees, and each subsequent Owner of any improved or unimproved Lot (including any purchaser at a judicial sale), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Homeowners' Association:

(A) The Lot Owner's share of annual assessments based on the annual budget adopted by the Board of Directors of the Homeowners' Association;

(B) The Lot Owner's pro rata share of special assessments for capital improvements or other Homeowner Association expenditures not provided for by annual assessments;

(C) Any charges properly levied against individual Lot Owner(s) ("Individual Expense Assessments") without participation from other Owners, including but not limited to, charges for maintenance, repairs, or replacements furnished to a specific Lot or Lots and fines, which amounts may also accrue interest, late fees, or attorneys' fees as permitted by law.

Assessments and charges shall be established and collected as provided herein and elsewhere in the governing documents. The Owner of each Lot, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 3.12 below, whenever title to a Lot is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments and charges against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee. No Owner may waive or otherwise escape liability for the assessments and charges provided for herein by waiver or non-use of the Common Areas, by abandonment, or otherwise. Except as provided elsewhere in the governing documents as to Institutional First Mortgagees, no Owner may be excused from the payment of assessments unless all Owners are similarly excused. Assessments and other funds collected by or on behalf of the Homeowners' Association become the property of the Homeowners' Association. No Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Lot. No Owner can withdraw or receive distribution of his prior payments to the common surplus or Homeowners' Association reserves, except as otherwise provided herein or by law. If the Homeowners' Association obtains Ownership of a Lot through a foreclosure proceeding or otherwise, the Homeowners' Association shall not be responsible for assessments on said Lot and shall not be considered a subsequent Owner of the Lot for purposes of collection under this section.

3.2 Purposes of Assessments. The assessments levied by the Homeowners' Association shall

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be used for the purposes of promoting the general welfare of the Lot Owners and residents in Napa Ridge; to operate, maintain, repair, improve, construct, and preserve (on a non-profit basis) the Common Areas owned by the Homeowners' Association for the benefit of its members, their guests, tenants and invitees; and to perform all other duties and responsibilities of the Homeowners' Association as provided in the governing documents. Common expenses also include the funds necessary to provide reserve accounts for:

- (A) renovation or major repairs to the Common Areas;
- (B) for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss; and
- (C) for operation maintenance, and replacement of any Surface Water Management System.

3.3 Share of Assessments, Base, Special and Individual Expense. The Owners of each Lot shall be liable for a proportionate share of the quarterly base and special assessments levied by the Homeowners' Association for common expenses of the Homeowners' Association. All monetary fines assessed against an Owner pursuant to the governing documents, or any expense or charge of the Homeowners' Association attributable to or on behalf of an individual Owner pursuant to the governing documents, shall be an Individual Assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided herein.

3.4 Base Assessments. The Base Assessment levied by the Homeowners' Association shall be collected by the Board and shall be used for the purpose of promoting the health, safety and welfare of the residents in Napa Ridge, which may include, but shall not be limited to, the following:

- (A) Improvements, maintenance and repair of the Common Areas, including, but not limited to, the cost of maintaining:
 1. All landscaped areas including lawns, shrubs, trees and other plantings located on Common Areas or on the Lots;
 2. All equipment and facilities owned by, leased by, or acquired by the Homeowners' Association located on the Common Areas or recreation areas, if any;
 3. Walls, fences, signs, street lights and fountains located on the Common Areas;
 4. Maintenance and repair of all storm drains, drainage courses, drainage easements, sprinkler systems in the Common areas and utility easements;

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5. Painting of fences and walls that are part of or appurtenant to improvements constructed on the Common Areas;
 6. Maintenance and repair of electrical lighting, and other necessary utility services for the Common Areas and non-potable water to service the sprinkler system in the Common Areas and on all of the Lots;
 7. All parking areas located on the Common Areas.
- (B) Operation, repair and maintenance of any Surface Water Management System;
- (C) Hiring professional advisors, management companies and payment of management fees and charges;
- (D) Maintaining casualty insurance covering the full insurable replacement value of the Common Areas with extended coverage;
- (E) Maintaining liability insurance insuring the Homeowners' Association against any and all liability to the public, to any Owner, or to the invitees, or tenants of any Owner arising out of their occupation or use of the Common Areas. The policy limits shall be set by the Homeowners' Association, and shall be reviewed at least annually, and increased or decreased in the discretion of the Homeowners' Association;
- (F) Maintaining flood insurance as deemed necessary by the Board and in an amount in the sole discretion of the Board.
- (G) Maintaining worker's compensation insurance to the extent necessary to comply with the Florida Statutes and any other insurance deemed necessary by the Board;
- (H) Acquiring equipment for the Common Areas as may be determined by the Board, including, without limitation, all equipment and personnel necessary or proper for use or maintenance of the Common Areas;
- (I) Any other materials, supplies, equipment, labor management, supervision, services, personnel, repairs, structural alterations, insurance, taxes or assessments which the Homeowners' Association is required to secure or pay pursuant to the terms of this Declaration or by law, or which shall be necessary or proper in the opinion of the Board for the operation of the Common Areas for the benefit of the Owners, or for the enforcements of these restrictions;
- (J) Establishments of reserve accounts for capital expenditures and deferred maintenance for the Common Areas;

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(K) Payment of real property taxes, personal property taxes and other assessments levied against the Common Areas.

3.5 Individual Assessments. In addition to other Assessments, the Homeowners' Association shall have the power to levy Individual Assessments against a particular Lot in accordance with the following provisions;

- (A) To cover the costs, including the overhead and administrative costs of providing service to one or more Lots upon request by the Owner(s) thereof pursuant to any special services which may be offered by the Homeowners' Association. Specific Assessments for special services may be levied in advance of the provision of the requested service.
- (B) To cover costs incurred in bringing the Lot into compliance with this Declaration or any Rules and Regulations, or any other governing document of the Association, as the same may be amended from time to time, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees or guests.

3.6 Lien. The Homeowners' Association has a lien on each Lot for unpaid past due Homeowners' Association assessments, and charges, together with interest, late payment penalties, costs and reasonable attorney fees incurred by the Homeowners' Association in enforcing this lien. The lien is perfected by recording a Claim of Lien in the public records of Collier County, which Claim of Lien shall state the description of the property encumbered thereby, the name of the record Owner, the amounts then due and the dates when due. The Claim of Lien must be signed and acknowledged by an officer or agent of the Homeowners' Association. The lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien is satisfied or discharged. The Claim of Lien shall secure all unpaid assessments, fines and charges, interests, late fees, costs and attorney fees which are due and which may accrue or come due after the recording of the Claim of Lien and before the entry of a final judgment of foreclosure. Upon full payment, the person making payment is entitled to a satisfaction of the lien.

3.7 Foreclosure of Lien. The Homeowners' Association may bring an action in its name to foreclose its lien for unpaid assessments or charges by the procedures and in the same manner as is provided in Section 720.3085 of the Florida Statutes, as amended from time to time, for the foreclosure of a lien upon a Lot for unpaid assessments. All unpaid assessments and charges also constitute a personal obligation of the Owners and the Homeowners' Association may, in addition to any other remedy herein provided, bring an action at law against any Owner liable for unpaid charges or assessments. If final judgment is obtained, such judgment shall include interest on the assessments as above provided and reasonable attorney fees to be fixed by the Court, together with

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the costs of the action, and the Homeowners' Association shall be entitled to recover reasonable attorney fees in connection with any appeal of such action.

3.8 Priority of Liens. The Homeowners' Association's lien for unpaid charges, assessments and all other amounts shall be subordinate and inferior to any recorded institutional first mortgage, unless the Homeowners' Association's Claim of Lien was recorded before the mortgage, but shall relate back to the date the original Declaration was recorded in the Public Records and be superior to, and take priority over, any other mortgage, lien or interest recorded after that date. Any lease of a Lot shall be subordinate and inferior to the lien of the Homeowners' Association, regardless of when the lease was executed.

3.9 Application of Payments; Failure to Pay; Interest. Assessments, charges and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid.

In addition to interest the Homeowners' Association may also charge an administrative late payment fee in an amount not to exceed the maximum amount allowed by law. Assessments, charges and installments thereon shall become due, and the Lot 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. Any restrictive endorsement on or accompanying a payment notwithstanding, all payments made to the Homeowners' Association by or on behalf of a Lot Owner shall be applied first to interest, then to late fees, then to costs (including but not limited to collection charges imposed by the management company, attorney and court) then to attorney fees, then to fines (if allowed by law), then to other charges, and then to the oldest outstanding unpaid regular, special or individual assessments. No payment by check is deemed received until the check has cleared. The Homeowners' Association shall also have the right to require any tenant occupying a Lot during any period in which assessments for the Lot are due but have not been paid to the Homeowners' Association to pay the rent to the Homeowners' Association as provided in Section 9.9 below.

3.10 Acceleration. If any special assessment or installment of a regular assessment becomes more than thirty (30) days past due, and a Claim of Lien is recorded, the Homeowners' Association shall have the right to accelerate the due date of the entire unpaid balance of the Lot's assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the public records. The Homeowners' Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorney 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 Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Owner's last known address, and shall be deemed given upon mailing of the notice.

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3.11 Certificate as to Assessment, Estoppels. Within fifteen (15) days after request by a Lot Owner or mortgagee, the Homeowners' Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating whether all assessments and other monies owed to the Homeowners' Association by the Lot Owner with respect to the Lot have been paid. Any person other than the Lot Owner who relies upon such certificate shall be protected thereby. The Homeowners' Association may charge a reasonable fee for the estoppel letter.

3.12 Mortgage Foreclosure. Unless otherwise provided by law, if an institutional first mortgagee of record acquires title to a Lot as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such acquirer of title shall be liable for the share of common expenses or assessments and all other amounts owed to the Homeowners' Association and attributable to the Lot, or to the former Owner of the Lot, which came due prior to the first mortgagee's acquisition of title. Any unpaid share of common expenses for which such acquirer is exempt from liability becomes a common expense collectible from all Owners, including such acquirer and his successors and assigns. All other persons or entities acquiring title to a Lot as the result of a foreclosure or other Court ordered sale shall be obligated to pay all past due assessments, interest, late fees, attorney fees, costs, and fines due and owing at the time of sale regardless of whether or not the Homeowners' Association has filed a lien. No Owner or acquirer of title to a Lot 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 his Ownership.

4. EASEMENTS.

4.1 Appurtenant Easements. Subject to the restrictions found elsewhere in this Section 4, the Owner of each Lot, their guests, lessees and invitees, shall have as an appurtenance to their Lot a perpetual nonexclusive easement for ingress and egress over, across and through the Common Areas, for the use and enjoyment of all recreational facilities, such use and enjoyment to be shared in common with the other Owners of Lots, their guests, lessees and invitees, subject to the provisions of this Declaration.

4.2 Easements for Utilities and Services. For the purpose of performing their authorized services and investigations, ingress and egress over and across the Property is hereby granted to: (i) police and other authorities of law; (ii) United States mail carriers; (iii) fire protection agencies; (iv) representatives of public utilities, including, but not limited to, telephone, water and electricity and other utilities authorized by the Homeowners' Association; (v) any other such persons as the Homeowners' Association, from time to time, may designate. The property shall be subject to such easements for utilities as may be required to properly and adequately serve the Property as it exists from time to time. Said easements, whether heretofore or hereafter created, shall constitute covenants running with the Property and, notwithstanding any other provision of these Protective Covenants, may not be substantially amended or revoked in such a way as to unreasonably interfere with its proper and intended use and purpose and shall survive the termination of these Protective

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Covenants.

4.3 Drainage and Utility Easements. No structures, trees, or shrubs shall be placed on any drainage or utility easement, except at the risk of the Lot Owner, or unless a landscape easement is provided along with the drainage easement or utility easement, although any planting in a drainage or utility easement under such condition will remain at the risk of the Lot Owner. Further, no structures, trees or shrubs shall be placed on any drainage easement which may materially obstruct or retard the flow of water or change the direction thereof. Further, should any such plantings be deemed by the Homeowners' Association or any governmental entity having jurisdiction thereover to interfere with drainage as described above, the costs of removal of all or any portion of such plantings shall be at the Lot owner's sole cost and expense.

4.4 Perpetual Nonexclusive Easement to Public Ways.

(A) The walks, streets, and other rights-of-way located upon the Common Property now or hereinafter located within Napa Ridge shall be, and the same are hereby declared to be, subject to a perpetual nonexclusive easement for ingress and egress to, over and across the same to public ways, including dedicated streets, which easement is hereby created in favor of all of the Lot Owners in Napa Ridge now or hereafter existing, for the use of Lot Owners, and for the use of their family members, guests, invitees, or lessees for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended. The Homeowners' Association shall have the right to establish the rules and regulations governing the use and enjoyment of the Common Property and all easements over and upon same.

(B) Notwithstanding anything contained herein to the contrary, if ingress or egress to a Lot is through the Common Property, any conveyance or encumbrance of such Common Property is subject to the Lot Owner's easement for access.

4.5 Easements for Encroachments. All of the Property shall be subject to easements for encroachments, which now or hereafter exist, caused by settlement or movement of any improvements upon the Common Property or improvements contiguous thereto or caused by inaccuracies in the building or rebuilding of such improvements or caused by changes in the building design or site plan provided such changes have been approved by the appropriate governmental authorities. The above easements shall continue until such encroachments no longer exist.

4.6 Right of Homeowners' Association to Enter. As easement(s) for ingress, egress and access shall exist in favor of the Homeowners' Association, and all agents, employees, or other designees of the Homeowners' Association to enter upon any portion of the Property for the purpose of inspecting any improvements or fulfilling the rights, duties, and responsibilities of Ownership, administration, maintenance and repair of a Lot Owner. Notwithstanding the

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foregoing, nothing contained herein shall be interpreted to impose any obligation upon the Homeowners' Association to maintain, repair, or construct any Home or other improvement which Lot Owner is required to maintain, construct or repair.

4.7 Drainage Easements. An easement(s) for the installation, maintenance, construction and repair and water management and drainage facilities including, but not limited to, canals, pumps, pipes, inlets and outfall structures and all necessary appurtenances thereto and for water retention, irrigation, drainage and water management purposes in compliance with all applicable governmental requirements. No structure, planting or other material shall be placed or permitted to remain or alteration made to the easement area which may materially change the direction of flow, or drainage channels in the easement, or which may materially obstruct or retard the flow of water through drainage channels in the easement without the prior written consent of the applicable governmental authorities. The easement area on each portion of the Property and any Improvements in it shall be maintained continuously by the Owner of such portion of the Property in ecologically sound condition, except for those improvements for which a public authority or utility company is responsible. The Homeowners' Association and the Lot owners shall have the right to use the Drainage Easements to drain surface water from their Residential Property and the Common Property into the Storm Water Management System. In the event the applicable governmental authority and/or the Homeowners' Association is not satisfied with the maintenance of the Drainage Easement areas, such entities shall have the right to perform such maintenance and charge the Owner of the property for such maintenance.

4.8 Subordination. Notwithstanding any of the foregoing to the contrary, it is understood that these covenants and restrictions are subordinate, and will be subordinate without the necessity of any other instrument, to any existing easement or easements to any public or quasi-public utility for the installation and maintenance of service lines in the Common Areas.

4.9 Extent of Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(A) the right of the Homeowners' Association, in accordance with its Bylaws, to borrow money for the purpose of improving and/or maintaining the Common Areas and providing the services herein, and, to aid thereof, to mortgage said properties;

(B) the right of the Homeowners' Association to impose Rules and Regulations governing the use of the Common Areas and Homeowners' Association property as further provided in Section 7 of the Bylaws;

(C) the right of the Homeowners' Association to a non-exclusive easement over, across and through each Lot as necessary to meet the Homeowners' Association's maintenance responsibilities; and

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(D) the right of the Homeowners' Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Members; provided that no such dedication or transfer, determination as to purposes or as to the conditions hereof, shall be effective unless an instrument signed by the appropriate officers of the Association certifying that at a Special or Regular Meeting of Members called for such purpose, of which thirty (30) days written notice was sent to each Member, the vote of two-thirds (2/3) of the Members present, either in person or by proxy, was obtained, agreeing to such dedication or transfer.

4.10 Notwithstanding anything to the contrary contained herein, the Board has the power, without the joinder of any Owner, to grant, modify or relocate easements in any portion of the common area or Homeowners' Association property, as the Board shall deem necessary or desirable for the Homeowners' Association. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the Lots.

5. MAINTENANCE.

5.1 Homeowners' Association Maintenance. The Homeowners' Association shall, in addition to other maintenance obligations contained elsewhere herein, have the maintenance, repair and replacement responsibility for all Common Areas located within Napa Ridge including the landscaping, and electrical fixtures serving the Common Areas. The Homeowners' Association shall also have the following responsibilities:

(A) Landscaping. The Homeowners' Association shall care for and maintain the planted lawn area of each Owner's Lot together with the portion of any Lot subject to a drainage or access easement. The care and maintenance of the planted lawn area shall consist of lawn mowing, edging driveways and front entry walks, fertilizing and insecticide spraying, as well as the purchase of the materials to carry out these functions. The cost shall be a common expense. The Homeowners' Association shall be responsible for irrigation. Nothing hereinstated shall be construed as making the Homeowners' Association responsible for maintaining any part of the structural residence on an Owner's Lot.

(B) Cleaning of Roofs, Walkways, and Driveways. The Homeowners' Association shall have the responsibility for contracting and paying for periodic cleaning of the Roofs, Walkways, and Driveways of all houses within Napa Ridge pursuant to a schedule of work as established from time to time by the Board of Directors. The individual Owners of each house shall be responsible for all maintenance, repairs and replacements of roofs including, but not limited to, any maintenance, repair or replacement that may be the result of damage that occurs during the periodic cleaning of the Roofs.

5.2 Owner Maintenance. The Lot Owners shall, in addition to other obligations contained elsewhere herein, have the maintenance, repair, and replacement responsibility of the following:

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(A) The Home, structure and all structural components, including driveways, entry doors, garage doors, roof components, windows, sliding glass doors, screens, screen doors and their hardware, frameworks, and locks serving the Home.

(B) The complete interior of the Home including all interior walls, floors, ceilings, partitions, cabinets, plumbing and all other interior components.

(C) Maintenance, repair or replacement of all interior and exterior painting. All exterior painting must be in compliance with and approved by the Architectural Review Board.

(D) Interior and exterior electrical lines and hookups, all air conditioning components, appliances, TV cables and connections, telephone and other similar lines and connections and sewer pipes serving the individual Lot.

(E) All electricity installations and water and sewer lines and installations located on and serving Individual Lots including but not limited to potable and non-potable water lines from the shut-off valve and serving the individual Lot. Irrigation lines and systems shall be specifically excluded from Owner maintenance with the Homeowners' Association being responsible for ordinary maintenance, repair, and replacement of irrigation lines and systems.

(F) Any modifications, alteration, installation or addition to the Lot made by the Lot Owner or his predecessors in title with Board approval including but not limited to, any decks, concrete pads, or other paved surfaces. The Lot Owner shall be responsible for insurance, maintenance, repair and replacement of such modifications, installations or additions and the cost of removing and replacing or reinstalling such modifications if their removal by the Homeowners' Association becomes necessary in order to maintain, repair, replace or protect other parts of the properties for which the Homeowners' Association is responsible.

(G) Non-routine, extraordinary repair, replacement, and maintenance, and non-routine cleaning of the walkway or driveway from the residence to the roadway providing access to such residence.

(H) Any maintenance responsibility that is not the responsibility of the Homeowners' Association as set forth in Section 5.1 above.

(I) Unimproved Lots shall be kept in a neat and well maintained condition at all times, free from debris and rubbish and regularly mowed.

5.3 Enforcement of Maintenance. If the Owner fails to maintain his Lot as required above, the Homeowners' Association shall have the right to institute legal proceedings to enforce

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compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the Lot and remedying the violation, with or without consent of the Lot Owner but only after ten (10) days written notice of intent to do so. The Homeowners' Association may repair, replace or maintain any item which constitutes a hazard to other property or residents, prevents the Homeowners' Association from fulfilling its maintenance responsibilities, or which has a materially adverse effect on the appearance of the Properties. Any expenses so incurred by the Homeowners' Association shall be billed directly to the Owner of the Lot to which such services are provided, and shall be an Individual Assessment charged against the Lot, secured by a lien against the Lot as provided in Section 3 above.

5.4 Negligence; Damage Caused by Condition on Lot. Each Lot Owner shall be liable for the expenses of any maintenance, repair or replacement of the Common Areas, other Homes or Lots, or personal property made necessary by his act or negligence or by that of any member of his family or his guests, employees, agents, or lessees. Any maintenance, repair, or replacement provided for in this paragraph may be made by the Homeowners' Association if the Owner fails to timely perform the maintenance, repair, and replacement, and any expenses so incurred by the Homeowners' Association shall be billed directly to the Owner of the Lot responsible for such services that are provided, and shall be an Individual Assessment charged against the Lot, secured by a lien against the Lot as provided in Section 3 above.

6. ARCHITECTURAL CONTROL TO PRESERVE THE BEAUTY, QUALITY AND VALUE OF THE COMMUNITY.

6.1 Improvements Requiring Approval. No building, structure, enclosure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way alters the exterior appearance of any structure or Lot shall occur unless and until the plans, specifications and location of same shall have been submitted to, and approved in writing by, the Architectural Review Board (hereinafter "ARB"). All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography. The ARB shall have thirty (30) days after delivery of all required information, plans and materials to approve or deny any such plan, and if not denied within such period, said plans shall be deemed approved unless within the same period the Board of Directors denies the plan in which case regardless of any action or inaction by the ARB the plan shall be deemed denied. All approved modifications or improvements shall be completed within one hundred eighty (180) days from the date of approval. All changes, alterations or modifications to an approved plan must also be approved according to these same requirements.

6.2 The ARB. The architectural review and control functions of the Homeowners' Association shall be administered and performed by the Architectural Review Board (the ARB), which shall consist of at least three (3) persons, who shall be members of the Homeowners' Association. All

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members of the ARB shall be appointed by and shall serve at the pleasure of the Board of Directors of the Homeowners' Association. The Board of Directors can appoint all or some of the Directors to the ARB. A majority of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB. Any vacancy occurring on the ARB because of death, resignation, or other termination of service of any member thereof, shall be filled by the Board of Directors. The members of the ARB shall receive no compensation for services other than reimbursement for actual expenses approved in advance by the Board of Directors incurred by them in the performance of their duties hereunder. The ARB shall, with the prior approval of the Board of Directors, have the power to engage the services of professionals for compensation for purposes of aiding the ARB in carrying out its functions. Notwithstanding anything to the contrary contained herein or elsewhere all decisions of the ARB are subject to review by the Board of Directors and the Board of Directors has the authority to overrule, void or otherwise modify in all respects any decision of the ARB.

6.3 Powers and Duties. The ARB shall have the following powers and duties:

- (A) To recommend, from time to time, to the Board of Directors of the Homeowners' Association the creation or modification and/or amendments to the Architectural Planning Criteria. Any Architectural Planning Criteria or modifications or amendments thereto shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors of the Homeowners' Association at a meeting duly called and noticed. Notice of the adoption, modification or amendment to the Architectural Planning Criteria, including a verbatim copy of such adoption, change or modification, shall be delivered to each member of the Homeowners' Association. However, receipt of notice of a Board meeting concerning the Architectural Planning Criteria or a copy of any adoption of or modification or amendment to the Architectural Planning Criteria shall not affect the validity of such change or modification.
- (B) To require submission to the ARB of two (2) complete sets of all plans and specifications for any improvement, structure of any kind or any other work which in any way alters the exterior appearance of any structure, or Lot including without limitation, any building, fence, well, swimming pool, tennis court, enclosure, sewer, drain, disposal system, decorative building or landscape devise, object or other improvement, the construction or placement of which is proposed upon the Properties. The ARB may also require submission of samples of building materials proposed for use on or as part of any Lot, and may require such additional information as may reasonably be necessary to completely evaluate the proposed structure or improvement in accordance with this Declaration and the Architectural Planning Criteria.

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- (C) To approve or disapprove any improvement or structure of any kind, including, without limitation, any building, fence, wall, screen enclosure, drain or disposal system, or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon the Properties, and which is visible from the outside of any Lot. Evidence of approval by the ARB may be made by a certificate, in recordable form, executed by the Chairman of the ARB. Any party aggrieved by a decision of the ARB or Board of Directors shall have the right to make written request to the Board of Directors of the Homeowners' Association within thirty (30) days of the decision, for a re-review thereof. The determination of the Board upon such second review of any such decision shall in all events be dispositive.
- (D) To adopt a procedure for inspecting approved changes during and after construction to insure conformity with approved plans. If it is determined by the ARB that the improvement or work is not in compliance with the approved plans and specifications then upon written demand from the ARB the work shall be suspended until such time as the ARB authorizes the work to be recommenced.
- (E) Notwithstanding anything to the contrary contained herein if an Owner is delinquent in the payment of assessments, fines or other charges or has failed to correct a violation of these covenants or the rules of the Homeowners' Association for which they have been given notice, the approval of the ARB may be denied. Once the delinquent assessment, fine or other charges are paid or the violation is corrected, the Board may require that the Owner submit a new application to the ARB.

6.4 Variances. The ARB may recommend variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration require, which must be signed by at least two (2) members of the ARB. The recommendation shall be submitted to the Board for final approval of any variance and the Board shall make its final decision within twenty (20) days of the ARB recommendation. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variances were granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the Lot, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority.

6.5 Non-liability of ARB Members. Neither the ARB nor any member thereof, nor its duly authorized ARB representative, shall be liable to the Homeowners' Association or any Owner or any other person or entity for any loss, damage, or injury arising out of or in any way connected with the performance or nonperformance of the ARB's duties hereunder, unless due to the willful

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misconduct or bad faith of a member, and only that member shall be liable therefore. The ARB shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration, or addition based on the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials, similar features, and other standards approved by the ARB, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

7. USE RESTRICTIONS. The following rules and standards apply to Napa Ridge and shall be enforced by the Homeowners' Association pursuant to Section 12 hereof or as otherwise permitted herein or by law.

7.1 Lot. Each Lot shall be occupied by only one family at any time. Each Lot shall be used as a living unit and for no other purpose. However, "no impact" or "low impact" home based business in and from a Lot is allowed. Such uses are expressly declared customarily incident to residential use. Examples of businesses which are prohibited and are considered "impact" businesses are businesses or commercial activity or ventures that create excessive customer traffic to and from the Lot, create noise audible from outside the Lot, or generate fumes or odors noticeable outside the Lot, including but not limited to, a day care, beauty salon/barber, and animal breeding. Signs and other advertising material visible from the street are prohibited.

7.2 Minors; Operation of Motor Vehicles on Common Area. All persons under eighteen (18) years of age shall be closely supervised at all times by an adult to insure that they do not become a source of unreasonable annoyance to other residents. Any person that does not have a valid, current driver's license is prohibited from operating any motor vehicle, including but not limited to golf carts, on the Common Area unless said person is under the direct supervision of another person that has a valid, current driver's license.

7.3 Pets. No animals of any kind shall be raised, bred or kept within Napa Ridge for commercial purposes. Tenants, guests, and invitees shall not be permitted to keep, harbor, or bring pets into the Association (with the exception of fish) whether on a temporary or permanent basis. Otherwise, owners may keep domestic pets as permitted by Collier County ordinances and in accordance with this section and the Rules and Regulations established by the Board from time to time.

- (A) Pets, weighing less than forty (40) pounds, may be kept or harbored within an Owners Lot by Owners only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored within a Lot is a nuisance shall be conclusive and binding on all parties and the Board may require removal of such pet.
- (B) All pets shall be walked on a leash or contained within an invisible fence mechanism situated in the rear yard of a Lot approved by the ARB. No pet or animal shall be "tied

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- out” on the exterior of the Lot or in the Common Areas, or left unattended in a yard or on a balcony, porch or patio. No dog runs or enclosures shall be permitted on any Lot.
- (C) When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of giving of the notice.
- (D) Any person walking the pet or the Owner shall clean up all matter created by the pet.
- (E) Each Owner shall be responsible for the activities of its pet. Each Owner agrees to indemnify the Homeowners’ Association and hold the Homeowners’ Association harmless against any loss or liability of any kind or character whatsoever arising from or growing out of the Owner having any animal in Napa Ridge.
- (F) Certain specific breeds of dogs with reputations for being dangerous and/or life threatening shall not be kept or harbored in the community. Specifically, Pit Bulls and/or Rottweilers are considered a vicious breed of dog and to have life threatening reputations and neither will be permitted in the community. Other breeds may be prohibited in the sole and absolute discretion of the Board if the Board determines said breed is dangerous or aggressive. Any Owner who has in his actual possession, harbors or keeps a vicious breed of dog and which is considered to have life threatening reputations in the reasonable estimation of the Board of Directors, prior to the effective date of this Amendment and, who otherwise adheres to the remainder of this restriction, shall be permitted to be grand-fathered in and continue to be kept or harbored in the community until the dog’s death or other departure from the community.
- (G) The Board may; however, require the removal of any pet, regardless of its type or breed, which it deems to be an actual or potential harm to any resident, tenant, guest or licensee. Upon the determination by a majority of the Board that a pet poses an actual or potential harm to others, the Owner of the pet shall cause the pet to be removed from Napa Ridge as directed by the Board.
- (H) The Homeowners’ Association may at its sole and absolute discretion employ or implement any technology necessary or advisable to enforce these rules, including but not limited to DNA profiling and analysis of animal waste.
- (I) The Homeowners’ Association may at its sole and absolute discretion require registration of all pets with the Association.

7.4 Nuisances. No Owner shall use his Lot, or permit it to be used, in any manner which constitutes or causes an unreasonable amount of annoyance or nuisance to the occupant of another Lot, or which would not be consistent with the maintenance of the highest standards for a first class residential community nor permit the premises to be used in a disorderly or unlawful way. The use of each Lot shall be consistent with existing laws and the governing documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner. No solicitation will be allowed at any time within the community. The Board of Directors determination as to what constitutes a nuisance or annoyance shall be dispositive and shall control without regard to any legal definition of such terms.

7.5 Signs. No sign, advertisement or notice of any type shall be displayed in Napa Ridge.

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7.6 Unauthorized Structures. No tents, trailers, shacks, tanks or temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot or the Common Areas without the prior approval of the ARB and written consent of the Homeowners' Association. No swing sets, basketball backboards, sandboxes or other such equipment shall be erected or permitted to remain on any Lot or the Common Areas.

(A) **Artificial Vegetation.** No artificial grass plants or other artificial vegetation or rocks or other landscape devices shall be placed or maintained upon the exterior portion of any Lot, unless approved by the ARB and the Board of Directors.

7.7 Motor Vehicles and Boats. No maintenance or mechanical repairs of vehicles or boats is permitted on the properties outside of garages except in an emergency. No boats, ATV's, swamp buggies, dune buggies, go carts, golf carts, wave runners, jet skis, motorcycles, mopeds, trailers, motor homes, travel trailers, campers, recreational vehicles or commercial vehicles shall be parked anywhere on the properties outside of garages for more than eight (8) hours unless the vehicle is on the premises to provide services to an Owner or the Homeowners' Association. As used herein the term "commercial vehicle" means trucks and other vehicles which are used for business purposes including but not limited to, any vehicle which displays a company name or logo on its exterior, is adorned with signs, flags, advertisements or any type of lettering or graphic of a commercial nature or any vehicle with racks, ladders, staging, or other equipment or attachments of a commercial nature, including supplies used for commercial purposes, on or visible in the vehicle. Additionally, and notwithstanding the foregoing, any vehicle, by whatever name designated, which is used for transporting goods, equipment or paying customers shall be considered a commercial vehicle regardless of any definition found elsewhere to the contrary. Further, any vehicle, whether commercial or non-commercial, with body parts such as the hood, door, quarter panel, bumper or bed removed shall be placed in a garage so that it is not readily visible from any adjacent street or Lot. The Board may adopt rules and regulations from time to time consistent with this paragraph and including, but not limited to, regulations regarding size, weight, type, and place and manner of operation and parking of vehicles in the Homeowners' Association.

The Homeowners' Association is authorized to tow or place a disabling "boot" on any vehicle violating this Section 7.7, the rules or regulations, a law or any other restriction contained in the governing documents and the cost of towing and/or booting shall be the obligation of the Owner of the vehicle.

7.8 Landscaping. Except for areas maintained by the Homeowners' Association, all areas of Lots not covered by structures, walkways or paved parking facilities shall be maintained by their Owners as lawn or landscaped areas to the roadways edge of any abutting streets and to the waterline of any abutting canals or water management areas. Stone, gravel or paving may not be used as a substitute for grass in a lawn. All lawn and landscaping shall be completed at the

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completion of the structure as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency. Any landscaping that is the responsibility of the Owner including, but not limited to new plantings, flower beds, and removal of dead plants, shall be maintained and replaced, as necessary, by the Owner in a well-groomed manner. Such grooming shall include, but not be limited to, regularly cutting, trimming, watering and fertilizing.

7.10 Removal of Sod and Shrubbery; Alteration of Drainage, Etc. Except for Declarant's acts and activities with regard to the development of Napa Ridge, no improvements (including, but not limited to, driveways, pools, fences and landscaping) and no sod, top soil, muck, trees, or shrubbery shall be removed from Napa Ridge and no change in the condition of the soil or the level of land of any area of Napa Ridge shall be made which would result in any permanent change in the flow or drainage of surface water within Napa Ridge without prior written consent of the ARB and Board of Directors.

7.11 Antenna and Ariel. No antennae, satellite dish, aerials or the like shall be placed upon Napa Ridge (unless contained within a Home and not visible from outside the Home), except as may be required in connection with the provision of a cable television or master antennae system servicing Napa Ridge. No solar collector panels shall be installed on any Home unless the location, design and appearance thereof has been approved in writing by the ARB and Board of Directors.

7.12 Garbage and Trash. Each Lot Owner, tenant, guest, or occupant shall regularly pick up all garbage, trash, refuse or rubbish around his Lot, and no Lot Owner, tenant, guest, or occupant shall place or dump any garbage, trash, refuse, or other materials on any other portions of Napa Ridge, including any Common Property or any property contiguous to Napa Ridge. With the exception of garbage and trash properly stored for pickup, no refuse or unsightly objects shall be permitted to accumulate on or adjacent to a Lot. Garbage, trash, refuse or rubbish that is required to be placed at the front of a Home in order to be collected may be placed and kept at the curb after 6:00 pm on the date before the scheduled day of collection, but not sooner, and any trash facilities must be removed on the collection day after the pick-up. All garbage, trash, refuse or rubbish must be placed in appropriate trash facilities or bags. All containers, dumpsters and other trash collection facilities shall be approved by the ARB. All containers, dumpsters, or garbage facilities shall be stored inside a Home or fenced-in area and screened from view from the streets and adjoining Lots and kept in a clean and sanitary condition. No obnoxious or offensive odors shall be permitted.

7.13 Garages. No garage shall be erected which is separate from the Home. No garage shall be permanently enclosed so as to make such garage unusable by an automobile, and no portion of a garage originally intended for the parking of an automobile shall be converted into a living space without the consent of the ARB. All garage doors should remain closed when vehicles are not entering or leaving the garage.

7.14 Mining, Drilling or Excavation. There shall be no mining, quarrying or drilling for

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minerals, oil, gas or otherwise (“Mining Activity”) undertaken within Napa Ridge. Activities of the Homeowners’ Association in dredging, excavating, or maintaining drainage or other facilities or easements shall not be deemed Mining Activities nor will the installation of wells or pumps for sprinkler systems be deemed a Mining Activity.

7.15 Subdivision and Partition. No Lot shall be subdivided without the prior written consent of the ARB and Board of Directors.

7.16 Window Décor. All draperies, curtains, shades or other window or door coverings installed within a Home which are visible from the exterior of the Home shall have a white or beige backing.

7.17 Utility Lines. All telephone, electric, water, sewer, television, and fuel lines and pipes or other distributors must be underground from the Lot line to the use connection.

7.18 General.

- (A) No towels, garments, rugs, etc., may be hung from windows or other parts of the Homes or Lots.
- (B) No weeds, underbrush (other than indigenous growth), or other unsightly growths shall be permitted to grow or remain upon any part of the Lot, and no refuse pile or unsightly objects shall be allowed to be placed or remain anywhere thereon. Vacant Lots shall be cleaned, seeded and then maintained in a well-kept condition at all times.
- (C) No obnoxious or offensive activity shall be carried on within Napa Ridge or upon any part, portion or tract thereof, nor shall anything be done which may be or become a source of unreasonable nuisance or annoyance to the Community or its residents.
- (D) No fences or walls shall be permitted on any portion of a Lot except for fences maintained by the Homeowners’ Association or approved in writing by the ARB then by the Board of Directors.
- (E) All outdoor hoses, including but not limited to lawn and garden hoses, shall be screened from street view.
- (F) Where possible, all gas tanks must be stored below ground, including but not limited to gas tanks for swimming pool heaters and gas tanks for hot tubs. All gas tanks which cannot be stored below ground must be adequately screened to minimize visual impact. Any plan to store gas tanks below ground or to screen gas tanks from view must first be submitted to the ARB for approval.
- (G) No Lot shall be increased in size by filling in any water retention or drainage area on

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which it abuts. Lot Owners shall not fill, dike, rip rap, block, divert or change the established water retention and drainage areas that have been or may be created by easement.

(H) An Owner's right of use and enjoyment of the common areas of the facilities are expressly limited to the members of his family who physically reside on the property, his guests, tenants, and invitees. A responsible adult shall accompany and supervise the actions of all his or her minor children when using community property.

(I) No ham radios or radio transmission equipment shall be operated or permitted to be operated within Napa Ridge without the prior written consent of the ARB.

7.19 Air Conditioning Units. No window or wall air conditioning units shall be permitted on any Lot. Compressors and fans for central air conditioning or heat pump systems which are located outside the exterior of a building shall be adequately screened to prevent their being viewed from any street.

8. INSURANCE. In order to adequately protect the Homeowners' Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

8.1 Homeowners' Association; Required Coverage. The Homeowners' Association shall maintain adequate property insurance covering all the Common Areas and all Homeowners' Association property. The Homeowners' Association shall also provide adequate general liability insurance. The amounts of coverage shall be determined annually by the Board of Directors. The insurance carried by the Homeowners' Association shall afford at least the following provisions:

(A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by the standard "All Risk" property contract.

(B) 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 Lot Owners as a group to a Lot Owner.

(C) Automobile. Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles, including golf carts, when used for Homeowners' Association business, in such limits of protection and with such coverage as may be determined by the Board of Directors.

(D) Compensation. The Homeowners' Association shall maintain Workers' compensation

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insurance if required by law.

(E) Directors, Officers, and approved committee liability coverage.

8.2 Duty to Insure. Each Lot Owner is responsible for insuring the real and personal property within his own Lot. Each Owner must recognize that he bears financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance liability including all risk, flood, liability, etc.

8.3 Duty to Reconstruct. If any Home or other improvements located on any Lot are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the Owner of such improvements shall cause repair or replacement to be commenced within thirty (30) days from the date that such damage or destruction occurred, and to complete the repair or replacement within one (1) year thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and condition, shall utilize and conform with the original foundation and appearance of the original improvements except as otherwise approved by the Board of Directors. The Board of Directors may, based on its sole and exclusive discretion, extend the time periods for reconstructions contained herein.

8.4 Failure to Reconstruct. If any Lot Owner fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section 8.3 above, the Homeowners' Association shall give written notice to the Owner of his default. If after thirty (30) days the Owner has not made satisfactory arrangements to meet his obligations, the Homeowners' Association shall be deemed to have been granted the right by the Owner, as such Owner's attorney-in-fact, to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Homeowners' Association exercises the rights afforded to it by this section, which shall be in the sole discretion of the Board of Directors, the Owner of the Lot shall be deemed to have assigned to the Homeowners' Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvement. The Homeowners' Association shall have the right to recover from the Owner any costs not paid by insurance, and shall have a lien on the Lot to secure payment.

8.5 Homeowners' Association Insurance; Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under this Declaration, 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 Homeowners' Association and the Owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Homeowners' Association may self-insure.

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

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Homeowners' Association and Lot Owners.

8.7 Description of Coverage's. A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by Lot Owners or their authorized representatives upon request.

8.8 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 Homeowners' Association Lot 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.

8.9 Insurance Proceeds. All insurance policies purchased by the Homeowners' Association shall be for the benefit of the Homeowners' Association, the Owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Homeowners' Association. The duty of the Homeowners' 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 Owners and their respective mortgagees in the following share:

(A) Common Areas. Proceeds on account of damage to Common Areas shall be held in as many undivided shares as there are Lots, the shares of each Owner being the same as his share in the Common Areas.

(B) Mortgagee. If a mortgagee endorsement has been issued as to a Lot, the shares of the mortgagee and the 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 Lot(s), except to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

8.10 Distribution of Proceeds. Proceeds of insurance policies received by the Homeowners' Association shall be distributed to or for the benefit of the Owners in the following manner: the proceeds shall be paid to defray the costs of reconstruction or repair by the Homeowners' Association. Any proceeds remaining after defraying costs shall be distributed to the beneficial Owners, remittances to Lot Owners and their mortgagees being paid jointly to them.

8.11 Homeowners' Association as Agent. The Homeowners' Association is hereby irrevocably appointed as agent for each Lot Owner to adjust all claims arising under insurance policies purchased by the Homeowners' Association for damage or loss to the Homes, Lots, or Common

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Areas.

8.12 Damage to Common Areas. Where loss or damage occurs to the Common Areas or Homeowners' Association property, it shall be mandatory for the Homeowners' Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

(A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, 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 Areas, the Homeowners' Association shall promptly, upon determination of the deficiency, levy a special assessment against all Lot Owners for the deficiency. Such special assessments need not be approved by the Lot Owners. The special assessment shall be added to the funds available for repair and restoration of the property.

9. LEASING OF HOMES. In order to foster a stable residential community, the leasing of Homes by their Owners shall be restricted as provided in this section. All leases of Homes must be in writing. An Owner may lease only his entire Home, and then only in accordance with this Section, after receiving the approval of the Homeowners' Association. No room rental, subleasing, or assignment of lease rights by the Lessee or Owner is allowed. The lessee must be a natural person as opposed to an artificial entity such as a corporation, partnership, trust, etc. The following also applies to any new occupant of a Home that was not approved under the existing lease of the Home.

9.1 Lease Procedures.

(A) Notice by the Owner. An Owner intending to lease his Home shall give to the Board of Directors or its designee written notice of such intention at least 30 days prior to the first day of occupancy under the lease together with the name, telephone number, and address of the proposed lessee, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require including but not limited to a credit report, background check and proof of lawful residency. The Board may require a personal interview with any lessee, proposed occupant and his or her spouse, if any, as a pre-condition to approval. The Board may also determine the form of the application for approval of leases. The applicant must sign for having received copies of the rules and regulations of the Homeowners' Association. The Homeowners' Association may charge the Owner a preset fee for processing the application, such fee to be determined by the Board and not to exceed the maximum amount allowed by law and a separate fee may be charged for each person who is intending to occupy the Home except that a single fee may be charged to a husband and wife and no extra fee may be charged for minor children.

(B) Board Action. After the required notice and all information or interviews requested have been provided, the Board shall have fifteen (15) days in which to approve or disapprove the

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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.

(C) Disapproval. A proposed lease shall be disapproved only if a majority of the whole 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 Owner is delinquent in the payment of assessments, fines or other charges or is in violation of any covenants, rules or regulations at the time the application is considered;
2. the Owner has a history of leasing his Home without obtaining approval, or leasing to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his Home;
3. the real estate company or rental agent handling the leasing transaction on behalf of the Owner has a history of screening lessee applicants inadequately, recommending undesirable lessees, or entering into leases without prior Homeowners' Association approval;
4. the application on its face indicates that the person seeking approval or any of the proposed occupants intend to conduct themselves in a manner inconsistent with the covenants and restrictions applicable to the Homeowners' Association;
5. the prospective lessee or any of the proposed occupants have been convicted of a felony involving violence to persons or property, a felony involving sale or possession of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;
6. the prospective lessee has a history of conduct which evidences disregard for the rights and property of others.
7. the prospective lessee evidences a strong possibility of financial irresponsibility;
8. the lessee or any of the proposed occupants, during previous occupancy, has evidenced an attitude of disregard for the Homeowners' Association rules;
9. the prospective lessee or any of the proposed occupants give false or incomplete information to the Board as part of the application procedure, or

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required application or transfer fees and/or security deposit is not paid.

- 10. the Owner fails to give proper notice of his intention to lease his Lot/Home to the Board of Directors.

9.2 Term of Lease and Frequency of Leasing. No Lot/Home may be leased more often than two (2) times in any calendar year, with the minimum lease term being three (3) months. 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 (1) year, and no option for the lessee to extend or renew the lease for any additional period shall be permitted. However, the Board may, in its discretion, approve the same lease from year to year. No subleasing or assignment of lease rights by the lessee is allowed.

9.3 Exceptions. Upon written request of a Lot Owner, the Board of Directors may approve one additional lease of the Lot/Home within the same calendar year, but only under unusual circumstances to avoid undue hardship and inequity.

9.4 Occupancy During Lease Term.

(A) When a Home has been leased, the Home may be occupied by the lessee and his family, as the term "family" is defined in Section 1.9, above.

(B) The Board of Directors may adopt additional rules regarding Guest occupancy during a lease term, including, but not limited to, limitations regarding number of Guests permitted to occupy the unit at the same time, length of Guest stay, number of occasions for Guest occupancy, and notice requirements to the Association advising of Guest occupancy.

9.5 Occupancy in Absence of Lessee. If a lessee absents himself from the Home for any period of time during the lease term, his family authorized to occupy the Home by Section 9.4 above who are already in residence may continue to occupy the Home and may have house guests subject to all the restrictions in Section 9.4 above. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the Home.

9.6 Regulation by Homeowners' Association. All of the provisions of the governing documents and the rules and regulations of the Homeowners' Association shall be applicable and enforceable against any person occupying a Home as a lessee or guest to the same extent as against the Owner. A covenant on the part of each occupant to abide by the rules and regulations of the Homeowners' Association and the provisions of the governing documents, designating the Homeowners' Association as the Owner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every lease agreement, and whether specifically expressed in such agreement or not. The Homeowners' Association may file suit to evict any tenants in its own name, and without consent of the Owner, in

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the event that any lessee violates the provisions of the governing or the rules and regulations of the Association. In such cases, the Owner and the lessee shall be jointly and severally liable for all attorney fees and costs, including those incurred prior to the filing of the lawsuit.

9.7 Fees and Deposits for the Lease of Homes. Whenever herein the Board's approval is required to allow the lease of a Home, the Homeowners' Association may charge the Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. A separate fee may be charged for each person intending to occupy the Home except only one fee may be charged for a husband and wife and minor children. No fee may be charged for approval of a renewal or extension of a lease with the same lessee. The Homeowners' Association may, upon approval of a resolution by the Board of Directors to such affect, also require a security deposit to protect against damage to the Common Area or Homeowners' Association property.

9.8 Unapproved Leases. Any lease of a Home not approved pursuant to this Section 9 shall be void and unenforceable unless subsequently approved by the Board. The Board shall have the right to evict any unapproved occupants and lessees on seven (7) days' notice, without securing consent to such eviction from the Owner.

9.9 Collateral Assignment of Rents. In the event an Owner is in default in payment of any monetary obligation owed to the Homeowners' Association, the Homeowners' Association shall have the authority to collect rents directly from the Owner's tenant. Upon written demand by the Homeowners' Association the tenant shall pay said rent to the Homeowners' Association. Such rental payments shall be collected in accordance with the procedures established by the Board of Directors and applied in accordance with Section 3.9 of this Declaration until all past due amounts are paid in full. In the event such tenant fails to remit said rents directly to the Homeowners' Association within seven (7) days (but no later than the day the next rental payment is due) from the day the Homeowners' Association notified such tenant in writing that the rents must be remitted directly to the Homeowners' Association, the Homeowners' Association shall have the right to terminate the lease and evict the tenant. For the purpose of such eviction, the Homeowners' Association shall be deemed to be an agent of the landlord. The authority granted in this Section is in addition to any authority granted by law.

10. TRANSFER OF OWNERSHIP OF LOTS. In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Homes, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of Ownership of a Lot shall be subject to the following provisions: NOTE: Any person who was not approved as part of the conveyance to the present Lot Owner must be approved in advance of taking occupancy as provided herein, and for good cause may be disapproved, regardless of whether or not said person shall be obtaining an Ownership interest in the Lot.

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10.1 Forms of Ownership.

(A) A Lot may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

(B) Co-Ownership. Co-Ownership of Lots is permitted. If the co-Owners are to be other than husband and wife, the Board shall condition its approval upon the designation by the proposed new Owners of one (1) natural person as "primary occupant". The use of the Lot by other persons shall be as if the primary occupant were the only actual Owner. Any subsequent change in the primary occupant shall be treated as a transfer to Ownership by sale or gift subject to the provisions of this Section 10. No more than one such change will be approved in any 12 month period. The intent of this provision is to allow flexibility in estate, financial or tax planning, and to prohibit circumstances in which the Lot may be used as short-term transient accommodations for several individuals or families or in the manner of fractional Ownership or a vacation club.

(C) Ownership by Corporations, Partnerships or Trusts. A Lot may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial or tax planning, and to prohibit circumstances in which the Lot may be used as short-term transient accommodations for several individuals or families or in the manner of fractional Ownership or vacation club. The approval of a trust, or corporation, partnership or other entity as a Lot Owner shall be conditioned upon designation by the Owner of not more than one (1) natural person to be the "primary occupant". The use of the Lot by other persons shall be as if the primary occupant were the only actual 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 10. No more than one such change will be approved in any 12 month period.

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

(E) Life Estate. A Lot may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 10.2 below. In that event, the life tenant shall be the only Homeowners' Association member from such Lot, and occupancy of the Lot shall be as if the life tenant was the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Homeowners' Association. The life tenant shall be liable for all assessments and charges against the Lot. Any consent or approval required of the Homeowners' Association 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

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be treated as co-Owners for purposes of determining voting and occupancy rights under Section 10.1(B), above.

10.2 Transfers.

(A) Sale or Gift. No Lot Owner may transfer a Lot or any Ownership interest in a Lot by sale or gift (including agreement for deed) without prior written approval of the Board of Directors.

(B) Devise or Inheritance. If any Lot Owner acquires his title by devise or inheritance, his right to occupy or use the Lot shall be subject to the approval of the Board of Directors under Section 10.3(A) (2) below. The approval shall not be denied to any devisee or heir who was the prior Owner's lawful spouse at the time of death, or was related to the Owner by blood or adoption within the first degree.

(C) 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 Lot before being approved by the Board of Directors under the procedures outlined in Section 10.3 below.

(D) To facilitate transfers proposed during times when many of its members are not in residence, the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three (3) Lot Owners, or to the President, Vice President or Treasurer, any of whom may be deemed a Vice President for purposes of executing a Certificate of Approval.

10.3 Procedures.

(A) Notice to Homeowners' Association.

1. Sale or Gift. An Owner intending to make a sale or gift of his Lot or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) 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, if any, and such other information as the Board may reasonably require. The Board may require a personal interview with any purchaser or donee and his spouse, if any, as a pre-condition to approval.
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

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and unless approved by the Board, but may sell or lease the Lot following the procedures in this Section or Section 9.

- 3. Demand. With the notice required in Subsection (A) (1) above, the Owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Homeowners' Association shall furnish an approved alternate purchaser who shall purchase the Lot at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the Lot determined as provided below.
- 4. 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 Owner fails to obtain the Homeowners' Association's approval prior to selling an interest in a Lot, such failure shall create a rebuttable presumption that the seller and the purchaser intend to violate the covenants of this Declaration, and shall constitute good cause for Homeowners' Association disapproval.

(B) Board Action. Within 20 days after receipt of the required notice and all information or interview requested, or not later than 60 days after the notice required by paragraph (A) above is received, whichever occurs first, 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 the President or Vice-President of the Homeowners' Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as 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.

(C) Disapproval.

- 1. With Good Cause. Approval of the Homeowners' Association shall be withheld for good cause only if a majority of the whole Board so votes. Only the following may be deemed to constitute good cause for disapproval:
 - (a) The person seeking approval has been convicted of a felony involving violence to persons or property, a felony involving possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;
 - (b) The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;

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(c) The application on its face gives the Board reasonable cause to believe that the applicant intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Homeowners' Association;

(d) The person seeking approval has a history of disruptive behavior or disregard for the rights or property of others;

(e) The person seeking approval has evidenced an attitude of disregard for Association rules by his conduct in this community as a tenant, Owner or occupant of a Home;

(f) The person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process.

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

(h) The person seeking approval is delinquent in the payment of assessments, fines or other charges or is in violation of any of the covenants, rules or regulations at the time the application is considered.

2. Without Good Cause. The Homeowners' Association's approval shall not be denied unless a majority of the whole Board so votes. If the Board disapproves without good cause, then within thirty (30) days after the Board meeting at which the disapproval took place, the Board shall deliver in writing to the Owner the name of an approved purchaser (which may be the Homeowners' Association) who will purchase the Lot 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 Homeowners' Association challenges the contract price as not being a good faith purchase price, then the purchase price shall be paid in cash, and 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 two state-certified property appraisers, one selected by the Owner and the other by the Homeowners' Association. The cost of the appraisals, and all other closing costs in cases where no sales contract is involved, shall be shared equally by the purchaser and selling Owner, except that the purchaser shall pay for his own title insurance, and all costs of mortgage financing. Real property taxes and assessments shall be prorated to the day of closing and the parties shall bear their own attorney's fees, if any. The closing shall take place not longer

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than sixty (60) days after the date of Board disapproval or thirty (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 specific performance or damages.

- 3. If the Board fails to deliver the name of the approved purchaser within thirty (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 shall be issued.

10.4 Exception. The provisions of Sections 10.2 and 10.3 are not applicable to the acquisition of title by a first mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, but shall apply to the acquisition of title by any other person without regard to how the title was acquired.

10.5 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.

10.6 Fees and Deposits Related to the Sale of Lots. Whenever herein the Board's approval is required to allow the sale or other transfer of an interest in a Lot, the Homeowners' Association may charge the Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. A separate fee may be charged for each person who is obtaining an interest in the Lot except if such persons are husband and wife.

11. AMENDMENTS; TERMINATION.

11.1 Duration. The conditions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Homeowners' Association or the Owner of any real property subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of fifty (50) years from the date this Declaration is recorded, after which time this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, and subject to existing laws and ordinances, that there shall be no renewal or extension of this Declaration if prior to one (1) year in advance of an effective date of a proposed termination, at least sixty percent (60%) of all Owners of Lots and sixty percent (60%) of all Institutional Mortgagees on Lots affirmatively vote, in person or by proxy, at a duly held meeting of members of the Homeowners' Association in favor of terminating this Declaration. It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, to be given at least ninety (90) days in advance of said meeting. If the Homeowners'

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Association votes to terminate this Declaration, the President and Secretary shall execute a certificate which shall set forth the resolution of termination adopted by the Homeowners' Association, the date of the meeting of the Homeowners' Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of members of the Homeowners' Association, the total number of votes required to constitute a quorum at a meeting of the Homeowners' Association, the number of votes necessary to adopt a resolution terminating this Declaration, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Collier County, Florida at least one (1) year prior to the effective date of termination, and may be relied upon for the correctness of the facts contained therein as they relate to termination of this Declaration.

11.2 Amendments by Members. Except as otherwise provided herein or by law, this Declaration may be amended at any time by the affirmative vote of two-thirds (2/3) of the voting interests of the Homeowners' Association present in person or by proxy at a duly called meeting of the members of the Homeowners' Association at which a quorum exists and for which proper notice has been given. 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 identify the Book and Page of the Public Records where the Declaration is recorded, and shall be executed by the President of the Homeowners' 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 Collier County, Florida.

12. ENFORCEMENT; GENERAL PROVISIONS.

12.1 Enforcement. Enforcement of these covenants, conditions and restrictions may be by a proceeding at law or in equity and may be instituted by the Homeowners' Association, its successors or assigns, or by any Owner, against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against any Lot to enforce any lien created by these covenants. Failure of the Homeowners' Association or any Owner to enforce any covenants, conditions or restrictions herein contained for any period of time shall not be deemed a waiver or estoppel of the right to enforce same thereafter.

12.2 Owner and Member Compliance. The protective covenants, conditions, restrictions and other provisions of the governing documents and the rules promulgated by the HomeOwner' Association shall apply to members and all persons to whom a member has delegated his right of use in and to the Common Areas, as well as to any other person occupying any Lot under lease from the Owner or by permission or invitation of the Owner or his tenants (express or implied), and their licensees, invitees or guests. Failure of any Owner to notify any person of the existence of the rules, or the covenants, conditions, restrictions, and other provisions of the governing documents shall not in any way act to limit or divest the Homeowners' Association of the power to enforce these provisions. Each Lot Owner shall be responsible for any and all violations by his

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tenants, licensees, invitees or guests and by the guests, licensees and invitees of his tenants, at any time.

12.3 Litigation. Enforcement actions for damages, or for injunctive relief, or both, on account of any alleged violation of law, or of the governing documents or Homeowners' Association rules, may be brought by any Owner, or the Homeowners' Association against:

- (A) the Homeowners' Association;
- (B) the Lot Owner;
- (C) anyone who occupies or is a tenant or guest of a Lot; or
- (D) any officer or Director of the Homeowners' Association who willfully and knowingly fails to comply with these provisions.

12.4 Attorney Fees. In any legal proceeding arising out of an alleged failure of a guest, tenant, residential Lot Owner, officer, Director or the Homeowners' Association to comply with the requirements of the law, or the governing 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 attorney fees as may be awarded by the court.

12.5 Home Owner Approval of Homeowners' Association Action. Notwithstanding anything contained herein to the contrary, the Homeowners' Association shall be required to obtain majority approval of the member present in person or by proxy at a duly called meeting of the membership prior to the payment or contracting for legal or other fees to persons or entities engaged by the Homeowners' Association for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (A) the collection of Assessments;
- (B) the collection of other charges which Lot Owners are obligated to pay pursuant to the Community Documents;
- (C) the enforcement of the use and occupancy restrictions contained in the Community Documents;
- (D) the enforcement of the restrictions on the sale and other transfer of Lots contained in the Community Documents;
- (E) in an emergency where waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Common Property or to Owner(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of a majority of the Owners); or
- (F) filing a compulsory counterclaim.

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12.6 No Election of Remedies. All rights, remedies and privileges granted to the Homeowners' Association or Owners under the law and the governing 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.

12.7 Notices. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed (including electronic mailing for those members consenting to receive notice by electronic mail), with the proper postage affixed to the last known address of the Owner appearing in the records of the Homeowners' Association, or to the address of the member's Lot. Notice to one of two or more co-Owners of a Lot shall constitute notice to all co-Owners. It shall be the obligation of every member to immediately notify the Secretary of the Homeowners' Association in writing of any change of address.

12.8 Fines; Suspension of Use Rights.

(A) Compliance. Every Owner and his tenants, guests, invitees and agents shall comply with this Declaration and any and all rules and regulations as may be adopted from time to time by the Board of Directors.

(B) Enforcement Procedure. Failure to comply with the terms hereof shall be grounds for immediate action which may include, without limitation, an action to recover sums for damages, an action for injunctive relief, fines, suspension of use rights in the Common Areas and facilities, suspension of voting rights or any combination thereof.

(C) Fines; Suspensions. The Board of Directors may levy fines and/or suspensions against members, or members' tenants or guests, or both, who commit violations of Chapters 617 or 720, Florida Statutes, the provisions of the governing documents, or the rules and regulations, or who condone such violations by their family members, guests or lessees. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any single fine exceed the maximum amount allowed by law. The maximum fine for a continuing violation shall be \$1,000.00. If allowed by law fines shall be secured by a lien on the Owner's Lot. Suspensions of the use of common areas, facilities and common non-essential services (e.g. bulk cable tv and/or internet) may be imposed for a reasonable period of time to deter future violations. The procedure for imposing fines or suspending use rights shall be pursuant to Florida Statutes section 720.305(2) and as follows:

1. Notice. The party against whom the fine and/or suspension is sought to be levied or imposed shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days, and the notice shall include:

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- a. a specific designation of the provisions of the Chapters 617 or 720, Florida Statutes, the governing documents or the rules which are alleged to have been violated;
- b. a short and plain statement of the specific facts giving rise to the alleged violation(s); and
- c. the possible amounts of any proposed fine and/or possible use rights of common areas or facilities to be suspended.

2. Hearing. At the hearing the party against whom the fine and/or suspensions may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before the fine committee comprised of a minimum of three (3) residential Lot owners appointed by the Board none of whom may then be serving as Directors or officers, or who are employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. If the committee, by majority vote, does not agree with the proposed fine and/or suspension, it may not be levied or imposed. If the committee agrees with the proposed fine and/or suspensions, the Board of Directors shall levy same.

3. Non-Exclusive Remedy. The fines provided for herein shall not be construed to be an exclusive remedy of the Homeowners' Association, and shall exist in addition to all other rights and remedies to which the Homeowners' Association may be otherwise legally entitled.

(D) Suspension of Voting Rights. In addition to other remedies provided for herein, the Homeowners' Association may suspend the Common Area use rights and/or voting rights of a member for the non-payment of assessments that are delinquent in excess of ninety (90) days.

12.9 Severability. Should any covenant, condition or restriction herein contained, or any section, subsection, sentence, clause, phrase or term of this Declaration or its recorded exhibits be declared to be void, invalid, illegal, or unenforceable, for any reason, by any court having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect. Nothing contained in this Amended and Restated Declaration is intended to affect vested rights. If any provision contained herein is deemed by a competent court of law to have such affect, then such provision will be deemed null and void but have no effect on the remaining provisions herein.

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12.10 Interpretation; Disputes. The Board of Directors is responsible for interpreting the provisions of this Declaration, its exhibits and rules promulgated by the Board. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel retained by the Board that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation. In the event there is any dispute as to whether the use of the Property complies with the covenants and restrictions contained in this Declaration, its exhibits or the rules promulgated by the Board the matter shall be referred to the Board and the determination of the Board with respect to such dispute shall be dispositive on the issue and binding on all parties.

12.11 Non-Profit Status. Notwithstanding anything contained herein to the contrary, the Homeowners' Association will perform no act nor undertake any activity inconsistent with its non-profit status under applicable state or federal law.

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

12.13 Headings. The headings used in the governing documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of these documents.

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

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

13.2 THE HOMEOWNERS' ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN

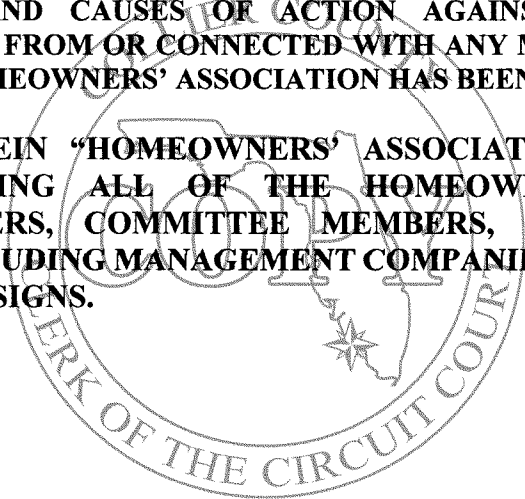
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CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, COLLIER COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTUOUS ACTIVITIES.

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

13.4 EACH OWNER AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON ANY PORTION OF THE PROPERTIES SHALL BE BOUND BY THESE DISCLAIMERS AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE HOMEOWNERS' ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE HOMEOWNERS' ASSOCIATION HAS BEEN DISCLAIMED HEREIN.

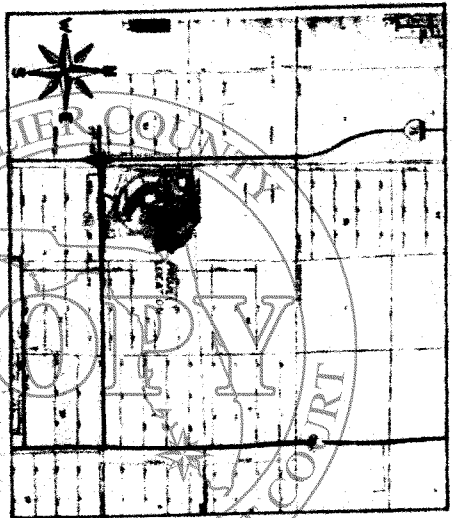
13.5 AS USED HEREIN "HOMEOWNERS' ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE HOMEOWNERS' ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.



AMENDED AND RESTATED DECLARATION
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NAPA RIDGE UNIT TWO
A SUBDIVISION OF ALL OF LOT 3, OF THE VINEYARDS TRACT F, UNIT ONE,
PLAT BOOK 18, PAGES 88-97 OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA

PLAT BOOK 18, PAGE 91
SHEET 1 OF 2

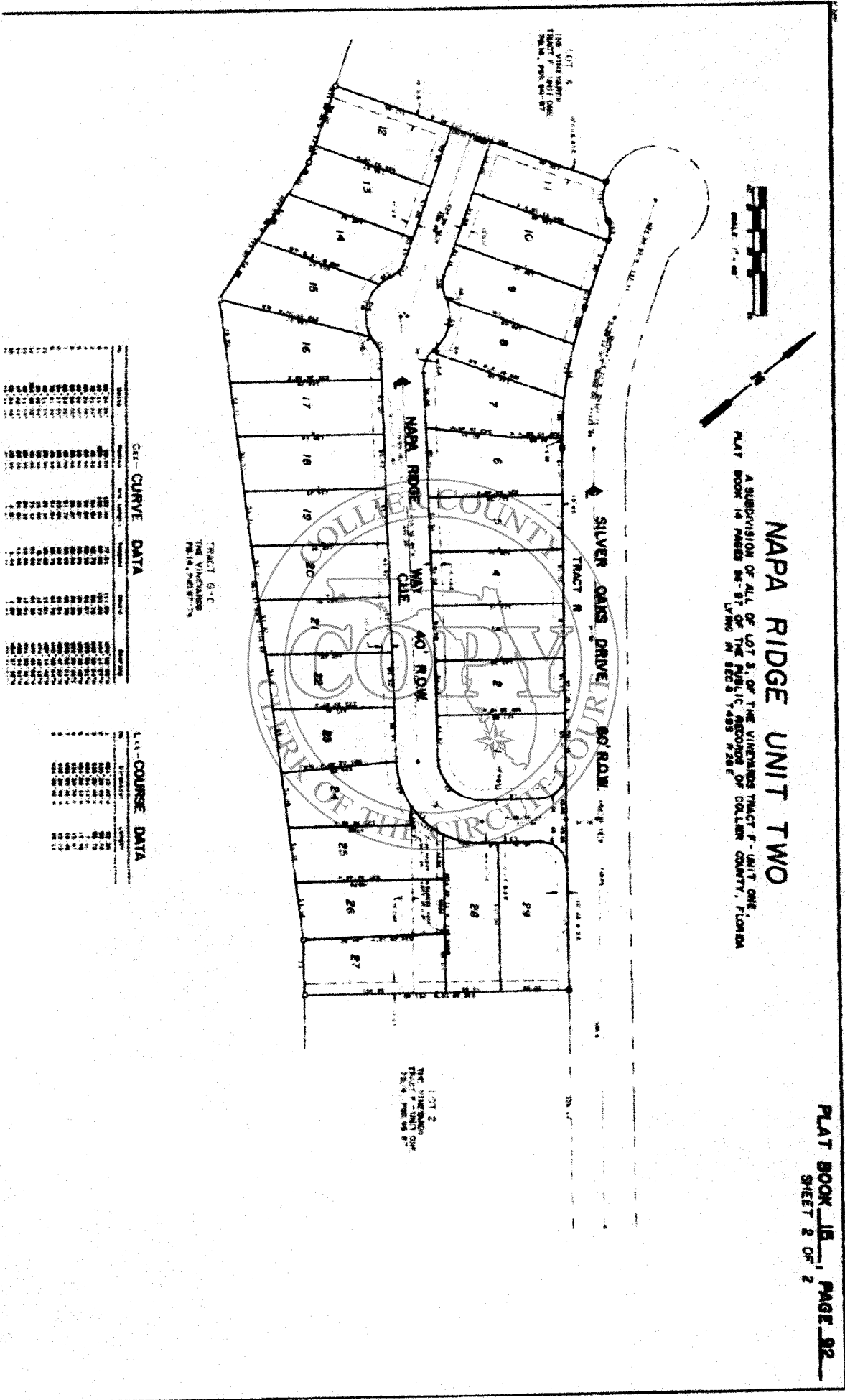


1. The State of Florida, County of Collier, do hereby certify that the following is a true and correct copy of the original plat of the subdivision of all of lot 3, of the Vineyards Tract F, Unit One, Plat Book 18, Pages 88-97 of the Public Records of Collier County, Florida, as recorded in the Public Records of Collier County, Florida, on this 1st day of May, 1988.

2. The State of Florida, County of Collier, do hereby certify that the following is a true and correct copy of the original plat of the subdivision of all of lot 3, of the Vineyards Tract F, Unit One, Plat Book 18, Pages 88-97 of the Public Records of Collier County, Florida, as recorded in the Public Records of Collier County, Florida, on this 1st day of May, 1988.

3. The State of Florida, County of Collier, do hereby certify that the following is a true and correct copy of the original plat of the subdivision of all of lot 3, of the Vineyards Tract F, Unit One, Plat Book 18, Pages 88-97 of the Public Records of Collier County, Florida, as recorded in the Public Records of Collier County, Florida, on this 1st day of May, 1988.

EXHIBIT A



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

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
NAPA RIDGE HOMEOWNERS ASSOCIATION, INC.**

Pursuant to Section 617.1007, Florida Statutes, these Articles of Incorporation of Napa Ridge Homeowners Association, Inc., a Florida corporation not for profit, which was originally incorporated under the same name on August 30, 1988 are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Section 617.1002, Florida Statutes, and there is no discrepancy between the corporation'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 Section 617.1002, Florida Statutes, and the omission of matters of historical interest. The Amended and Restated Articles of Incorporation of Napa Ridge Homeowners Association, Inc., shall henceforth be as follows:

ARTICLE I

NAME: The name of the corporation is Napa Ridge Homeowners Association, Inc., sometimes hereinafter referred to as the "Association".

ARTICLE II

PRINCIPAL OFFICE: The principal office of the corporation shall be located in Collier County, Florida.

ARTICLE III

PURPOSE AND POWERS: This Association will not permit pecuniary gain or profit nor distribution of its income to its members, officers or Directors. It is a nonprofit corporation formed for the purpose of establishing a corporate residential homeowners' association which, subject to a Declaration of Neighborhood Covenants, Conditions, and Restrictions originally recorded in the Public Records of Collier County, Florida, at O.R. Book 1353 at Page 1321 *et seq.*, and as amended, has the powers described herein. The Association shall have all of the common law and statutory powers of a Florida corporation not for profit consistent with these Articles, the Bylaws of the corporation, and with said Declaration and shall have all of the powers and authority reasonably necessary or appropriate for the operation and regulation of a residential community, subject to said recorded Declaration, as it may from time to time be

amended, including but not limited to the power:

- (A) to fix, levy, collect and enforce payment by any lawful means all charges, assessments, or liens pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the corporation, including all license fees, taxes or governmental charges levied or imposed against the property or the corporation;
- (B) to make, amend and enforce reasonable rules and regulations governing the use of the Common Areas and the operation of the Association;
- (C) to sue and be sued, and to enforce the provisions of the Declaration, the Articles, the Bylaws and the reasonable rules of the Association;
- (D) to contract for the management and maintenance of the Common Areas and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration to be exercised by the Board of Directors or the membership of the Association;
- (E) to employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the properties;
- (F) to dedicate, sell or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication, sale or transfer shall be effective unless first approved by two-thirds (2/3rds) of the voting interests, present and voting, in person or by proxy at a duly called meeting of the membership.
- (G) to borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred if first approved by Board;
- (H) to maintain, repair, replace and provide insurance for the Common Areas;
- (I) to acquire, (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the corporation;
- (J) to grant, modify or move easements.
- (K) to exercise any and all powers, rights and privileges which a corporation organized under Chapters 617 and 720 of Florida Statutes may now or hereafter have or

exercise; subject always to the Declaration as amended from time to time.

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 Declaration, these Articles of Incorporation and the Bylaws.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS: Membership and Voting Rights shall be as set forth in the Bylaws of the Association.

ARTICLE V

TERM; DISSOLUTION: The term of the Association shall be perpetual. The Association may be dissolved with the consent given in writing and signed by not less than two-thirds (2/3rds) of total voting interests of the Association. Upon dissolution of the Association, other than incident to a merger or consolidation, its assets, both real and personal, shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was formed. In the event there is a refusal to accept such dedication, then such assets shall be granted, conveyed amend assigned to any non-profit corporation, association, trust or other organization which is devoted to purposes similar to those of this Association.

ARTICLE VI

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

ARTICLE VII

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

- (A) Proposal. Amendments to these Articles shall be proposed by a majority of the Board or upon petition of one-fourth (1/4th) of the voting interests, and shall be submitted to a vote of the members not later than the next annual meeting.
- (B) Vote Required: Except as otherwise required by Florida law or as provided elsewhere in these Articles, these Articles of Incorporation may be amended if the proposed amendment is approved by the affirmative vote of at least a majority (50%+1) of the voting interests present and voting, in person or by proxy, at a duly called meeting of the members of the Association.
- (C) Effective Date: An amendment shall become effective upon filing with the

Secretary of State and recording a certified copy in the Public Records of Collier County, Florida with the same formalities as are required in the Declaration for recording amendments to the Declaration.

ARTICLE VIII

DIRECTORS AND OFFICERS:

(A) The affairs of the Association will be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of five (5) Directors. Directors must be members of the Association. Directors shall be elected to one (1) year terms.

(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 by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board.

ARTICLE IX

INDEMNIFICATION.

(A) Indemnity. The Association shall indemnify any officer, Director, or committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a Director, officer, or committee member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his

conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, Directors, and committee members as permitted by Florida law.

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

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

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

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

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

NOTE: SUBSTANTIAL AMENDMENTS OF ENTIRE BYLAWS.
FOR ORIGINAL TEXT SEE ORIGINAL BYLAWS.

**AMENDED AND RESTATED BYLAWS
OF
NAPA RIDGE HOMEOWNERS' ASSOCIATION, INC.**

1. GENERAL. These are the Bylaws of Napa Ridge Homeowners' Association, Inc., hereinafter the "Association", a corporation not for profit organized under the laws of Florida as a community association for the purpose of operating a residential community. All prior Bylaws, if any, are hereby revoked and superseded in their entirety.

1.1 Principal Office. The principal office of the Association shall be located in Collier County, Florida, unless otherwise changed by the Board of Directors.

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 "corporation 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.

2. MEMBERS. The members of the Association are the record owners of legal title to the lots. In the case of a residential lot subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the residential lot solely for purposes of determining use rights.

2.1 Change of Membership. A change of membership shall become effective after all the following events have occurred.

(A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the lot in the member.

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

(C) Designation, in writing, of a primary occupant, which is required when title to a lot is held in the name of two (2) or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person.

2.2 Voting Interests. The members of the Association are entitled to one (1) vote for each residential lot owned by them. The total number of possible votes (the voting interests) of the Association is the total number of residential lots in NAPA RIDGE. The vote of a residential lot is not divisible. The right to vote may be suspended for non-payment of assessments that are delinquent in excess of 90 days. If a residential lot is owned by one (1) natural person, the right to vote shall be established by the record title to the residential lot. If a residential lot is owned

jointly by two (2) or more natural persons, that residential lot's vote may be cast by any one (1) of the record owners. If two (2) or more owners of a residential lot do not agree among themselves how their one (1) shall be cast on any issue, that vote shall not be counted for any purpose. If the owner of a residential lot is other than a natural person, the vote of that residential lot shall be cast by the residential lot's primary occupant. All votes must be cast by an Owner or primary occupant.

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

2.4 Change of Membership. A change of membership in the Homeowners' Association shall be established by the new member's membership becoming effective as provided for in Section 2.1 above. At that time the membership of the prior owner 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 membership, nor does it impair any rights or remedies the Homeowners' Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3. MEMBERS' MEETINGS; VOTING.

3.1 Annual Meeting. There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Collier County, Florida, each year on a date, time and place designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the members.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called by a majority of the Directors, and must also be called by the Board upon receipt of a written request from the members having at least twenty percent (20%) of the voting interests. Such membership request shall be in writing, shall state the purpose or purposes of the meeting, and shall be signed by all the owners making the request. The business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice Meetings; Waiver of Notice. Notices of all members' meetings must state the date, time and place of the meeting. Notice of special meetings must include a description of the purpose or purposes for which the meeting is called. The notice must be mailed to each member at the member's address as it appears on the books of the Association, or may be furnished by personal delivery or electronic transmission. The members are responsible for providing the Association with any change of address. The notice must be mailed, transmitted or delivered at least fourteen (14) days and not more than sixty (60) days prior to the date of the meeting. If ownership of a residential lot is transferred after notice has been mailed or transmitted, no separate notice to the

new owner is required. 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. A member may also waive notice of any meeting at any time by written waiver.

3.4 Quorum. A quorum at a members' meeting shall be attained by the presence, either in person or by proxy, of persons entitled to cast at least one-third (1/3rd) of the votes of the entire membership.

3.5 Vote Required. The acts approved by a majority of the votes cast by eligible voters at a meeting of the members at which a quorum has been attained shall be binding upon all residential lot owners for all purposes, except where a different number of votes is expressly required by law or by any provision of the governing documents.

3.6 Proxy Voting. Members may cast their votes at a meeting in person or by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. No proxy shall be valid for a period longer than ninety (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 residential lot, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Property Manager or President of the Association by the appointed time of the meeting or adjournment thereof. No proxy shall be valid if it names more than one (1) 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. Holders of proxies must be members.

3.7 Participation at Meeting By Remote Communication. Unless prohibited by the Chapter 720, F.S., if authorized by the Board of Directors as provided in Section 617.0721 F.S., and subject to such guidelines and procedures as the Board of Directors may adopt, members and proxy holders who are not physically present at a meeting may, by means of remote communication:

(A) Participate in the meeting.

(B) Be deemed to be present in person and vote at the meeting if:

1. The corporation implements reasonable means to verify that each person deemed present and authorized to vote by means of remote communication is a member or proxy holder; and
2. The corporation implements reasonable measures to provide such members or proxy holders with a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate and to read or hear the proceedings of the meeting substantially concurrent with the proceedings.

3.8 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a later time by vote of the majority of the voting interests present, regardless of

whether a quorum has been attained. When a meeting is so adjourned it shall not be necessary to give further notice 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 when the meeting is reconvened, but only if a quorum is present.

3.9 Order of Business. The order of business at members' meetings shall be substantially as follows:

- (A) Call of the roll or determination of quorum
- (B) Reading or disposal of minutes of last members' meeting
- (C) Reports of Officers
- (D) Reports of Committees
- (E) Election of Directors (annual meeting only)
- (F) Unfinished Business
- (G) New Business
- (H) Adjournment

3.10 Minutes. Minutes of all meetings of the members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives at all reasonable times for a period of seven years after the meeting. Minutes must be reduced to written form within thirty (30) days after the meeting.

3.11 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with the Articles or Bylaws. The presiding officer 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.

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

4.1 Number and Terms of Office. The number of Directors which shall constitute the whole Board of Directors shall be not less than three (3) nor more than five (5) and shall be at the discretion of the Board. Directors must be members of the Association. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns or

is recalled as provided for in Section 4.5 below. Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy, as provided for in Section 4.4 below.

4.2 Qualifications. Each Director must be a residential lot owner or primary occupant or the spouse of a residential lot owner or primary occupant. In the case of a lot owned by a corporation, any officer is eligible for election to the Board of Directors. If a lot is owned by a partnership, any partner is eligible to be a Director. If a lot is held in trust, the trustee, grantor or settlor of the trust, or any one of the beneficial owners residing in the lot is eligible to be elected to the Board of Directors.

4.3 Nominations and Elections of Board. On the day of each annual meeting the members shall elect by written ballot as many Directors as there are regular terms of Directors expiring or vacancies to be filled. There shall be no quorum requirement and no nominations from the floor of the meeting. Unless the Board should determine otherwise, secret ballots shall not be used. Notice of each annual election shall be given to all owners at least sixty (60) days in advance. Any person eligible to serve as a Director who wishes to qualify as a candidate may notify the Association in writing of his desire to be a candidate at least forty (40) days prior to the annual election. Notice shall be deemed effective when received by the Association. Any person indicating his or her desire to qualify as a candidate may also include with such notification and subject to the same forty (40) day deadline, a separate information sheet, no larger than 8 ½ inches by 11 inches, which describes the candidate's background, education and qualification for office, and any other information deemed relevant by the candidate. The Association shall mail or deliver a second notice of the election, together with the candidate information sheets and a ballot which shall list all candidates in alphabetical order by surname, at least fourteen (14) days in advance of the election. In the election of Directors, each owner shall be entitled to cast one (1) vote per lot for each vacancy to be filled, but no owner may cast more than one vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Directors shall be elected by a plurality of the votes cast.

4.4 Resignation; Vacancies on the Board. Any Director may resign at any time by giving written notice to the Association, and unless otherwise specified therein, the resignation shall become effective upon receipt. If the office of any Director becomes vacant for any reason, a successor shall be appointed by the Board at a special meeting of the Board of Directors of the Association. The successor so appointed shall fill the term of the Director being replaced until the next annual meeting. If for any reason there shall arise circumstances in which no Directors are serving and the entire Board is vacant, the members shall elect successors at a special meeting.

4.5 Removal of Directors. Any Director may be removed, with or without cause, by a majority vote of the voting interests of the Association, either by a written petition or at a meeting called for that purpose. If a special meeting is called by a least twenty percent (20%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given. If removal is effected by petition, the vacancy or vacancies shall be filled as provided for in Section 4.4 above. If removal is effected at a meeting, any vacancies created thereby shall be filled by the

members at the same meeting. Any director who is removed from office is not eligible to stand again for election to the Board until the next annual election, and must turn over to the Association within seventy-two (72) hours any and all records and other property of the corporation in his possession. If a Director who is removed does not relinquish his office or turn over records as required, the circuit court in the county where the Association has its principal office may summarily order the Director to relinquish his office and turn over corporate records upon application of any member. In any such action, the prevailing party shall be entitled to recover its attorney's fees and costs.

4.6 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors, at such place and time as may be fixed and announced by the Directors at the annual meeting at which they were elected.

4.7 Other Meetings. Meetings of the Board may be held at such time and place as shall be determined from time to time by the President or by a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone, or electronic transmission at least seven (7) days before the meeting.

4.8 Notice to Owners. Meetings of the Board of Directors shall be open to members except for meetings between the Board and its attorney with respect to proposed or pending litigation where the discussion would otherwise be governed by the attorney-client privilege, and notices of all Board meetings, together, shall be mailed, delivered, or electronically transmitted, or posted on the Homeowners' Association's designated website, if applicable, at least 7 days in advance of each Board meeting, except in an emergency. Notice of any Board meeting at which rules affecting the use of a parcel or special assessments are to be considered shall specifically contain a statement that rules or special assessments will be considered and the nature of the rule or assessments and shall be mailed, delivered or electronically transmitted to the members at least fourteen (14) days in advance, except in an emergency.

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

4.10 Quorum of Directors. A quorum at a Board meeting shall be attained by the presence in person of a majority of all Directors. Directors may participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.11 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the governing documents or by applicable statutes. A Director who is present at a meeting of the Board is deemed to have voted in favor of every action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each

issue voted upon shall be recorded in the minutes of each meeting. Directors may not vote by proxy or secret ballot at Board meetings, except that secret ballots may be used in the election or removal of officers.

4.12 Adjourned Meetings. A 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 specified later time. When the meeting is reconvened, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted.

4.13 The Presiding Officer. The President of the Homeowners' Association, or in his absence, the Vice-President, is the presiding officer at all meetings of the Board. If neither officer is present, the presiding officer shall be selected by majority vote of the Directors present.

4.14 Directors' Fees and Reimbursement of Expenses. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses related to the proper discharge of their respective duties.

4.15 Committees. The Board of Directors may appoint from time to time such standing or temporary committees, as the Board may deem necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Only committees assigned with the power to make final decisions regarding the expenditure of association funds or committees vested with the power to approve or disapprove architectural decisions with respect to the specific parcel of residential property owned by a member of the community are required to hold meetings that are open to members and notice and hold their meetings with the same formalities as required for Board meetings. Committees vested with the power to approve or disapprove architectural decisions with respect to a specified parcel of residential property owned by a member of the community may not vote by proxy or secret ballot.

4.16 Emergency Powers. In the event of any "emergency" as defined in Section 4.16(G) below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes, as amended from time to time.

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

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

(C) During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance

at such a meeting shall constitute a quorum.

(D) Corporate action taken in good faith during what is reasonably believed to be an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

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

(F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(G) An "emergency" exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence or imminent occurrence of a catastrophic event, such as a hurricane, act of war, civil unrest or terrorism, or other similar event. An "emergency" also exists during the period of time that civil authorities have declared that a state of emergency exists in, or have ordered the evacuation of, the area in which NAPA RIDGE is located, or have declared that area a "disaster area". A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive validity.

5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President, Vice-President, Treasurer and Secretary, all of whom shall be members of the community elected annually by a majority vote of the Board of Directors. The positions of Secretary and Treasurer may be held by one individual or by separate individuals. Any officer may be removed with or without cause at any meeting by vote of a majority of the Directors or by a majority of the total voting interests in the Association. Any officer so removed shall return all books, records and property of the Association to the Association within seventy-two (72) hours of their removal. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one (1) Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the members and Directors; shall be *ex-officio* a member of all standing committees; shall have general and active management of the business of the Association; and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages and other contracts and documents requiring the 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; and they shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend 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 standing committees when required. The Secretary shall give, or cause to be given, proper 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 or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the governing documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated, or delegated by the Board to the Property Manager as provided for in Section 2.5 of the Amended and Restated Declaration.

5.5 Treasurer. The Treasurer shall have the custody of Association funds and securities, and be responsible for the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Association. The Treasurer is responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as are selected by the Board of Directors. The Treasurer shall oversee the disbursement of Association funds, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at meetings of the Board, or whenever they may require it, a full accounting of all transactions and of the financial condition of the Association. The Treasurer shall prepare an annual budget of estimated revenues and expenses to present to the Board of Directors for approval. Any of the foregoing duties may be performed by an Assistant Treasurer, if one is designated, or delegated by the Board to the Property Manager as provided for in Section 2.5 of the Amended and Restated Declaration.

5.6 Compensation of Officers. No compensation shall be paid to any officer for services as an officer of the Association.

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

6.1 Depository. The Association shall maintain its funds in such federally insured accounts at financial institutions in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities and other similar investment vehicles.

6.2 Accounts of the Association. The Association shall maintain its accounting books and records according to generally accepted accounting principles. There shall be an account for each residential lot. Such accounts shall designate the name and mailing address of each residential lot, the amount and due date of each assessment or charge against the residential lot, amounts paid, date of payment and the balance due.

6.3 Budget. The Treasurer shall prepare and the Board of Directors shall adopt a budget of Association estimated revenues and expenses for each coming fiscal year. Once adopted, the Association shall provide to each member a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and revenue and expense classifications. The estimated surplus or deficit as of the end of the current year shall be shown and all fees or charges for recreational amenities shall be set out separately.

6.4 Reserves. The Board of Directors may establish in the budget one (1) or more reserve accounts for capital expenditures, deferred maintenance, or contingency reserves for unanticipated operating expenses. Board adopted reserve funds are not controlled by Chapter 720 Florida Statutes and therefore may be spent, waived or used as approved by the Board. Membership adopted reserves are restricted by Chapter 720, Florida Statutes and therefore Membership adopted reserves may only be used, waived or reduced on a yearly basis according to Chapter 720 Florida Statutes. The purpose of reserves is to provide financial stability and to avoid the need for special assessments. The annual amounts proposed to be so reserved shall be shown in the annual budget.

6.5 Assessments; Installments. All assessments, as defined in the Declaration, shall be paid in quarterly installments, in advance, due on the first day of the quarter of each year. Written notice of any assessment shall be sent to the owners of each Lot prior to the first quarterly installment being due, but failure to send (or receive) such notice does not excuse the obligation to pay. If an annual budget for a new fiscal year has not been adopted, or if notice of any increase has not been made at the time the payment for the first quarterly installment is due, it shall be presumed that the amount of such installment is the same as the last quarterly installment, and payments shall be continued at such rate until a budget is adopted and new annual assessments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each lot's next due quarterly installment. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date it shall accrue interest from the due date at the highest rate allowed by law and shall incur a late fee in the highest amount allowed by law.

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, or for such other purposes as are authorized by the Declaration and these Bylaws. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The notice of any Board meeting at which a special assessment will be considered shall be given as provided in Section 4.8 above; and the notice to the owners that the assessment has been levied must contain a statement of the purpose(s) of the assessment. The above authority includes the power to levy and collect special assessments for payment of, but not limited to:

- (A) The acquisition of property by the Homeowners' Association;
- (B) The cost of construction of capital improvements to the Association Property and

Common Areas;

(C) The cost of construction, reconstruction, unexpected repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto;

(D) The expense of indemnification of each Director and Officer of the Association; and

(E) Any other valid expenses deemed necessary by the Board.

6.7 Fidelity Bonds. The President, Treasurer, and all other persons who are authorized to sign checks, shall be bonded in such amounts as may be acquired by law or otherwise determined by the Board of Directors. The premiums on such bonds are a common expense.

6.8 Financial Reports. Not later than ninety (90) days after the close of each fiscal year, the Board shall cause to be prepared a financial report as prescribed in 720.303, Florida Statutes. The Association shall provide each member with a copy of the financial report or a written notice that a copy of the financial report is available upon request at no charge to the member.

6.9 Audits. A formal, certified audit of the accounts of the Association, if required by law, by vote of a majority of the voting interests, or by a majority of the Directors, shall be made by a certified public accountant, and a copy of the audit report shall be available to all members.

6.10 Application of Payments and Co-Mingling of Funds. All monies collected by the Association may be commingled into a single fund or divided into two or more funds, as determined by the Board of Directors. Other accounts may be established as deemed necessary by the Board. Regardless of any restrictive endorsement all payments on account by a Lot owner shall first be applied to late fees, interest, costs, attorney fees, other charges, fines and then to regular or special assessments.

6.11 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each calendar year and end on December 31 that same calendar year.

7. **RULES AND REGULATIONS; USE RESTRICTIONS**. The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the use, maintenance, management and control of the common elements, the lots, and the operation of the Association. Copies of such rules and regulations shall be furnished to each residential lot owner.

8. **COMPLIANCE AND DEFAULT; REMEDIES**. In addition to the remedies provided in the Declaration, the following shall apply.

8.1 Fines; Suspensions. The Board of Directors may levy fines and/or suspensions against members, or members' tenants or guests, or both, who commit violations of Chapters 617 or 720, Florida Statutes, the provisions of the governing documents, or the rules and regulations, or who condone such violations by their family members, guests or lessees. Fines shall be in amounts

deemed necessary by the Board to deter future violations, but in no event shall any single fine exceed the maximum amount allowed by law. The maximum fine for a continuing violation shall be \$1,000.00. If allowed by law fines shall be secured by a lien on the Owner's Lot. Suspensions of the use of common areas, facilities and common non-essential services (e.g. bulk cable tv and/or internet) may be imposed for a reasonable period of time to deter future violations. The procedure for imposing fines or suspending use rights shall be pursuant to Florida Statutes section 720.305(2) and as follows:

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

- (1) a specific designation of the provisions of the Chapters 617 or 720, Florida Statutes, the governing documents or the rules which are alleged to have been violated;
- (2) a short and plain statement of the specific facts giving rise to the alleged violation(s); and
- (3) the possible amounts of any proposed fine and/or possible use rights of common areas or facilities to be suspended.

(B) Hearing. At the hearing the party against whom the fine and/or suspensions may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before the fine committee comprised of a minimum of three (3) residential lot owners appointed by the Board none of whom may then be serving as Directors or officers, or who are employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. If the committee, by majority vote, does not agree with the proposed fine and/or suspension, it may not be levied or imposed. If the committee agrees with the proposed fine and/or suspensions, the Board of Directors shall levy same.

8.2 Suspensions and Fines without Hearing. The foregoing notwithstanding, as provided in 720.305(2)(b), Florida Statutes, no prior notice or opportunity for a hearing is required for the imposition of a fine or suspension upon any member because of the failure of the member to pay assessments or other charges when due.

8.3 Correction of Health and Safety Hazards. Any violations of the Association rules which create conditions of the property which are deemed by the Board of Directors to be a hazard to the public health or safety may be dealt with immediately as an emergency matter by the Association, and the cost thereof shall be charged to the residential lot owner.

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

9.1 Proposal. Amendments to these Bylaws shall be proposed by a majority of the Board or upon written petition signed by at least twenty percent (20%) of the voting interests, and shall be submitted to a vote of the members not later than the next annual meeting.

9.2 Vote Required: Except as otherwise required by Florida law or as provided elsewhere in these Bylaws, these Bylaws may be amended if the proposed amendment is approved by the affirmative vote of at least a two thirds (2/3rds) of the voting interests present and voting, in person or by proxy, at a duly called meeting of the members of the Association at which a quorum is attained.

9.3 Effective Date: An amendment shall become effective upon the recording of a copy in the Public Records of Collier County, Florida with the same formalities as are required in the Declaration for recording amendments to the Declaration.

10. MISCELLANEOUS.

10.1 Gender; Number. 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.

10.2 Severability. If any portion of these Bylaws is void or becomes unenforceable, the remaining provisions shall remain in full force and effect.

10.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration, or the Association's Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws.

