

**DECLARATION OF CONDOMINIUM
OF
BAYPORT BEACH AND TENNIS CLUB, A CONDOMINIUM**

*This document was amended and restated by a vote of the owners in March, 2006.
This version does not contain the deleted wording.*

**ARTICLE 1.
DEDICATION AND NAME**

1.1 DEDICATION. Those certain properties located in the County of Sarasota, State of Florida, which properties are more particularly described in Exhibit “A” attached hereto and incorporated herein, were by the original Declaration of Condominium submitted to condominium ownership pursuant to Chapter 718, Florida Statutes, as amended from time to time (herein, “the Condominium Act”).

1.2 NAME. The name by which this condominium is to be known and identified is BAYPORT BEACH AND TENNIS CLUB, A CONDOMINIUM (herein, “the Condominium”). The original Declaration of Condominium of BAYPORT BEACH AND TENNIS CLUB, A CONDOMINIUM is recorded at Official Records Book 1362, Page 0155 et seq. of the Public Records of Sarasota County, Florida.

**ARTICLE 2.
DEFINITIONS**

For all purposes, the terms used in this Declaration of Condominium, and in its exhibits, including the Articles of Incorporation and Bylaws of BAYPORT BEACH AND TENNIS CLUB CONDOMINIUM ASSOCIATION, INC., shall be defined in accordance with the provisions of the Condominium Act, and as follows, unless the context otherwise requires. Also, throughout the Declaration of Condominium, Articles of Incorporation and Association Bylaws, whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of either gender shall be deemed to include both genders.

2.1 APARTMENT means condominium unit as defined by the Condominium Act.

2.2 APARTMENT OWNER means the record owner of a condominium unit.

2.3 ASSOCIATION means BAYPORT BEACH AND TENNIS CLUB CONDOMINIUM ASSOCIATION, INC., and its successors.

2.4 CONDOMINIUM means all of the condominium property as a whole when the context so permits, as well as the meaning stated in the Condominium Act.

2.5 **COMMON ELEMENTS** shall include but are not limited to:

- A.** All of those items stated in the Condominium Act;
- B.** Tangible and intangible assets owned by the Association;
- C.** All condominium property not included in the apartments or the limited common elements;
- D.** Easements as set forth herein and such easements as are reflected on the condominium plat;
- E.** All parking areas (except those parking spaces which are designated limited common elements as hereinafter provided), driveways and others means of ingress and egress;
- F.** Any utility areas and installations and all utility services which are available to more than one apartment or to the common elements and which are not owned by the respective utility companies, including easements through the units necessary to provide such services;
- G.** All electrical apparatus and wiring, plumbing pipes and apparatus, and other ducts, conduits, cables, wire or pipe within the common elements and up to the exterior surface of the apartment wall which are not owned by utility companies;
- H.** All structural beams, posts and members within an apartment and an easement of support in any portion of an apartment which contributes to the support of the building;
- I.** All lands and improvements not included in the apartments.
- J.** Recreational areas and facilities.

2.6 **LIMITED COMMON ELEMENTS** are those common elements reserved for the use of a certain unit owner to the exclusion of other unit owners as depicted on Exhibit "B", including Privacy Gardens, Kitchen Gardens, Covered Parking Spaces and adjoining Storage Closets, Carport Decks and Attached Decks.

2.7 COMMON EXPENSES shall include:

- A.** Costs of operation, maintenance, preventative maintenance, repair, protection, and replacement of the common elements, limited common elements and Association Property, except as otherwise provided herein;
- B.** Costs of management of the condominium and administrative costs of the Association including but not limited to professional fees and expenses;
- C.** Costs of water and sewerage service, electricity and other utilities, which are not metered to the individual condominium units;
- D.** Labor, material and supplies used in conjunction with the common elements;
- E.** Damages to the condominium property in excess of insurance coverage;
- F.** Salary of a general manager or managers and their assistants and agents, if deemed desirable by the Board of Directors;
- G.** Premium costs of directors' and officers' liability insurance, fire, windstorm, flood and other property insurance and liability insurance as provided herein;
- H.** All other expenses that may be duly incurred by the Association through its Board of Directors from time to time in operating, protecting, managing and conserving the condominium property and in carrying out its duties and responsibilities as provided by the Condominium Act, this Declaration, the Articles of Incorporation or the Bylaws.

2.8 UTILITY SERVICES shall include, but not be limited to, electric power, gas, water, garbage and sewage disposal, and basic cable or other television services as determined by the Board of Directors.

2.9 DEVELOPER means BENNET-HUNT CORPORATION NO. TWO, a Florida corporation, its successors or assigns.

ARTICLE 3.
SURVEY AND PLOT PLAN

A survey of the land and plot plan locating the improvements thereon and identifying each apartment and the common elements, their relative locations and approximate dimensions, is attached hereto as Composite Exhibit “B”, and is recorded in Condominium Book 14 at pages 1-1C, Condominium Book 15 at pages 14-14A, Condominium Book 21 at pages 21-21A, Condominium Book 15 at pages 21-21A, Condominium Book 21 at pages 35-35A, Condominium Book 18 at pages 22-22A, Condominium Book 21 at pages 36-36A, inclusive, all of the Public Records of Sarasota County, Florida. The locations, dimensions, descriptions, identification and numbering or lettering of the respective apartments shall be described in Composite Exhibit “B”

ARTICLE 4.
THE APARTMENT

An apartment shall consist of the space defined in Exhibit “B”. In the event that the actual physical location of any apartment at any time does not precisely coincide with Exhibit “B”, the actual physical locations shall control over the locations, dimensions and descriptions contained in Exhibit “B”. In the event of a total or substantial destruction of the building, the locations, dimensions and descriptions of the respective apartments as contained in Exhibit “B” will control. By acceptance of a deed to any apartment, the respective grantees agree for themselves, their heirs, successors and assigns and the holder of any mortgages, liens or other interests in or to any apartment agree to comply with the terms of the Declaration of Condominium, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association.

ARTICLE 5.
PARKING SPACES

Parking spaces shall be assigned pursuant to the rules and regulations of the Association so as to provide parking space for one automobile, i.e., one parking space for each apartment; provided, however, in the event a specific parking space was assigned in connection with the sale of an apartment unit by the Developer, the right to use of the said designated parking space shall pass as an appurtenance to the condominium apartment unit owned by the apartment owner to which such space is initially assigned, and the Association shall not thereafter reassign or change the said owner’s parking space without the owner’s written consent. Provided further, said apartment owner shall not transfer or assign use of the said parking space, except in connection with the sale of the apartment or after obtaining the consent of the Association’s Board of Directors. Designation of a parking space assigned to an apartment owner may be made in the deed of conveyance, or by the condominium plat attached as Exhibit “B”, or by separate written assignment.

ARTICLE 6.
THE CONDOMINIUM ASSOCIATION

The operation of this condominium shall be by BAYPORT BEACH AND TENNIS CLUB CONDOMINIUM ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, which shall fulfill its functions pursuant to the following provisions:

6.1 **ARTICLES OF INCORPORATION.** A copy of the Articles of Incorporation of the Association, which sets forth its powers and duties, is attached as Exhibit "C".

6.2 **BYLAWS.** A copy of the Bylaws of the Association is attached as Exhibit "D".

6.3 **LIMITATION UPON LIABILITY OF ASSOCIATION.** Notwithstanding the duty of the Association to maintain and repair portions of the condominium property, the Association shall not be liable to apartment owners for injury or damage caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons, unless the Association was negligent in performing its duties under this Declaration or as required by law.

6.4 **RESTRAINT UPON ASSIGNMENT OF SHARES AND ASSETS.** The share of a member in the funds and assets of the Association cannot and shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the owner's apartment.

6.5 **APPROVAL OR DISAPPROVAL OF MATTERS.** Whenever the decision of an apartment owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of the apartment owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

ARTICLE 7.
PERCENTAGE OF OWNERSHIP OF COMMON
ELEMENTS AND SURPLUS

The ownership and the undivided shares of the respective apartments in the common elements and the common surplus shall be equal among all apartments. Each apartment will share equally with all other apartments in this condominium.

ARTICLE 8.
LIABILITY FOR COMMON EXPENSES

Each apartment owner shall be liable for a proportionate share of the common expenses, such share being the same as the undivided share of the common elements appurtenant to the apartment.

ARTICLE 9.
PHASE CONDOMINIUM

9.1 PHASE CONDOMINIUM. BAYPORT BEACH AND TENNIS CLUB was developed as a phase condominium pursuant to Florida Statute 718.403. Time-share estates may not be created. The land which became subject to the condominium form of ownership and upon which the six (6) phases of the condominium were built is described on Exhibit "A" and Composite Exhibit "B", which are attached hereto and incorporated herein. Exhibit "B" reflects the number and general size of the apartments included in each phase. There are six (6) phases of BAYPORT BEACH AND TENNIS CLUB, A CONDOMINIUM, shown on Exhibit "B" as Phases A through F, inclusive.

9.2 Each apartment in this condominium shall have one vote in the affairs of the condominium.

ARTICLE 10.
MAINTENANCE OF COMMUNITY INTERESTS

In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the apartments, the transfer of apartments by any owner shall be subject to the following provisions so long as the condominium exists:

10.1 TRANSFERS SUBJECT TO APPROVAL.

A. Sale. No apartment owner may dispose of an apartment or any interest in an apartment by sale without the prior written approval of the Association's Board of Directors, whose approval shall not be unreasonably withheld or delayed.

B. Lease. No apartment owner may lease an apartment without the written consent of the Board of Directors of the Association, whose consent shall not be unreasonably withheld or delayed, and such consent when once given and relied upon in connection with the purchase and acquisition of an apartment may not thereafter be revoked or terminated without the consent of the apartment owner.

C. Loan. No apartment owner may loan an apartment without the written consent of the Association's Board of Directors, whose consent shall not be unreasonably withheld or delayed, and such consent when once given and relied upon in connection with the purchase and acquisition of an apartment may not thereafter be revoked or terminated without the consent of the apartment owner. A loan is any occupancy of a Unit in the absence of the owner or the owner's spouse for which consideration is not paid or received. A "loan" excludes any occupancy of a unit by an owner's immediate family i.e., grandparent, parent, sibling, child, or grandchild of the owner or the owner's spouse.

D. Gift. If any apartment owner shall acquire title by gift, the continuance of ownership of the apartment shall be subject to the written approval of the Association's Board of Directors.

E. Devise or Inheritance. If any apartment owner shall acquire title by devise or inheritance, the continuance of ownership of the owner's apartment shall be subject to the written approval of the Association's Board of Directors.

F. Other Transfers. If any apartment owner shall acquire title by any manner not considered in the foregoing subsections, the continuance of ownership of the apartment shall be subject to the written approval of the Association's Board of Directors.

10.2 MANNER OF APPROVAL BY ASSOCIATION. The approval of the Association that is required for the transfer of ownership or occupancy of apartments shall be obtained in the following manner:

A. Notice to Association.

1. Sale. An apartment owner intending to make a bona fide sale of the owner's apartment or any interest therein shall give to the Association written notice of such intention on forms provided by the Association, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. Such notice, at the apartment owner's option, may include a demand by the apartment owner that the Association furnish a purchaser of the apartment if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by a copy of the proposed contract of sale signed by the proposed purchaser.

2. Lease. An apartment owner intending to make a bona fide lease of the owner's apartment shall give to the Association written notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require, and a copy of the proposed lease signed by the proposed lessee.

3. Loan. An apartment owner intending to make a bona fide loan of the owner's apartment shall give to the Association written notice of such intention, together with the name and address of the person for whom the loan is intended, such other information concerning the intended borrower as the Association may reasonably require, and a copy of the proposed agreement of loan signed by the borrower.

4. Gift, Devise, Inheritance or Other Transfers. An apartment owner who has obtained the owner's title by gift, devise or inheritance, or by any other manner not previously considered, shall give to the Association written notice of the acquiring of the owner's title, together with such information concerning the apartment owner as the Association may reasonably require, and a certified copy of the instrument evidencing the owner's title.

5. Failure to Give Notice. If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of the apartment, the Association, at its election and without notice, may approve or disapprove the transaction or transfer of ownership. If the Association disapproves the transaction or transfer of ownership, the Association shall proceed as if it had received the required notice on the date of such disapproval.

B. Certificate of Approval.

1. Sale. If the proposed transaction is a sale, then within thirty (30) days after receipt of such completed notice, application fee and all other required information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by any officer or agent of the Association, in recordable form. If no action is taken within the stipulated 30-day period, the transaction shall be deemed approved for all purposes.

2. Lease. If the proposed transaction is a lease, then within thirty (30) days after receipt of such completed notice, application fee, and all other required information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by any officer or agent of the Association, in non-recordable form.

3. Loan. If the proposed transaction is a loan, then within thirty (30) days after receipt of the proposed agreement of loan and application fee (unless waived by the Board) the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by any officer or agent of the Association, in non-recordable form.

4. Gift, Devise or Inheritance; Other Transfers. If the apartment owner giving notice has acquired title by gift, devise or inheritance or in any other manner, then within thirty (30) days after receipt of such completed notice, application fee and all other required information the Association must either approve or disapprove the continuance of the apartment owner's ownership of the apartment. If approved, the approval shall be stated in a certificate executed by any officer or agent of the Association in recordable form.

C. Approval of Corporate Owner or Purchaser. Inasmuch as the condominium apartments may be used only for residential purposes and a corporation cannot occupy an apartment for such use, the corporate form of ownership is not allowed.

D. Processing Fees. The Association may require the payment of a reasonable administrative fee in an amount not to exceed the maximum amount allowed by law simultaneously with the giving of notice of intention to sell, lease or loan, or of transfer by gift, devise or inheritance, for the purpose of defraying the Association's costs, including credit report expenses, in determining whether to approve or disapprove the transaction or continued ownership by a transferee.

10.3 MANNER OF DISAPPROVAL BY ASSOCIATION. If the Association shall disapprove a transfer, ownership or occupancy of an apartment, the matter shall be disposed of in the following manner:

A. Sale. If the proposed transaction is a sale and if the notice of sale given by the apartment owner shall so demand, then within thirty (30) days after receipt of such notice and information the Association shall deliver or shall send by registered mail or certified communication to the apartment owner an agreement to purchase the apartment signed by a purchaser approved by the Association, or an agreement to purchase signed in behalf of the Association by its President and attested by its Secretary, in which event the apartment owner shall sell the apartment to the named purchaser at the price and upon the terms stated in the disapproved contract to sell, excepting that at the option of the named purchaser the purchase price may be in cash at closing. The sale shall be closed within thirty (30) days after delivery or mailing of the agreement to purchase or upon the date designated in the disapproved contract, whichever date shall be later. A certificate of the Association executed by any of its officers in recordable form shall be delivered to the purchaser. If the Association shall fail to purchase or provide a purchaser upon demand of the apartment owner in the manner provided, or if the purchaser furnished by the Association shall default in the agreement to purchase, the proposed transaction shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, in recordable form.

B. Lease. If the proposed transaction is a lease, the apartment owner shall be advised of the disapproval in writing, and the lease shall not be made.

C. Loan. If the proposed transaction is a loan, the apartment owner shall be advised of the disapproval in writing, and the loan shall not be made.

D. Gift, Devise or Inheritance; Other Transfers. If the apartment owner giving notice has acquired the title by gift, devise or inheritance, or in any other manner, then within thirty (30) days after receipt from the apartment owner of the notice and information required to be furnished the Association shall deliver or send by registered mail or certified communication to the apartment owner an agreement to purchase the apartment concerned by a purchaser approved by the Association who will purchase and to whom the apartment owner must sell the apartment upon the following terms:

1. The sale price shall be the fair market value determined by agreement between the seller and the purchaser within thirty (30) days from the delivery or sending of such agreement. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser. In any such action for specific performance, the prevailing party shall be entitled to recover his or her reasonable attorneys' fees and costs incurred.

2. The purchase price shall be paid in cash.

3. The sale shall be closed within thirty (30) days following determination of the sale price.

4. A certificate of the Association executed by any of its officers in recordable form shall be delivered to the purchaser.

5. If the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his or her agreement to purchase, then notwithstanding disapproval such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, in recordable form, to the apartment owner.

10.4 MORTGAGE. No apartment owner may mortgage an apartment nor any interest in it without the prior written approval of the Association's Board of Directors, except to a bank, life insurance company or a savings and loan association, or to a seller to secure a portion or all of the purchase price. The approval of any other mortgage may be upon conditions determined by the Association or may be arbitrarily withheld.

10.5 EXCEPTIONS. The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or purchase by a bank, life insurance company, savings and loan association or other institution that acquires its title as a result of owning a mortgage loan upon the apartment concerned, and this shall be so whether the title is acquired by deed from the mortgagor, its successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to transfer, sale or lease by a bank, life insurance company, savings and loan association or other institution that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires title to an apartment at a duly advertised public sale with open bidding as provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale or tax sale.

10.6 UNAUTHORIZED TRANSACTIONS. Any sale, mortgage, lease or loan not authorized pursuant to the terms of this Declaration shall be voidable by the Association unless subsequently approved by the Association, subject to the provisions of Article 10.9.

10.7 RECORDING APPROVAL. Whenever in this Article 10 an approval in recordable form is required of the Association in connection with the sale, transfer or pledging of a apartment, it is understood and agreed that the said approval shall not be recorded except at the same time and simultaneously with the recording of the deed or mortgage, as appropriate, and at the option of the owner of the apartment affected.

10.8 NOTICE OF LIEN OR SUIT.

A. Notice of Lien. An apartment owner shall give notice in writing to the Association of every lien upon the owner's apartment other than authorized mortgages, taxes and special assessments within five (5) days after attaching of the lien.

B. Notice of suit. An apartment owner shall give notice in writing to the Association of every suit or other proceeding which may affect the title to the owner's apartment, such notice to be given within five (5) days after the apartment owner shall receive notice thereof.

C. Failure to Comply. Failure to comply with this sub-section concerning liens will not affect the validity of any judicial sale.

10.9 WAIVER. Whenever in this Article 10 an approval is required of the Association in connection with transferring, leasing, loaning or pledging of any apartment, and such approval shall not have been obtained pursuant to the provisions hereof, failure upon the part of the Association to object in writing to such transfer, leasing, loaning or pledging within ninety (90) days after the date thereof, or within thirty (30) days of the date upon which the transferee or lessee shall take possession of the premises, whichever date shall be later, shall constitute waiver by the Association of the written consent otherwise required by this Article 10.

The approval or disapproval of the Association to a proposed sale, lease, loan or other transfer may be determined by a committee of the Board of Directors and the action of such committee shall, for the purposes of this Article, constitute the action of the Association.

ARTICLE 11. **ASSESSMENTS AND LIENS**

11.1 BUDGET. The Board of Directors of the Association shall adopt and may amend from time to time the annual budgets or projected anticipated income and estimated expenses for each fiscal year, and each apartment owner will be responsible for the apartment's share of such annual assessment based upon its proportionate share of the common expenses as provided herein. One-twelfth (1/12) of each apartment's annual assessment shall be due and payable in advance to the Association on the first day of each month of each fiscal year. The Board, by a duly adopted Resolution, may elect to collect assessments quarterly.

11.2 SPECIAL ASSESSMENTS. In addition, the Board of Directors shall have the power to levy special assessments against the apartment owners in proportion to each apartment's share of the common expenses, if necessary to cover expenditures which may be incurred during the fiscal year.

11.3 INTEREST AND LATE CHARGES. Any assessments which are not paid when due shall bear interest from the due date until paid at the highest rate of interest permitted by law and shall be subject to such late charge in an amount established by uniform rules and regulations of the Board. Such late charges shall not exceed 5% of the delinquent payment. All payments upon account shall be first credited to any interest and late charges, then to any collection costs and attorney's fees and then to the assessment payments first due. All interest and late charges collected shall be credited to the general expense account. Interest shall accrue on judgments obtained by the Association at the rate of eighteen percent (18%) per annum.

11.4 COLLECTION. The Association shall have the remedies and liens provided by Section 718.116, Florida Statutes and the Condominium Act with respect to unpaid assessments, which shall include any late charges, accrued interest and reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien, including appellate proceedings, and the remaining installments of the assessment may be accelerated to maturity by giving the defaulting apartment owner ten (10) days notice of intent to accelerate unless all delinquent sums are paid within that time.

11.5 LIEN FOR ASSESSMENTS. The Association shall have a lien on each condominium Unit for any unpaid assessment and interest thereon against the owner of such condominium parcel until paid. Such lien shall also secure subsequent assessments, interest and late charges, as well as reasonable trial and appellate attorney's fees and costs incurred by the Association incident to the collection of such assessment, enforcement of the condominium documents, performing an owner's maintenance obligations after due notice, or foreclosure of such lien. Such lien shall be executed and recorded in the Public Records of Sarasota County, Florida, and perfected as provided by Section 718.116, Florida Statutes. The Association shall be authorized to file a foreclosure proceeding against a condominium Unit to collect unpaid or delinquent assessments and as otherwise authorized in the Declaration or the Condominium Act.

ARTICLE 12.
REMEDIES FOR DEFAULT AND DAMAGES

12.1 DEFAULT. In addition to the remedies provided by statute and common law and the remedies elsewhere provided herein, a default in the compliance and fulfillment of the provisions of the Condominium Act, this Declaration, Articles of Incorporation, Bylaws and the regulations and rules promulgated by the Association's Board of Directors, shall entitle the Association or individual apartment owners to injunctive relief or money damages or both. The prevailing party shall be entitled to recover its costs and expenses, including reasonable attorneys' fees to be determined by the Court, including but not limited to arbitration, mediation, pretrial, trial, and appellate proceedings.

12.2 OWNER CAUSED DAMAGES.

A. In the event that the maintenance, repair or replacement of a portion of the condominium property for which the Association has maintenance responsibility is necessitated by or through, or is the result of, the willful or negligent act of the owner of an apartment, his or her family, servants, guests, tenants, or invitees, the cost of such maintenance, repair or replacement shall be the responsibility of such apartment owner and shall be paid for by such apartment owner upon demand of the Association. In the event such payment is not made by the apartment owner after demand by the Association, such cost shall thereupon become a lien upon the apartment and may be collected and enforced in the same manner as delinquent assessments as provided in this Declaration and by the Condominium Act.

B. An owner shall similarly be responsible to reimburse other owners for damage to their apartments if that owner has caused the damage as set forth herein.

ARTICLE 13.
AMENDMENTS

Amendments to this Declaration of Condominium may be proposed by either the Board of Directors or by not less than twenty percent (20%) of the voting interests. Except as elsewhere provided otherwise, this Declaration may be amended by affirmative vote of not less than two-thirds (2/3rds) of all voting rights of all apartment owners in this condominium, provided that provisions relating to percentage of ownership and sharing of common expenses, termination of the condominium, and the voting rights of members may be amended only with the written consent of all persons adversely affected thereby. No amendment shall be effective unless it be in writing, executed by the President or Vice President and attested to by the Secretary of the Association with the formalities required for a conveyance of real property in the State of Florida, and recorded in the Public Records of Sarasota County. It shall not be necessary for the individual apartment owners or holders of recorded liens thereon (except institutional first mortgage holders as herein provided) to join in the execution of any amendment, and the execution of any amendment by the President or Vice President and attested by the Secretary of the Association as provided herein shall be prima facie evidence that the amendment was duly adopted in accordance with the requirements of this Declaration, the Articles of Incorporation and the Bylaws.

ARTICLE 14.
INSURANCE AND RECONSTRUCTION

14.1 MORTGAGEE ROSTER. The Association shall maintain a roster of mortgagees showing the names and addresses of all banks, savings and loan associations, insurance companies and other institutions or persons who have advised the Association in writing that they hold mortgages on an apartment and have described the amount secured by the mortgage. One copy of each insurance policy obtained hereunder shall be furnished to each mortgagee included in the mortgagee roster upon request in writing.

14.2 PURCHASE; NAMED INSURED; CUSTODY AND PAYMENT OF POLICIES. The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association, the common elements and the apartment owners. Adequate insurance, regardless of any requirement in this Declaration for coverage by the Association for “full insurable value”, “replacement value”, or the like, may include reasonable deductibles as determined by the Board of Directors. Each insurance policy and the company issuing the policy shall be subject to approval by the bank, savings and loan association or insurance company which, according to the roster of mortgagees, is the owner and holder of the largest number of mortgages on the condominium apartments, or if there are several owning and holding an equal number, by one of them selected at the discretion of the Association’s Board of Directors. Such approval shall not be unreasonably withheld, and must be granted or denied within ten (10) days of receipt by the designated mortgagee of a written request from the Association therefore; otherwise, such approval shall be deemed to have been granted. The named insured shall be the Association individually and as an agent for the apartment owners without naming them, and for mortgagees, to the extent of their respective interests. Apartment owners may obtain insurance

coverage at their own expense upon their apartments and their personal property and for their personal liability, and the proceeds of policies providing such coverage shall not be payable to the Insurance Trustee. All Association casualty insurance policies shall provide that payments by the insurer for losses shall be paid to the Insurance Trustee designated by the Board of Directors of the Association, and all such policies and endorsements shall be deposited with the Insurance Trustee.

14.3 COVERAGE. All buildings and improvements upon the land, excluding the apartments, shall be insured in such amounts that the insured will not be a co-insurer except under deductible clauses required to obtain coverage at a reasonable cost. The coverage shall exclude foundation and excavation costs, and that part of the value of any apartment attributable to alterations, betterments and special improvements not common to apartments otherwise comparable and not a part of the apartments as initially constructed or as altered pursuant to construction or modifications subsequently undertaken at the direction of the Association. The nature of the insurance coverage to be provided is as follows:

A. Casualty insurance coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use to the buildings on the condominium property.

B. Public liability in such amounts and with such coverage as shall be required by the Board of directors of the Association, with cross-liability endorsement to cover liabilities of the apartment owners as a group to an apartment owner.

C. Workmen's compensation policy to meet legal requirements.

D. Hazard Insurance Coverage. Every hazard insurance policy issued or renewed after January 1, 2004, to protect the condominium shall provide primary coverage for:

1. All portions of the condominium property located outside the apartments;
2. The condominium property located inside the apartments as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the apartment was initially conveyed; and
3. All portions of the condominium property for which the Declaration of Condominium requires coverage by the Association.

Anything to the contrary notwithstanding, the terms “condominium property,” “building,” “improvements,” “insurable improvements,” “common elements,” “association property,” or any other term found in the Declaration of Condominium which defines the scope of property or casualty insurance, shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of an apartment and serve only one apartment, and all air conditioning compressors that service only an individual apartment, whether or not located within the apartment’s boundaries. The foregoing is intended to establish the property or casualty insurance responsibilities of the Association and those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual owner.

The Board of Directors of the Association may also secure such other insurance as it shall determine from time to time to be desirable, including but not limited to flood insurance and insurance of the officers and directors against liability arising in connection with their duties.

When appropriate and possible, the policies shall not permit or shall waive:

- i. the insurer’s right to subrogation against the Association and against the apartment owners individually and as a group;
- ii. the pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage of the same risk;
- iii. the ability of the insurer to avoid liability for a loss that is caused by an act of the Association or by a member or members of the Board of Directors or by one or more of the apartment owners.

E. Owner Responsibility. Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual owner providing such coverage shall be without rights of subrogation against the Condominium Association that operates the condominium in which such owner’s apartment is located. All real or personal property located within the boundaries of the apartment which is excluded from the coverage to be provided by the Association as set forth in this Article 14 shall be insured by the individual owner.

14.4 PREMIUMS. Premiums upon Association insurance policies shall be a common expense. Not less than ten (10) days prior to the date when a premium is due, evidence of the payment shall be furnished by the Association to each requesting mortgagee listed in the roster of mortgagees.

14.5 BENEFIT AND PROCEEDS. All insurance policies purchased by the Association shall be for the benefit of the Association and the apartment owners and their mortgagees as their interests may appear. Except as hereinafter provided with respect to the proceeds of policies of casualty insurance, proceeds of insurance policies shall become a part of the common surplus.

14.6 INSURANCE TRUSTEE; PROCEEDS OF CASUALTY INSURANCE. Policies providing insurance against property loss resulting from casualty of any kind shall provide that all proceeds thereof shall be paid to such bank in Florida with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which trustee is referred to in this instrument as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive and hold the insurance proceeds and other funds that are paid to it in trust for the purposes stated herein and for the benefit of the apartment owners and their mortgagees in the following shares (which shares need not be set forth on the records of the Insurance Trustee):

A. Apartment owners. An undivided share for the owner(s) of each apartment, that share being the same as the undivided share in the common elements appurtenant to the owner's apartment, subject, however, to the provisions of Article 14.13(B).

B. Mortgagees. In the event a mortgagee endorsement of an insurance policy has been issued as to an apartment, the share of the apartment owner shall be held in trust for the mortgagee and the apartment owner as their interests may appear. Any bank, savings and loan association, insurance company, or other institution or person holding a mortgage on an apartment shall be entitled to request and receive a mortgagee endorsement to the casualty insurance carried by the Association, and a copy of the policy. No mortgagee shall have any right to participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of proceeds made to the apartment owner and mortgagee, which distributions shall be made by check payable jointly to the apartment owner and mortgagee.

14.7 DISTRIBUTION OF CASUALTY INSURANCE PROCEEDS. Proceeds of casualty insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the manner herein provided.

14.8 ASSOCIATION AS AGENT. The Association is irrevocably appointed agent for each apartment owner and for each owner of a mortgage or other lien upon an apartment and for each owner of any other interest in the condominium property, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

14.9 DETERMINATION WHETHER TO RECONSTRUCT AND REPAIR. Whether or not condominium property damaged by casualty shall be reconstructed and repaired shall be determined in the following manner:

A. Lesser Damage. If one-third (1/3) or more of the apartments are tenantable after the casualty (as determined by the Board of Directors of the Association), the damaged property shall be reconstructed and repaired.

B. Major Damage. If fewer than one-third (1/3) of the apartments are tenantable after the casualty (as determined by the Board of Directors of the Association), whether the damaged property will be reconstructed and repaired or the condominium terminated shall be determined at a meeting of apartment owners in the condominium called for that purpose. Notice of the meeting shall be given within 30 days of the day of the casualty and the meeting shall be held within 30 days of the day on which notice is sent. The notice shall additionally inform the apartment owners of the casualty and shall describe the extent and nature of the damage, the estimated cost to rebuild or repair, the amount of insurance proceeds and the estimated amount of assessments required to pay the excess of the cost of reconstruction and repair over the amount of insurance proceeds. If any of this additional information is not available at the time notice of the meeting must be given, the information shall be provided subsequently but in no event shall it be mailed later than 10 days prior to the meeting. Notice of such meeting shall be properly given to all such apartment owners, and the owners of a majority of the apartments shall constitute a quorum for said meeting. If the reconstruction and repair is approved at the meeting by the owners of 80% or more of the apartments, the damaged property will be reconstructed and repaired; but if not so approved, the condominium will be terminated in the same manner as provided in Article 20 of this Declaration for termination by agreement, except that no further consent or vote of apartments or mortgagees shall be required for such termination, it being conclusively presumed in such instance that the owners of at least 80% of the apartments and 100% of the mortgagees have consented to such termination.

C. Certificate. The Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary to determine whether the damaged property is to reconstructed and repaired.

14.10 RESPONSIBILITY FOR RECONSTRUCTION AND REPAIR. The responsibility for reconstruction and repair after casualty shall be the same as for maintenance and repair of the condominium property as provided herein.

14.11 PLANS AND SPECIFICATIONS. Any reconstruction and repair must be substantially in accordance with the plans and specifications for the original improvements, or if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is the building wherein the apartments are located, by the owners of 80% of the apartments.

14.12 ASSESSMENTS; DETERMINATION OF SUFFICIENCY OF FUNDS. If the proceeds of insurance are determined to be insufficient to defray the costs of construction and repair for which the Association is responsible, assessments shall be made by the Association against all apartment owners in sufficient amounts to provide funds for the payment of those costs. The assessments shall be made as for a common expense. The sums paid upon the assessments shall be deposited by the Association with the Insurance trustee.

14.13 DISBURSEMENT OF FUNDS. The funds held by the Association or by the Insurance Trustee after a casualty, which will consist of proceeds of insurance and the sums collected from assessments against apartment owners on account of the casualty, shall be disbursed in the following manner and order:

A. Expenses of the Trust. All reasonable and necessary expenses of the Insurance Trustee shall be first paid or provision made for payment.

B. Termination of the Condominium. If the condominium is terminated, either by agreement after lesser damage or by failure of the apartment owners to approve reconstruction and repair after major damage, the remaining funds shall be deemed to be condominium property, and shall be owned by the apartment owners, and their mortgagees as their interests appear, in the undivided shares designated as "Termination Shares" in Article 20 herein, and shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being made payable jointly to them.

C. Reconstruction and Repair of Damage. If the damaged property is to be reconstructed and repaired, the funds shall be disbursed in the following manner:

1. If the estimated costs of reconstruction and repair which are the responsibility of the Association do not exceed \$10,000, the funds shall be disbursed by the Insurance Trustee in payment of these costs upon the order of the Association.

2. If the estimated costs of reconstruction and repair which are the responsibility of the Association exceed \$10,000, the funds shall be disbursed by the Insurance Trustee in payment of these costs in the manner required by the Board of Directors of the Association, provided, however, that an architect qualified to practice in Florida and employed by the Association to supervise the work shall approve all disbursements as being due and properly payable.

D. Reliance of Mortgagees. Certain provisions in this section are for the benefit of mortgagees of condominium parcels, and may be enforced by any such mortgagee. This section shall not be amended without the consent of all banks, savings and loan associations, mortgage companies and life insurance companies holding first mortgages on apartments, except that the Board of Directors may from time to time revise the figure \$10,000 as it is used herein to reasonably reflect significant changes in the purchasing power of that sum as evidenced by changes in the Consumer Price Index prepared by the Department of Labor.

A copy of each insurance policy in effect shall be available for inspection by the apartment owners at reasonable times.

ARTICLE 15. **EASEMENTS**

Easements are expressly provided for and reserved as follows:

15.1 UTILITY EASEMENTS. BAYPORT BEACH AND TENNIS CLUB CONDOMINIUM ASSOCIATION, INC. hereby reserves perpetual easements for the installation, construction, repair, maintenance and replacement of private and public utility lines and services of all kinds under and over the surface of the condominium lands which are not occupied by buildings or other structures. Utility easements may be granted by BAYPORT BEACH AND TENNIS CLUB CONDOMINIUM ASSOCIATION, INC. to any public and private utility companies as may be necessary or desirable to provide utility services to any of the foregoing. All public and private utility companies rendering utility services to this condominium shall have a perpetual nonexclusive easement over, across, under and through all of the common land areas of the condominium for the purpose of construction, installation, maintenance, repair and replacement of the utilities servicing this condominium and for the purpose of reading meters in connection therewith.

15.2 ENCROACHMENTS. In the event that any apartment shall encroach upon any of the common elements or upon any other apartment for any reason other than the intentional or negligent act of the apartment owner, or in the event any common element shall encroach upon any apartment, then an easement shall exist to the extent of such encroachment so long as the same shall exist.

15.3 TRAFFIC. An easement shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, and other portions of the common elements as may be from time to time intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the common elements as may from time to time be paved and intended for such purposes, and such easement shall be for the use and benefit of the apartment owners, and all those claiming by, through or under the aforesaid; provided, however, nothing herein shall be construed to give or create in any person the right to park upon any portion of the condominium property except to the extent that space may be specifically designated and assigned for parking purposes.

ARTICLE 16.
RIGHT OF ENTRY INTO APARTMENT

16.1 EMERGENCY. In case of any emergency originating in or believed to be threatening any apartment or common elements, regardless of whether the owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or Managing Agent shall have the right to enter such apartment for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate, and to facilitate entry in the event of any such emergency, the owner of each apartment, if required by the Association, shall deposit under the control of the Association, a key or keys to the front door locks of such apartment.

16.2 MAINTENANCE OF COMMON ELEMENTS. Whenever it is necessary to enter any apartment for the purpose of performing any inspection, maintenance, alteration or repair to any portion of the common elements, or to go upon any Limited Common Elements for such purpose, the owner of each apartment shall permit other owners or their representatives, or the duly constituted or authorized agent of the Association, to enter such apartment, or to go upon the Limited Common Elements constituting an appurtenance to any such apartment, for such purposes, providing that such entry shall be made only a reasonable times and with reasonable advance notice, subject to the provisions of Article 16.1

ARTICLE 17.
MAINTENANCE, REPAIR AND REPLACEMENT

Responsibility for the maintenance, repair and replacement regarding the condominium property is as follows:

17.1 BY THE ASSOCIATION. The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the common elements, and Limited Common Elements, except as expressly provided herein.

A. Common Elements. The Association shall maintain, repair and replace all portions of an apartment contributing to the support of the apartment building, which portion shall include but not be limited to the outside walls of the apartment building, its exterior boundary walls, roofing, concrete slabs and foundations, load bearing columns and load bearing walls, including all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portion of the apartment buildings maintained by the Association; and all such facilities contained within an apartment which services other parts of the condominium property other than the apartment within which contained.

B. Limited Common Elements. The Association's duty to maintain, repair and replace the limited common elements shall include: masonry walls, railings, gates and the common irrigation system of Privacy Gardens and Kitchen Gardens; support structure, decking materials, fencing and railings of Carport Decks and Attached Decks, and other portions of the limited common elements that may be designated by the Association's Board of Directors by a duly-adopted Resolution of the Association.

C. Incidental Damage. Should any incidental damage be caused to any apartment by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any common elements or limited common elements, the Association shall, at its expense, repair such incidental damage.

17.2 BY THE APARTMENT OWNERS. Each apartment owner shall be responsible for maintenance, repair and replacement of everything within the confines of the owner's apartment which is not part of the common elements or limited common elements as defined herein, including but not limited to:

A. Paint, finish, covering, wallpaper and decoration of all walls, floors and ceiling;

B. All built-in shelves, cabinets, counters, storage areas, and closets;

C. All mechanical, ventilating, heating and air conditioning equipment serving the individual condominium apartment (whether located within the boundaries of the respective apartment or not); any refrigerators, stoves, ovens, disposals, dishwashers and other kitchen equipment; all bathroom fixtures, equipment and apparatus;

D. All electrical, plumbing, telephone and television fixtures, apparatus, equipment, outlets, switches, wires, pipes and conduits serving only the respective apartment; all electric lines between the apartment and its individual service panel, and all water lines between the apartment and the main distribution lines;

E. All interior doors, walls, partitions, and room dividers;

F. All furniture, furnishings and personal property contained within the respective apartment; and

G. All exterior doors, hurricane shutters, windows and screening (frames and mesh), which shall be maintained to uniform specifications in such manner as to preserve a common appearance to the exterior of the building.

H. Those portions of the apartment's limited common elements which are not maintained by the Association.

17.3 ENFORCEMENT. In the event an owner fails or refuses to properly maintain and repair the owner's apartment or the limited common elements which are not maintained by the Association to the reasonable satisfaction of the Association, the Association, at the discretion of the Board of Directors, may make such repairs as the Board may deem necessary and the cost thereof shall be assessed against such defaulting apartment owner. The Association shall have a lien against an apartment for the cost of any repairs it shall make thereto, to the same extent as is provided by the Condominium Act for the collection of unpaid assessments, plus interest at the rate of 10% per annum and reasonable attorneys' fees incurred by the Association incidental to and in the collection thereof. Violations of laws, orders, rules, building codes or requirements of any governmental agency shall be corrected by and at the expense of the party obligated to maintain or repair such portion of the condominium property.

17.4 ALTERATIONS AND IMPROVEMENTS. The Association Board of Directors may materially alter and substantially improve the common elements and Association real property, provided that any expense for such purpose which exceeds seven percent (7%) of the current annual budget (including reserves) shall not be made without the prior approval of not less than a majority of the membership present (in person or by proxy) and voting at an Association membership meeting called in whole or in part for that purpose. Alternatively, a majority of the Association membership may approve in writing such material alterations, substantial improvements or additions without a membership meeting. This monetary limitation shall not apply to Association expenditures for the purpose of maintenance, repair, replacement, preventive maintenance or compliance with a governmental order or requirement.

ARTICLE 18. **USE RESTRICTIONS**

In order to provide for congenial occupancy of the condominium property and to better protect the value of the condominium property, no owner, tenant or guest shall:

- A.** Use the apartment for other than single family residence purposes;
- B.** Make any structural additions or alterations (except the erection or removal of non-support carrying interior partitions wholly within the apartment) to any apartment, the limited common elements or to the common elements;
- C.** Permit loud and objectionable noises or obnoxious odors to emanate from the apartment, which may cause a nuisance to the occupants of other apartments in the sole opinion of the Board;

D. Paint or otherwise change the appearance of any exterior wall, door, window, patio, balcony or any exterior surface; place any sun screen, blind or awning on any balcony or exterior opening; place any draperies or curtains at the windows of any apartment without a solid, light color liner acceptable in color to the Board of Directors facing the exterior of the apartment; tint, color or otherwise treat or apply anything to any window which will adversely affect the common exterior appearance of the building in the opinion of the Board; plant any planting outside of an apartment and its Limited Common Element except upon written approval of the Association's Board of Directors or its agent; erect any exterior lights or signs; place any signs or symbols in windows; erect or attach any structures or fixtures within the common elements; nor any of the foregoing without the prior written consent of the Board of Directors;

E. Erect, construct or maintain any wire, antennas, satellite dishes, garbage or refuse receptacles, or other equipment or structures on the exterior of the building or on or in any of the common elements or limited common elements, except with the prior written consent of the Board of Directors;

F. Make any use of an apartment which violates any laws, ordinances or regulations of any governmental body;

G. Fail to conform to and abide by this Declaration, the Articles of Incorporation, the Bylaws and the uniform rules and regulations in regard to the use of the apartments and the common elements or fail to allow the Board of Directors or its designated agent to enter the apartment at any reasonable time as permitted pursuant to Article 16 hereof or to determine compliance with the Condominium Act, the Declaration of Condominium, or the Bylaws and regulations of the Association;

H. Permit or suffer anything to be done or kept in the owner's condominium apartment or in the common elements or limited common elements which will increase insurance rates on any apartment or on the common elements;

I. Divide or subdivide an apartment for purpose of sale or lease, however, an apartment may be combined with an adjacent apartment and occupied as one apartment in the manner provided in Article 19 hereof;

J. Commit or permit any nuisance in the owner's apartment, limited common elements or in or on the common elements;

K. Hang any laundry, garments or other unsightly objects which are visible outside of the apartment;

L. Obstruct the common way of ingress or egress to the other apartments or the common elements;

M. Allow anything to remain in the common elements or limited common elements which would be unsightly or hazardous;

N. Allow any rubbish, refuse, garbage or trash to accumulate in places other than the receptacles (garbage cans) provided therefore, and each apartment and the common elements shall at all times be kept in a clean and sanitary condition;

O. Allow any fire, health or safety hazard to exist;

P. Allow any animals to be present in the apartment or on the condominium property other than one (1) cat or one (1) small dog, not exceeding 15 inches at the top of the shoulder in height, and birds and fish, provided that in the event any become a nuisance to the other apartment owners in the sole opinion of the Board of Directors, such animals shall be removed from the apartment immediately; or allow any authorized pets to use the common elements except when on a leash and then only when accompanied by its owner and then only so long as the owner removes all fecal matter and the pet does not otherwise disturb the common elements;

Q. Enclose the entranceway, patio, porch or interior garden except with the prior written consent of the Board of Directors;

R. Park a trailer, R.V., motor home, or a commercially marked vehicle on the condominium property except service vehicles during the time they are actually serving the apartment or its limited common elements, nor park anywhere on the property any vehicle that does not fit into the unit's covered parking space, except as otherwise permitted by the Board of Directors;

S. Park a boat trailer, boat or other water craft anywhere on the condominium property, except as otherwise permitted by the Board of Directors;

T. Make use of the common elements in such a manner as to abridge the equal rights of the other apartment owners to their use and enjoyment.

U. No owner may lease less than an entire apartment or lease an entire apartment for a period of less than one (1) month. No apartment shall be leased more frequently than twelve (12) times in any calendar year. This restriction shall not prevent an owner or member of his immediate family (i.e., the grandparents, parents, siblings, children or grandchildren of the owner or the owner's spouse) from gratuitously occupying such owner's apartment when it has been vacated by tenants.

V. No apartment shall be loaned more frequently than four (4) times in any calendar year, nor loaned more often than once in any month.

ARTICLE 19.
COMBINATION OF APARTMENTS

With the prior written permission of the Condominium Association's Board of Directors, abutting apartments may be physically combined into a single dwelling, but they shall, nevertheless, be for all other pertinent purposes, including but not limited to, assessments, attribution of common elements and voting, be deemed separate apartments. Apartments which have been or are combined to form one dwelling may be severed into their component apartments (separate apartments) at any time the owner of the combined apartments so desires. Any construction or modification of the interior of such apartments as may be required to effectuate the severance of the combined apartments into separate apartments shall be subject to the prior written approval of the Board of Directors of the Condominium Association, which approval shall not be unreasonably withheld. Such modifications for the combining or severing of combined apartments shall, in any and all events, be accomplished at the sole expense of the apartment owner or owners of the combined apartments and not at the expense of the Condominium Association. Nothing here shall be deemed to require the Association to approve any modification which will alter the exterior appearance of the condominium apartment building in which the combined apartment being severed into its component apartments is located or in which the separate apartments being combined are located.

ARTICLE 20.
TERMINATION

The condominium form of ownership may be terminated at any time by a vote of eighty percent (80%) of the voting rights of all apartment owners in this condominium and the unanimous consent of all of the institutional first mortgage holders, by an instrument to that effect signed by the President or Vice President and Secretary of the Association with the formalities of a deed and duly recorded in the Public Records of Sarasota County, Florida. The Association shall endeavor to sell the condominium property, and shall hold the proceeds of sale in trust for the benefit of the apartment owners and mortgagees. In the event that termination occurs after a casualty, loss or condemnation, the insurance or condemnation proceeds shall be combined with the proceeds of sale of the condominium property or what remains of it. After providing for all necessary costs and expenses, including court costs and reasonable attorneys' fees in the event litigation or the services of an attorney are necessary to complete the termination and sale, the apartment owners and their mortgagees shall have an undivided interest in the accumulated proceeds of sale and in any common surplus of the condominium, in the undivided shares hereinafter described as "Termination Shares", and not in the same proportions as the ownership of common elements and common expenses. Each apartment's "Termination Share" shall be a fraction, the numerator of which shall be the then most recent assessed valuation of the apartment as determined by the Sarasota County Tax Assessor prior to the date of termination, and the denominator of which shall be the then most recent valuation of all apartments in this condominium prior to the termination, as determined by the said Sarasota County Tax Assessor. No amendment to this Declaration may change the "Termination share" attributable to an apartment without the written consent of the apartment owner of that apartment and of all mortgagees holding mortgages encumbering that apartment.

ARTICLE 21.
RESERVATIONS REGARDING ROAD WIDENING

As required by Resolution No. 78-17 “A Resolution Approving an Outline Development Plan”, adopted by the Town of Longboat Key on April 19, 1978, the Developer has reserved for the benefit of the Department of Transportation of the State of Florida or the Town of Longboat Key a strip of land 20 feet wide along the westerly property line of Bayport for future widening of Gulf of Mexico Drive, with the dedication thereof to be made without cost when said land shall be needed for said purpose by the Grantee, and which reservation constitutes a covenant running with the land and binding upon the Developer and its grantees, successors and assigns.

ARTICLE 22.
MISCELLANEOUS

22.1 SEVERABILITY. If any provision of this Declaration, the Articles of Incorporation, or the Bylaws shall be held to be invalid, it shall not affect the validity of the remainder of the Declaration, Articles of Incorporation, or the Bylaws.

22.2 NEGLIGENCE. An apartment owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by the owner’s act, neglect or carelessness, or by that of any member of the owner’s family, the owner’s guests, employees, contractors, invitees, agents or tenants.

22.3 COMPLIANCE AND DEFAULT. Each owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation, Bylaws and Rules adopted by the Association Board of Directors. Failure of a unit owner to comply therewith shall entitle the Association or any unit owners to recover damages or obtain injunctive relief or both, but such relief shall not be exclusive of other remedies provided by law. The Association shall arbitrate prior to litigation in such instances and manner as required by state law. Also, the Association’s Board of Directors may levy fines for enforcement of rules and restrictions after notice and opportunity for a hearing and subject to limits, as provided in the Condominium Act, Association Bylaws and by Association Rule in accordance with the requirements of state law.

22.4 COSTS AND ATTORNEYS’ FEES. In any proceeding arising out of an alleged failure of a unit owner or tenant to comply with the requirements of the Condominium Act, this Declaration, the exhibits attached hereto, or the Rules adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable arbitration, presuit, mediation, trial or appellate attorneys’ fees and costs incurred therein or incident to any such proceeding.

22.5 NO WAIVER OF RIGHTS. The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation, the Bylaws, or the rules adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

22.6 APPLICABLE STATUTES. The validity, application and construction of this Declaration and its exhibits shall be governed by the laws of Florida, particularly the Condominium Act, as amended from time to time.

22.7 CONFLICTS. If there is a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act shall control. In the event of any conflict, the condominium documents shall take priority in the following order: the Declaration of Condominium, Articles of Incorporation, Association Bylaws and then the Association Rules and Regulations, all as amended from time to time.

22.8 HEADINGS AND CAPITALIZATION. The headings of paragraphs or sections herein, and the capitalization of certain words, are for convenience purposes only, and shall not be used to alter or interpret the provisions herein.

22.9 INTERPRETATION. The provisions of this Declaration shall be liberally construed to effect the purpose of creating a uniform plan for the operation of a condominium in accordance with the laws made and providing for the same. The terms of the Declaration, Articles of Incorporation, Bylaws and Rules shall not be construed in favor of nor against the Association or a unit owner in the event of arbitration or litigation. In the event any term or phrase is not defined and is ambiguous, the Association Board of Directors shall elect a specific dictionary or other reference source to determine the term's or phrase's meaning. The Association Board of Directors is also specifically authorized to adopt rules better defining the terms used in this Declaration.